DATED September 2016

NNB GENERATION COMPANY (HPC) LIMITED
as the **GENERATOR**

and

LOW CARBON CONTRACTS COMPANY LTD
as the **CfD COUNTERPARTY**

CONTRACT FOR DIFFERENCE
FOR HINKLEY POINT C

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THIS CONTRACT FOR DIFFERENCE (this "**Agreement**") is dated September 2016 and made as a deed

BETWEEN:

(1) **NNB GENERATION COMPANY (HPC) LIMITED**, a company incorporated in England and Wales (registered number 06937084) whose registered office is at 40 Grosvenor Place, London SW1X 7EN (the "**Generator**"); and

(2) **LOW CARBON CONTRACTS COMPANY LTD**, a company incorporated in England and Wales (registered number 08818711) whose registered office is at Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX (the "**CfD Counterparty**").

RECITAL

The Parties intend this document to take effect as a deed.

IT IS AGREED as follows:

Part 1
Introduction

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Acceptable Collateral**" means:

(A) a Letter of Credit; and/or

(B) a cash amount in pounds transferred to the credit of a CfD Reserve Account;

"**Acceptable Credit Standing**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Account Bank**" means:

(A) each of the Account Banks named as such in the Accounts Agreement as at the Agreement Date, any replacement Account Bank in accordance with clause 36.3 of the Accounts Agreement or any Account Bank that accedes to the Accounts Agreement in accordance with clause 37.2 of that agreement; and

(B) each other bank or financial institution with which a member of the NNB HoldCo Group has opened one or more operating or reserve bank accounts in connection with the financing of the Project similar to one or more of those operating or reserve accounts held by the Account Banks under and as defined in the Accounts Agreement;

"**Accounts Agreement**" means the accounts agreement dated on or about the Agreement Date between, among others, NNB FinCo, the Guarantor and the Generator;

"**Actual Balancing System Charge**" has the meaning given to that term in Clause 42.1(C) (*Balancing System Charge Reports*);

"**Actual Construction Costs**" has the meaning given to that term in Clause 15.1(G)(i) (*Preliminary Construction Costs Report*);

"**Actual Construction Payment Schedules**" has the meaning given to that term in Clause 15.1(G)(iv) (*Preliminary Construction Costs Report*);

"**Actual CPI Index Value**" means:

(A) if an amount has previously been Deflated and Restated or Rebased, CPI as at the Indexation Anniversary immediately preceding the date to which such amount was Deflated and Restated or Rebased (as applicable); or

(B) in any other case, CPI as at the Indexation Anniversary immediately preceding the date that the cost was incurred or the saving was made;

"**Actual Financing Costs Discount Rate**" means a Nominal Discount Rate expressed as an annual effective rate that reflects the Generator's actual costs of financing the relevant QCiL Adjusted Revenues, QCiL Capital Costs, QCiL Operating Costs or Change in Regulatory Basis Costs, provided that those financing costs shall be no greater than those that would apply in the case where the Generator is acting in accordance with the Reasonable and Prudent Standard;

"**Actual Insurance Cash Collateralisation Cost**" means the actual net cost incurred or to be incurred by the Generator, acting in accordance with the Reasonable and Prudent Standard, in setting aside cash to meet the Insurance Provision by way of self-insurance, as reasonably demonstrated to the CfD Counterparty by the Generator;

"**Actual Selected DTM Costs**" means the DTM Costs agreed or determined on the basis of a sixty (60) year operating life of the Facility, but only to the extent the same are directly attributable to:

(A) any change in the Costs of Decommissioning or the Costs of Spent Fuel Management (each as defined in the FAP) (including, for the avoidance of doubt, any Additional Storage Amount) which is caused by:

(i) any Change in Applicable Law or Change in Regulatory Basis;

(ii) any change in the real unit cost basis (as ascertained by Deflating and Restating the updated costs to the Base Year at RPI); or

(iii) any change in the scope of the decommissioning of the Facility as set out or referred to in the DWMP to the extent such change is no more than the evolution of the DWMP as levels of detail are progressively added thereto or as decommissioning practice and technology develop; or

(B) any change in the Costs of ILW Disposal or the Costs of Spent Fuel Disposal (each as defined in the FAP) which are caused by:

(i) changes in the ILW Transfer Price or SF Transfer Price; or

(ii) where Alternative SF Waste Arrangements or Alternative ILW Waste Arrangements apply, changes in the Real prices (corresponding to the ILW Transfer Price and the SF Transfer Price and capped at the amounts that would have been the ILW Transfer Price and the SF Transfer Price had the relevant disposal taken place under the Waste Transfer Contracts instead of under the relevant alternative arrangements) set out in any such Alternative SF Waste Arrangements or Alternative ILW Waste Arrangements,

which are deflated to Real terms as at the Base Year by multiplying the relevant costs by the Base Year RPI and dividing the resulting amount by the RPI (and, for the avoidance of doubt, taking into account any rebasing of the relevant index) as at the end of the Financial Period that is referable to the relevant Annual Report or Quinquennial Report (as applicable) and, for the avoidance of doubt, taking into account any rebasing of the index;

"**Actual TLM(CFD) Charge**" has the meaning given to that term in Clause 43.1(C) (*TLM(CFD) Charges Reports*);

"**Additional Liability**" means:

(A) any heads of damage additional to those heads of damage contemplated in the NIA 1965 (as in force at the Agreement Date as amended by the Nuclear Installations Order); or

(B) the increase in the scope of liabilities, the removal of any exclusions of liability or the increase in the duration of exposure, in each case as it relates to nuclear third party liability, from that contemplated in the NIA 1965 (as in force at the Agreement Date as amended by the Nuclear Installations Order);

"**Additional Start Date CP Response Notice**" means a written notice which specifies whether the CfD Counterparty considers that the Generator has or has not fulfilled the Start Date Condition Precedent to which the notice relates;

"**Additional Storage Amount**" has the meaning given to that term in the FAP;

"**Adjusted Output Period**" means, at all times having regard to the Generator's obligations under Clause 69.2 (*Mitigation*):

(A) a period of reduced or increased generation output by the Facility or, as the case may be, a Reactor, which occurs as a direct result of a Qualifying Change in Law; or

(B) a period of reduced or increased generation output by the Facility or, as the case may be, a Reactor, which occurs as a direct result of a QCiL Start Date Delay;

"**Affected Start Date CP**" has the meaning given to that term in Clause 3.3(H) (*Start Date Conditions Precedent*);

"**Aggregate Business Rates Difference**" has the meaning given to that term in Clause 18.2(D)(v)(i) (*Preliminary Business Rates Report*);

"**Aggregate Difference Amount**" has the meaning given to that term in Clause 23.2(D)(vi) (*Contents of Billing Statement*);

"**Aggregate TNUoS Charges Difference**" has the meaning given to that term in Clause 41.1(C)(ix) (*Preliminary TNUoS Charges Report*);

"**Agreed Pooled Insurance Arrangements**" means Pooled Insurance Arrangements which are agreed in writing between the CfD Counterparty and the Generator;

"**Agreement Date**" means the date of this Agreement;

"**Allowable Increase Rate**" has the meaning given to that term in Clause 48.5(A)(ii)(b)(1) (*Increase in cost of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*);

"**Alternative ILW Waste Arrangements**" means any arrangements which replace the ILW Waste Transfer Contract in relation to ILW disposal;

"**Alternative SF Waste Arrangements**" means any arrangements which replace the Spent Fuel Waste Transfer Contract in relation to Waste Management and Waste and Spent Fuel Disposal Strategy (each as defined, or defined by reference, in the FAP);

"**Annual Balancing System Charge**" means, subject to Clause 42.1(C) (*Balancing System Charge Reports*), in respect of any Strike Price Adjustment Calculation Period, the amount (expressed in £/MWh) equal to:

(A) the total net BSUoS Charges payable by electricity generators in Great Britain (not being Embedded Generators) in respect of the relevant Balancing System Charge Review Period less (where they are receivable) the total net RCRC Credits receivable or plus (where they are payable) the total net RCRC Credits payable, in each case by electricity generators in Great Britain (not being Embedded Generators) or by the Subsidiary Parties of their BM Units in respect of such Balancing System Charge Review Period;

divided by

(B) the total metered output (expressed in MWh) of those electricity generators in Great Britain (not being Embedded Generators) in such Balancing System Charge Review Period;

"**Annual Report**" has the meaning given to that term in the FAP;

"**Annual TLM(CFD) Charge**" means, in respect of any calendar year, the TLM(CFD) applicable to electricity generators in Great Britain (excluding Embedded Generators) for the relevant calendar year (expressed as an absolute decimal);

"**Applicable NTPLI Costs**" means, in respect of and as at each Opex Reopener Date, the actual premium, fees and other costs of the Generator as licensee of the Site in making Insurance Provision for the twelve (12) month period immediately preceding the date on which a Preliminary Opex Report is, or is required to be, delivered to the CfD Counterparty taking into account its obligation to comply with the Insurance Mitigation Obligation, and assumed to be held flat in Real Terms for the remainder of the Term;

"**Appropriate HPC Comparator Comparable Costs**" means, in respect of each Appropriate HPC Comparator Group Operator, all its costs relating to operation and maintenance other than:

(A) any costs comparable with the Non-Relevant Opex Costs;

(B) any costs comparable with those referred to in paragraph (A) of the definition of "HPC Specific Eligible Opex Costs" in this Clause 1.1;

(C) any BSUoS Charges;

(D) any Annual TLM(CFD) Charges; and

(E) any costs comparable with the Applicable NTPLI Costs;

"**Appropriate HPC Comparator Group Operator**" has the meaning given to that term in Clause 16.3(B)(i) (*HPC Comparator Group*);

"**Approval Insurance Withdrawal**" has the meaning given to that term in Clause 48.7(A)(ii) (*Withdrawal of approval by Her Majesty's Government of the United Kingdom to existing Insurance Arrangements previously approved under section 19 of the NIA 1965*);

"**Approval Insurance Withdrawal Event**" means an event which satisfies the conditions in Clause 48.7(A)(i) to (iv) (inclusive) (*Withdrawal of approval by Her Majesty's Government of the United Kingdom to existing Insurance Arrangements previously approved under section 19 of the NIA 1965*);

"**Approved Arrangements**" means the arrangements in connection with this Agreement and the Secretary of State Investor Agreement that were approved by the European Commission in its decision of 8 October 2014. For the avoidance of doubt, the Approved Arrangements do not include the Electricity Market Reform Capacity Mechanism;

"**Arbitral Award**" has the meaning given to that term in Clause 65.3 (*Arbitration Procedure*);

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

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

"**Arbitration Procedure**" means the rules, obligations and procedures set out in Clause 65 (*Arbitration Procedure*);

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

"**Associated Facilities**" means any facilities required for the purposes of the Project at or in the vicinity of the Site (and which are not temporary facilities required to achieve the Start Date of either Reactor) including, for the avoidance of doubt, the Waste Stores;

"**Assumed Load Factor**" means zero point nine one (0.91) or such other figure as the CfD Counterparty and the Generator may agree in writing;

"**Assumptions Book**" means the Original Assumptions Book as updated from time to time and at the same time as any updates to the Financial Model;

"**Auditors**" means the auditors of the Generator, which shall be:

(A) PricewaterhouseCoopers LLP;

(B) the UK member firm of Ernst & Young Global Limited;

(C) KPMG LLP;

(D) the UK member firm of Deloitte Touche Tohmatsu Limited; or

(E) another firm of independent and internationally reputable auditors of good standing;

"**Auditor's Certificate**" means a certificate from an Auditor certifying:

(A) in respect of any Draft Revised Financial Model that:

(i) the Draft Revised Financial Model achieves the objectives set out under this Agreement, in all material respects, in so far as its logical integrity and arithmetical accuracy under the assumptions and input data documented or applied by the Generator for the base case and specified sensitivities is concerned;

(ii) certain assumptions and input data in the Draft Revised Financial Model (marked with appropriate references) reflect in all material respects the amounts, dates and formulaic calculation methods set out in the extracts of the source project documentation supplied to the Auditor;

(iii) the tax charge, liabilities and payments calculated by the Draft Revised Financial Model are consistent with the assumptions applied or documented by the Generator and appear consistent in all material respects with the Auditor's understanding of existing tax legislation for any relevant jurisdictions; and

(iv) the calculations relating to accounting measurements in the Draft Revised Financial Model are consistent with the assumptions applied or documented by the Generator and appear consistent in all material respects with the Auditor's understanding of existing IFRS as applied at the time; or

(B) in respect of any Draft Revised FDP Tracker Tool that:

(i) the Original Contribution Amounts calculated in the Draft Revised FDP Tracker Tool are determined in accordance with the instructions in the FDP Tracker Tool; and

(ii) the Draft Revised FDP Tracker Tool achieves the objectives set out under this Agreement, in all material respects, in so far as its logical integrity and arithmetical accuracy under the assumptions and input data documented or applied by the Generator for the base case and specified sensitivities is concerned;

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

"**Available Alternative Insurance Arrangements**" means Insurance Arrangements:

(A) which are available in respect of the Generator (excluding self-insurance);

(B) the cost to the Generator of which is less than the Threshold Cash Collateralisation Cost; and

(C) which are approved by Her Majesty's Government of the United Kingdom under section 19(1) of the NIA 1965,

and includes proposals for Insurance Arrangements which satisfy or are reasonably expected to satisfy the conditions set out in paragraphs (A) to (C) (inclusive) above, and Agreed Pooled Insurance Arrangements (but not other Pooled Insurance Arrangements) which satisfy such conditions shall be considered Available Alternative Insurance Arrangements;

"**Average Benchmark Costs**" means, for each Contract Year during the relevant Opex Reopener Period, the mean of the Benchmark Costs Comparator forecast to be incurred by all Appropriate HPC Comparator Group Operators;

"**Balancing System Charge Difference**" means the relevant amount calculated in accordance with Clause 42.1(D) (*Balancing System Charge Reports*);

"**Balancing System Charge Report**" has the meaning given to that term in Clause 42.1 (*Balancing System Charge Reports*);

"**Balancing System Charge Report Year**" has the meaning given to that term in Clause 42.1 (*Balancing System Charge Reports*);

"**Balancing System Charge Review Period**" has the meaning given to that term in Clause 42.1(C) (*Balancing System Charge Reports*);

"**Balancing System Charge Strike Price Adjustment**" has the meaning given to that term in Clause 42.2 (*Balancing System Charge Strike Price Adjustment*);

"**Base Eligible Opex Costs**" means, for each Contract Year during the relevant Opex Reopener Period, in respect of and as at the relevant Opex Reopener Date:

(A) at the First Opex Reopener Date the aggregate of each of the costs described as "Base Eligible Opex Costs" in the Original Model User Guide provided that following the Lifecycle Replacement Assumptions being refined in accordance with Clause 52.1(P) (*Generator undertakings*), the aforementioned costs shall be revised in consequence as agreed in writing between the Generator and the CfD Counterparty (or, in default of agreement, as determined by an Expert in accordance with the Expert Determination Procedure) on the basis of the circumstances as at the Agreement Date and disregarding any Change in Applicable Law or Change in Regulatory Basis thereafter to the extent that it has affected the Lifecycle Replacement Assumptions, all of which costs shall be expressed in Real terms and be Rebased to the relevant Opex Reopener Date;

(B) at the Second Opex Reopener Date, the Second Opex Reopener Base Eligible Opex Costs, Rebased to the Second Opex Reopener Date,

plus in each case, any amount that falls under the definition of "Eligible Opex Costs" in this Clause 1.1 that has arisen prior to or on the relevant Opex Reopener Date and which has been compensated under this Agreement or which has been agreed or determined will be compensated under this Agreement, including any QCiL Net Operating Costs, TNUoS Charges Difference, Business Rates Difference, Nuclear Third Party Liability Insurance Adjustment and any QCiL Net Capital Costs (to the extent that such costs fall under paragraph (B) of the definition of "Eligible Opex Costs" in this Clause 1.1) and any Change in Regulatory Basis Costs (to the extent that such costs fall under the definition of "Eligible Opex Costs" in this Clause 1.1) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the relevant Opex Reopener Date and, if such amounts are expressed in Real terms, Rebased to the relevant Opex Reopener Date,

and for the purposes of this definition any capital expenditure which relates to an asset with a useful life beyond the Term shall include only that proportion that is equal to the proportion of the useful life of the relevant asset that falls within the Term;

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

"**Base Year**" means 2012;

"**Base Year CPI**" means the value of the CPI for November 2011;

"**Base Year RPI**" means the value of the RPI for November 2011;

"**Base Year Terms**" means, for any Strike Price Adjustment initially expressed in a price period (x), with (x) being a calendar year other than the Base Year, the Strike Price Adjustment in respect of the Base Year (ADJ_{base}), calculated in accordance with the following formula:

$$ADJ_{base} = ADJ_X \cdot \frac{CPI_{base}}{CPI_X}$$

where:

ADJ_X is the Strike Price Adjustment (expressed in £/MWh) in any year (x);

CPI_{base} denotes the Base Year CPI; and

CPI_X denotes the CPI that was actually used in calculating the relevant Strike Price Adjustment,

and, in each case, for the avoidance of doubt, taking into account any rebasing of the relevant index;

"**Baseload Forward Season Contract**" means a contract relating to the delivery of a firm volume of energy in each Settlement Unit within the Season immediately following the Season in which such contract is entered into (whether physically or cash settled);

"**Baseload Forward Season Index**" means an index or other source of prices of Baseload Forward Season Contracts from which the Baseload Forward Season Trading Day Price can be calculated and "**Baseload Forward Season Indices**" shall be construed accordingly;

"**Baseload Forward Season Trading Day Price**" means the volume-weighted average price for all Baseload Forward Season Contracts reported by a Baseload Price Source in respect of Trading Day (i) calculated, subject to Clause 12.3 (*Baseload Market Reference Price*) (where applicable), in accordance with the following formula:

$$\textit{Baseload Forward Season Trading Day Price} = \frac{\sum_{n=1}^{t} (P_n \cdot V_n)}{\sum_{n=1}^{t} (V_n)}$$

where:

n is a whole number integer representing a Baseload Forward Season Contract on the relevant Trading Day (i);

t is the total number of Baseload Forward Season Contracts entered into on the relevant Trading Day (i), as reported by the relevant Baseload Price Source;

P_n is the price (expressed in £/MWh) of Baseload Forward Season Contract (n); and

V_n is the volume (expressed in MWh) of Baseload Forward Season Contract (n);

"**Baseload Market Reference Price**" has the meaning given to that term in Clause 12.2 (*Baseload Market Reference Price*);

"**Baseload Price Sources**" means the Baseload Forward Season Indices to be used in the calculation of the Baseload Market Reference Price, being the Initial BMRP Indices or such other replacement or supplementary Baseload Forward Season Indices which are required to be so used as a result of the operation of the provisions of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*), and "**Baseload Price Source**" shall be construed accordingly;

"**Benchmark Costs Comparator**" means, for each Contract Year during the relevant Opex Reopener Period, the sum of all HPC Comparator Individual Benchmark Costs calculated separately for each Appropriate HPC Comparator Group Operator;

"**Billing Period**" means the period starting at 00:00 on a day and ending at 00:00 on the following day;

"**Billing Statement**" has the meaning given to that term in Clause 23.1(A) (*Delivery of Billing Statement*);

"**Billing Statement Dispute Notice**" means a written notice satisfying the requirements of Clause 24.3(B) (*Billing Statement disputes*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clause 24.3(B)(viii) (*Billing Statement disputes*);

"**Black Start**" has the meaning given to that term in the Grid Code;

"**BMRP Dispute**" means a BMRP Price Source Dispute or a BMRP Principles Review Dispute (as the case may be);

"**BMRP Price Source Dispute**" has the meaning given to that term in Annex 3 (*BMRP*);

"**BMRP Principles Review Dispute**" has the meaning given to that term in Annex 3 (*BMRP*);

"**Bradwell B Project**" means the project for the development of a nuclear new build generation facility at the Bradwell B site, Essex, England;

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

"**BSUoS Charges**" means:

(A) balancing services use of system charges which, at the Agreement Date, are levied by the GB System Operator pursuant to the CUSC; and

(B) any new or substitute payments or credits which are in the nature of, or similar to, balancing services use of system charges, whether or not levied by the GB System Operator or pursuant to the CUSC,

in each case, payable or receivable by electricity generators in Great Britain (not being Embedded Generators), and expressed in pounds;

"**Budget and Services Agreement**" means the FDP budget and services agreement dated on or around the Agreement Date between the Generator and the FDP Implementation Company;

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

"**Business Rates**" means:

(A) the business (national non-domestic) rates which at the Agreement Date are calculated as the product of the rateable value of a property and the uniform business rate multiplier; and

(B) any new or any substitute rates which are in the nature of, or similar to, business (national non-domestic) rates;

"**Business Rates Difference**" has the meaning given to that term in Clause 18.2(D)(v)(g) (*Preliminary Business Rates Report*);

"**Business Rates Fallback Date**" has the meaning given to that term in Clause 18.5(C) (*Strike Price Adjustment*);

"**Business Rates Report**" has the meaning given to that term in Clause 18.4 (*Business Rates Report*);

"**Business Rates Report Effective Date**" means the date on which a Preliminary Business Rates Report (as amended, if applicable) becomes a Business Rates Report pursuant to Clause 18.4 (*Business Rates Report*);

"**Business Rates Strike Price Adjustment**" means a Strike Price Adjustment made or to be made pursuant to Clause 18 (*Business Rates Adjustment*) which shall be calculated at ninety-five per cent. (95%) of the Aggregate Business Rates Difference, divided by the Projected Net Generation for the remainder of the Term as Discounted to Present Value as at the Reactor One Start Date using the Compensation Calculation Discount Rate;

"**Calculation Season**" means a Season for which the Baseload Market Reference Price is calculated;

"**Capital Receipt**" means any capital receipt reasonably forecast by the Generator to be received in respect of the future disposal of any asset in any particular Contract Year during the relevant Opex Reopener Period and which constitutes capital expenditure for the purposes of paragraph (B) of the definition of "Eligible Opex Costs" in this Clause 1.1 but, for the avoidance of doubt, updated to exclude the Sizewell C payment (being any amount forecast to be payable to the Generator by or on behalf of the Sizewell C Company or otherwise in respect of, or referable to, the Sizewell C Project) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms and, if

such amounts are expressed in Real terms, Rebased to the relevant Opex Reopener Date;

"**CCE Proceedings**" means the proceedings brought by the Central Works Council (*comité central d'enterprise*) of EDF SA ("**CCE**") in respect of the information and consultation process (which commenced on 2 May 2016) regarding the Project including the proceedings filed by the CCE in relation to such information and consultation process before the High Court (*Tribunal de Grande Instance*) of Paris on 22 June 2016 and on 25 July 2016 and any further proceedings brought by the CCE arising out of such information and consultation process (including (i) any appeals of the proceedings; (ii) any joinder of other parties to the proceedings; (iii) any other amendment of the proceedings; (iv) any consolidation of the proceedings; or (v) any withdrawal or discontinuance of the proceedings and their reissue or reinstatement; or (vi) the equivalent of any of the foregoing under the laws of any applicable jurisdiction);

"**CfD Counterparty Confidential Information**" means:

(A) all Information which is confidential or proprietary in nature and which relates (directly or indirectly) to the CfD Counterparty or a Government Entity (including any such Information relating to the policy of Her Majesty's Government of the United Kingdom with respect to matters pertinent to FiT Contracts for Difference, this Agreement or any other Transaction Document) which any member of the NNB HoldCo Group (or its Representatives) receives or has received from the CfD Counterparty (or its Representatives) or from any third party who receives or has received such Information from the CfD Counterparty (or its Representatives) in respect of this Agreement or any other Transaction Document (including any Information which any member of the NNB HoldCo Group prepares which contains or makes explicit reference to such Information or from which such Information is readily ascertainable);

(B) without prejudice to the generality of paragraph (A) above, all Information relating to any QCiL Compensation or Qualifying Exit Event Compensation, including all Information relating to or arising from negotiations, discussions and correspondence in connection with any such QCiL Compensation or Qualifying Exit Event Compensation; and

(C) all Information which relates to or arises from negotiations, discussions and correspondence in connection with this Agreement or any other Transaction Document,

but excluding in each case all Excluded Information;

"**CfD Counterparty GT Notice**" means a written notice satisfying the requirements of Clause 38.3(B) (*CfD Counterparty GT Notice*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**CfD Counterparty Permitted Purposes**" means:

(A) complying with the CfD Counterparty's responsibilities and obligations, and exercising the CfD Counterparty's rights, powers and discretions, under or for the

purposes of this Agreement, any other Transaction Document or any Finance Document, in relation to the Project;

(B) complying with the CfD Counterparty's responsibilities and obligations under or by virtue of the EA 2013, any other Law, or any Euratom law, or any Directive, or published official policies or published official guidance issued in respect of any thereof; and

(C) except in the case of Sensitive Nuclear Information and subject to Clause 79.4(B) (*Generator Confidential Information: obligations of the CfD Counterparty*), reporting in the context of Her Majesty's Government's energy and climate change policy on a confidential and strict need-to-know basis to its members, any Government Entity (including, for the avoidance of doubt, Ofgem) and/or the Delivery Body on the establishment, administration, performance or operation of, or compliance or non-compliance with, the obligations and arrangements contemplated by or provided for in this Agreement, any other Transaction Document or any Finance Document;

"**CfD Counterparty Preliminary Insurance Decrease Notice**" means a written notice satisfying the requirements of Clause 47.1(B) (*CfD Counterparty Preliminary Insurance Decrease Notice*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**CfD Counterparty QCiL Notice**" means a written notice satisfying the requirements of Clause 29.3(B) (*CfD Counterparty QCiL Notice*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**CfD Counterparty Restricted Purposes**" means:

(A) complying with the CfD Counterparty's responsibilities and obligations, and exercising the CfD Counterparty's rights, powers and discretions, under or for the purposes of this Agreement, any other Transaction Document or any Finance Document, in relation to the Project; and

(B) complying with the CfD Counterparty's responsibilities and obligations under or by virtue of the EA 2013, any other Law, or any Euratom law, or any Directive, or published official policies or published official guidance issued in respect of any thereof;

"**CfD Generators**" means, at the relevant time, all parties (other than the CfD Counterparty) to FiT Contracts for Difference provided that, where there are two (2) or more parties to any FiT Contract for Difference other than the CfD Counterparty, only one (1) of them shall be counted for the purposes of this definition;

"**CfD Reserve Account**" means a bank account in the United Kingdom specified by the CfD Counterparty for the purposes of this Agreement alone in a Collateral Posting Notice and to which Acceptable Collateral (in the form of cash) is to be transferred;

"**CfD Settlement Activities**" means:

(A) the calculation, invoicing, recalculation and settlement of payments to be made pursuant to this Agreement; and

(B) the calculation of collateral requirements and the provision of collateral in accordance with Part 18 (*Credit Support*);

"**CfD Settlement Required Information**" means all the Information required by the CfD Counterparty, or the CfD Settlement Services Provider on its behalf, relating to this Agreement and required by it to carry out the CfD Settlement Activities;

"**CfD Settlement Services Provider**" means any person appointed for the time being and from time to time by the CfD Counterparty to carry out any of the CfD Settlement Activities, or who is designated by the Secretary of State to carry out the CfD Settlement Activities, acting in that capacity;

"**CfD Standard Terms**" means the standard terms of contracts for difference issued or revised by the Secretary of State pursuant to section 11 of the EA 2013;

"**CGS Compensation Amount**" means:

(A) where the Generator has not elected to make Interim Construction Payments, the aggregate of the Future Value CGS Nominal Compensation Amounts; or

(B) where the Generator has elected to make Interim Construction Payments:

(i) the aggregate of the Future Value CGS Nominal Compensation Amounts;

less

(ii) any Interim Construction Payments made Future Valued from the relevant payment date(s) to the CGS Final Reconciliation Adjustment Date (both dates inclusive) at the Nominal Project IRR;

"**CGS Final Difference Amount**" means an amount calculated in accordance with the following formula and expressed in £/MWh and Money of the Year for the Base Year and, for the avoidance of doubt, shall be expressed as a positive number:

CGS Final Difference Amount = max (0,((CGSPGSP – CGSFRSP) x CGSSP))

where:

CGSPGSP is the CGS Pre-Gainshare Strike Price (expressed in £/MWh in Money of the Year for the Base Year);

CGSFRSP is the CGS Final Revised Strike Price (expressed in £/MWh in Money of the Year for the Base Year); and

CGSSP is the CGS Sharing Percentage;

"**CGS Final Post-Gainshare Strike Price**" shall be calculated in accordance with the following formula and expressed in £/MWh in Money of the Year for the Base Year:

CGS Final Post-Gainshare Strike Price = min (CGSPGSP, (CGSPGSP – CGSFDA))

where:

CGSFDA is the CGS Final Difference Amount (expressed in £/MWh in Money of the Year for the Base Year); and

CGSPGSP is the CGS Pre-Gainshare Strike Price (expressed in £/MWh in Money of the Year for the Base Year);

"**CGS Final Reconciliation Adjustment Date**" means the later of:

(A) the CGS Final Reconciliation Date; and

(B) the CGS Final Reconciliation Effective Date,

or, if Clause 15.1(C) (*Preliminary Construction Costs Report*) applies, the CGS Final Reconciliation Date;

"**CGS Final Reconciliation Date**" means the date falling six (6) months after the Payment Reconciliation Date, provided that if there is a CGS Initial Reconciliation Date, the CGS Final Reconciliation Date shall be the earlier of:

(A) the date falling six (6) months after the Payment Reconciliation Date; and

(B) the sixth (6th) anniversary of the CGS Initial Reconciliation Date;

"**CGS Final Reconciliation Effective Date**" means the date on which the Preliminary Construction Costs Report prepared in respect of the CGS Final Reconciliation Date (as amended, if applicable) becomes the Construction Costs Report in respect of the CGS Final Reconciliation Date in accordance with Clause 15.3 (*Construction Costs Report*);

"**CGS Final Revised Strike Price**" has the meaning given to that term in Clause 15.6(B) (*Updating the Financial Model in respect of the CGS Final Reconciliation Date*);

"**CGS Initial Reconciliation Adjustment Date**" means the later of:

(A) the CGS Initial Reconciliation Date; and

(B) the CGS Initial Reconciliation Effective Date,

or, if Clause 15.1(C) (*Preliminary Construction Costs Report*) applies, the CGS Initial Reconciliation Date;

"**CGS Initial Reconciliation Date**" means the date falling six (6) months after the Reactor Two Start Date;

"**CGS Initial Reconciliation Effective Date**" means the date on which the Preliminary Construction Costs Report prepared in respect of the CGS Initial Reconciliation Date (as amended, if applicable) becomes the Construction Costs Report in respect of the CGS Initial Reconciliation Date in accordance with Clause 15.3 (*Construction Costs Report*);

"**CGS Initial Revised Strike Price**" has the meaning given to that term in Clause 15.4(B) (*Updating the Financial Model in respect of the CGS Initial Reconciliation Date*);

"**CGS Interim Post-Gainshare Strike Price**" shall be calculated in accordance with the following formula and expressed in £/MWh in Money of the Year for the Base Year:

CGS Interim Post-Gainshare Strike Price = min (CGSPGSP, (CGSPGSP - CGSIRDDA))

where:

CGSIRDDA is the CGS IRD Difference Amount (expressed in £/MWh in Money of the Year for the Base Year); and

CGSPGSP is the CGS Pre-Gainshare Strike Price (expressed in £/MWh in Money of the Year for the Base Year);

"**CGS IRD Difference Amount**" shall be calculated in accordance with the following formula and expressed in £/MWh in Money of the Year for the Base Year:

CGS IRD Difference Amount = max (25% x (CGSPGSP - IRSP),0)

where:

CGSPGSP is the CGS Pre-Gainshare Strike Price (expressed in £/MWh in Money of the Year for the Base Year); and

IRSP is the CGS Initial Revised Strike Price (expressed in £/MWh in Money of the Year for the Base Year);

"**CGS Pre-Gainshare Financial Model**" means:

(A) in respect of the CGS Initial Reconciliation Date (if there is one), the Original Base Case Financial Model updated to take into account any Qualifying Changes in Law which are effective prior to the CGS Initial Reconciliation Date and which have resulted in a change in or to Construction Costs; or

(B) in respect of the CGS Final Reconciliation Date, the Original Base Case Financial Model updated to take into account any Qualifying Changes in Law which are effective prior to the CGS Final Reconciliation Date and which have resulted in a change in or to Construction Costs,

provided always that, in each case, the Original Base Case Financial Model shall be updated only for such changes, and the strike price in the CGS Pre-Gainshare Financial Model shall be set to a level that yields the Nominal Project IRR (the "**CGS Pre-Gainshare Strike Price**");

"**CGS Pre-Gainshare Strike Price**" has the meaning given to that term in the definition of "CGS Pre-Gainshare Financial Model" in this Clause 1.1;

"**CGS Sharing Percentage**" means the percentage determined in accordance with the following formula:

$$CGSSP = \left[50\% \ x \ \frac{min\,(CG, X)}{CG} \right] + \left[\frac{max\,(CG - X, 0)}{CG} \ x \ 75\% \right]$$

where:

CGSSP is the CGS Sharing Percentage (expressed as a percentage);

CG is the Construction Gain (expressed in pounds and, where the Construction Gain is a saving, it shall be expressed as a positive number); and

X is one billion pounds (£1,000,000,000);

"**Change in Applicable Law**" means:

(A) the coming into effect, amendment, supplement, termination, repeal, replacement or withdrawal of or to: (i) any Law or Directive; (ii) any Industry Document; or (iii) any Required Authorisation; or

(B) a change in the interpretation or application of (for the avoidance of doubt, including any new interpretation or application of, or change in or further guidance in respect of, or the manner of exercise of discretions under) any Law, Directive, Industry Document or Required Authorisation by any Competent Authority,

in each case after the Agreement Date;

"**Change in Law**" means:

(A) the coming into effect, amendment, supplement, termination, repeal, replacement or withdrawal of or to: (i) any Law or Directive; (ii) any Industry Document; or (iii) any Required Authorisation; or

(B) a change in the interpretation or application of (for the avoidance of doubt, including any new interpretation or application of, or change in or further guidance in respect of, or the manner of exercise of discretions under) any Law, Directive, Industry Document or Required Authorisation by any Competent Authority,

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

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

(ii) arises out of, or in connection with, a failure by the Generator or any of its Representatives to act in accordance with the Reasonable and Prudent Standard; or

(iii) represents no more than a continuous improvement or development of good practice for the ongoing civil generation nuclear industry (including Nuclear Installations and Nuclear Transport);

"**Change in Regulatory Basis**" means, in respect of any circumstance or matter at or relating to the Facility which the ONR or one of the Environment Agencies regulates, a change such that in respect of that circumstance or matter:

(A) the ONR (for the avoidance of doubt, including any successor to the performance of its functions) no longer regulates it by reference to an assessment of whether a sacrifice required for risk reduction in respect of the relevant matter or circumstance would be grossly disproportionate to the benefit that would be achieved; or

(B) the relevant Environment Agency (for the avoidance of doubt, including any successor to the performance of its functions) no longer regulates whether an option for reducing risk to the environment would be acceptable in respect of the relevant matter or circumstance by reference to whether the costs of implementation are disproportionate to the environmental benefit which the option realises;

"**Change in Regulatory Basis Costs**" means costs which have been or will or are reasonably likely to be incurred by the Generator during the Term in implementing a sacrifice required for risk reduction or a risk reduction option in respect of the Facility, as the case may be, including, in the case of forecast costs, a reasonable risk-based contingency on such costs, less the out-of-pocket costs that would have been incurred by the Generator in implementing a sacrifice or option to reduce that same risk but for the Change in Regulatory Basis (and, for the avoidance of doubt, expressed as a negative amount if the result is negative), and for this purpose any Change in Regulatory Basis Costs shall include, as regards any capital expenditure which relates to an asset with a useful life beyond the Term, only that proportion that is equal to the proportion of the useful life of the relevant asset that falls within the Term;

"**Change in Regulatory Basis Payment**" means the Change in Regulatory Basis Costs:

(A) to the extent that the costs have been incurred prior to or on the QCiL Calculation Base Date, expressed in Nominal Terms and Discounted to Present Value as at the QCiL Calculation Base Date using the Actual Financing Costs Discount Rate; or

(B) to the extent that the costs have been incurred or are forecast to be incurred after the QCiL Calculation Base Date, expressed in either Real or Nominal Terms and:

(i) if the QCiL Compensation is to be paid by way of a Strike Price Adjustment, and:

(a) the costs are expressed in Nominal Terms, Deflated and Restated to Real terms as at the QCiL Calculation Base Date; or

(b) the costs are expressed in Real terms, Rebased to the QCiL Calculation Base Date,

and, in each case, Discounted to Present Value as at the QCiL Calculation Base Date using the Compensation Calculation Discount Rate; or

(ii) if the QCiL Compensation is to be paid by way of a single lump sum payment or a Series of Payments, Discounted to Present Value as at the QCiL Calculation Base Date using the Financing Costs Discount Rate,

and, for the avoidance of doubt, expressed as a negative amount if the result is negative;

"**CiAL Dispute**" has the meaning given to that term in Clause 36.1(A) (*Procedure for raising a Dispute*);

"**CiAL Dispute Notice**" means a written notice satisfying the requirements of Clause 36.1(B) (*Procedure for raising a Dispute*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and (if applicable) all Supporting Information referred to in Clause 62.3(A)(v) (*Outline of Dispute Resolution Procedure*);

"**CiAL Dispute Response Notice**" means a written notice satisfying the requirements of Clause 36.2(B) (*CiAL Dispute Response Notices*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and (if applicable) all Supporting Information referred to in Clause 62.3(A)(v) (*Outline of Dispute Resolution Procedure*) or Clause 66.2(D) (*Consolidation of Connected Disputes*);

"**CiAL Request Notice**" means a written notice:

(A) from the Generator to the CfD Counterparty requesting the CfD Counterparty to undertake a CiAL Review; and

(B) which satisfies the requirements of Clause 35.1(C) (*Requirement to undertake a CiAL Review*),

which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clause 35.1(C)(v) (*Requirement to undertake a CiAL Review*);

"**CiAL Review**" means a review conducted by the CfD Counterparty pursuant to Clause 35.1(A) (*Requirement to undertake a CiAL Review*) as to whether:

(A) a Change in Applicable Law (i) has been implemented, has occurred or has become effective; or (ii) is expected to be implemented, to occur or to become effective and, in each case as a direct result of such Change in Applicable Law

being implemented, occurring or becoming effective, one (1) or more of the Required CiL Amendment Objectives will cease to be met; and

(B) as a consequence of one (1) or more of the Required CiL Amendment Objectives ceasing to be met, Required CiL Amendments are necessary;

"**CiAL Review Notice**" means a written notice satisfying the requirements of Clause 35.2(B) (*Notification of CiAL Review*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**CiAL Review Outcome Notice**" means a written notice satisfying the requirements of Clause 35.3(B) (*Notification of outcome of CiAL Review*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**CiAL Review Response Deadline**" has the meaning given to that term in Clause 35.2(B)(ii) (*Notification of CiAL Review*);

"**CiAL Review Response Notice**" means a written notice satisfying the requirements of Clause 35.2(D) (*Notification of CiAL Review*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice, and (if applicable) all Supporting Information referred to in Clause 35.2(D)(i) (*Notification of CiAL Review*);

"**CiAL Review Trigger**" has the meaning given to that term in Clause 35.1(A) (*Requirement to undertake a CiAL Review*);

"**CJA**" means the Criminal Justice Act 1993;

"**Claimant**" has the meaning given to that term in Clause 64.3 (*Expert Determination Procedure*);

"**Collateral Amount**" means an amount (expressed in pounds) calculated by the CfD Counterparty in accordance with Clause 60.2 (*Collateral Amount*);

"**Collateral Correction Notice**" means a written notice satisfying the requirements of Clause 61.4(A) (*Altering collateral*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**Collateral Posting Date**" means the date by which the Generator is required to transfer or deliver Acceptable Collateral, being the date specified in the relevant Collateral Posting Notice which date shall be no less than ten (10) Business Days after a Collateral Posting Notice is received by the Generator;

"**Collateral Posting Notice**" means a written notice satisfying the requirements of Clause 60.1(B) (*Notification of collateral requirement*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**Collateral Repayment Date**" means an Initial Collateral Repayment Date or (if applicable) a Replacement Collateral Repayment Date;

"**Commercially Sensitive Information**" means Generator Confidential Information which comprises:

(A) the Generator's actual or forecast capital or operating expenditure for the purposes of:

(i) calculating any construction gain share adjustment pursuant to Clause 15 (*Construction Gain Share Adjustment*) or any CGS Compensation Amount;

(ii) any Opex Reopener Adjustment;

(iii) any Strike Price Adjustment; or

(iv) any QCiL Compensation computation;

(B) Information provided for the purpose of calculating any Tax Reopener Adjustment;

(C) the Rateable Value Assessment in respect of each of the HPC Properties for the purposes of the computation of any Business Rates Strike Price Adjustment;

(D) Information provided for the purpose of calculating any Gain Share Amount;

(E) Information provided to the CfD Counterparty in accordance with Clauses 52.1(G) and 52.1(H) (*Generator undertakings*) and Clauses 54.1(A)(iv), 54.1(C), 54.1(E), 54.1(F), 54.1(G) and 54.1(I) (*Provision of Information to the CfD Counterparty*) including where such Information is provided as a Condition Precedent and/or in accordance with Part 15 (*Representations, Warranties and Undertakings*);

(F) the FDP Tracker Tool;

(G) Information provided to comply with paragraph 19 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*);

(H) Information relating to the cost of nuclear third party liability insurance for the purposes of any Nuclear Third Party Liability Insurance Adjustment; and

(I) Information relating to arrangements of the Generator or any member of the NNB HoldCo Group with any provider or prospective provider of debt or equity financing, refinancing or credit support to the extent those arrangements relate to financing, refinancing or credit support matters,

and in each case which has been clearly and correctly marked as Commercially Sensitive Information or "Official Sensitive" (or equivalent protective marking in accordance with the ONR classification from time to time) by the Generator, provided that Generator Confidential Information which would otherwise be Commercially Sensitive Information

but for it also being provided for purposes other than those referred to in paragraphs (A) to (I) above shall not be, or shall cease to be, Commercially Sensitive Information; and

(J) the Financial Model, but only to the extent that any of the foregoing Information is used as an assumption for, or as an input to, the Financial Model;

"**Common Terms Agreement**" means the common terms agreement dated on or about the Agreement Date between, among others, NNB FinCo, the Guarantor, NNB HoldCo and the Generator;

"**Comparable Eligible Opex Costs**" means those Forecast Individual Eligible Opex Costs (other than ONR fees, TNUoS Charges, Business Rates, Annual TLM(CFD) Charges, BSUoS Charges and the costs of making Insurance Provision) for which an Appropriate HPC Comparator Group Operator is available and specified in accordance with Clause 16.3(A) (*HPC Comparator Group*);

"**Compensation Amounts**" has the meaning given to that term in Clause 23.4 (*Calculation of Compensation Amounts*);

"**Compensation Calculation Discount Rate**" means:

(A) at any time prior to the Reactor One Start Date, [redacted] or

(B) at any time thereafter, a Real Discount Rate (post-tax) expressed as an annual effective rate reflective of Project risk, the cost of available capital and the scope of the relevant works at such time, as agreed in writing between the Generator and the CfD Counterparty or, in default of agreement, as determined by an Expert in accordance with the Expert Determination Procedure;

"**Compensatory Interest**" means the interest that is due and payable at the Compensatory Interest Rate in accordance with Clause 23.5 (*Calculation of Compensatory Interest Amount*);

"**Compensatory Interest Amount**" has the meaning given to that term in Clause 23.5 (*Calculation of Compensatory Interest Amount*);

"**Compensatory Interest Amount Calculation Period**" has the meaning given to that term in Clause 23.5 (*Calculation of Compensatory Interest Amount*);

"**Compensatory Interest Rate**" has the meaning given to that term in Clause 23.5 (*Calculation of Compensatory Interest Amount*);

"**Competent Authority**" means:

(A) any international, national, federal, regional, state, local, European Union, Euratom or other court, arbitral tribunal, administrative agency or commission or other governmental, administrative or regulatory body, authority, agency or instrumentality;

(B) any private body to the extent it carries out one or more public functions; or

(C) any other body exercising public functions which has jurisdiction in respect of the Generator, the Facility, the Reactors, the Project, this Agreement or any other Transaction Document,

and includes the Authority, ONR, the International Atomic Energy Agency, the Environment Agencies and the Secretary of State, but excludes the CfD Counterparty and the Guarantor in its capacity as guarantor under or in respect of the Finance Documents;

"**Competitor**" means any person who competes directly with the Generator in the design, construction, installation, operation, maintenance or decommissioning of civil generation nuclear reactors;

"**Conditions Precedent**" means:

(A) the Initial Conditions Precedent; and

(B) the Start Date Conditions Precedent,

and "**Condition Precedent**" shall be construed accordingly;

"**Confidential Information**" means CfD Counterparty Confidential Information and Generator Confidential Information;

"**Connected Agreements**" means the Secretary of State Investor Agreement, the State Aid Side Letter, the Direct Agreement and the direct agreement referred to in paragraph (E) of the definition of "Transaction Documents" in this Clause 1.1 and any other agreement(s) agreed between the CfD Counterparty (with the prior consent of the Secretary of State) and the Generator to be Connected Agreement(s);

"**Connected Dispute**" has the meaning given to that term in Clause 66.1 (*Consolidation of Connected Disputes*);

"**Connection Construction Agreement**" means the Construction Agreement under and as defined in the CUSC entered into between National Grid Electricity Transmission plc and EDF Energy Nuclear Generation Limited (formerly British Energy Generation Limited) in respect of the Hinkley Point at Shurton 400kV GIS Substation (as the same has been novated to the Generator) or any other Construction Agreement under and as defined in the CUSC attributable to the Facility or to one or other Reactor and to which any Transmission System Operator, Transmission Licensee or Licensed Distributor is a party;

"**Consolidated Debt Documents**" has the meaning given to the term at the Agreement Date in the Common Terms Agreement and includes, for the avoidance of doubt, each Initial CP Finance Document;

"**Consolidation Notice**" means a written notice satisfying the requirements of Clause 66.2 (*Consolidation of Connected Disputes*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice

and (if applicable) all Supporting Information referred to in Clause 66.2(D) (*Consolidation of Connected Disputes*);

"**Construction Costs**" means all costs and expenses of the type and description set out in the Assumptions Book or as otherwise required to be expended as a result of a Qualifying Change in Law in each case which are reasonably and properly incurred, paid or accrued, or forecast to be reasonably and properly incurred, paid or accrued, by the Generator to meet the technical specifications and satisfy regulatory requirements without incurring excessive cost or expense in order to manage and undertake the design, development, engineering, construction, installation, completion, testing and commissioning of the Facility and any Associated Facilities (including, for the avoidance of doubt, all such costs and expenses incurred, paid or accrued prior to the Agreement Date),

net of any receipts or accruals from or in respect of such activities (whether before, on or after the Agreement Date), including:

(i) any insurance claims, contractual claims, warranty claims, liquidated damages or other damages claims, compensation, proceeds from asset sales or other disposals, grants or allowances; and

(ii) revenues labelled as "commissioning revenues" from either Reactor in the Original Base Case Financial Model occurring within, or which relate to, the period prior to the Start Date of the relevant Reactor,

but, for the avoidance of doubt, excluding:

(A) any Post-Start Date Operating Costs;

(B) any revenues received or accrued, or forecast to be received or accrued, by the Generator in respect of the generation of electricity from either Reactor (except for revenues labelled as "commissioning revenues" in the Original Base Case Financial Model occurring within, or which relate to, the period prior to the Start Date of the relevant Reactor);

(C) any amount paid to or received by, or forecast to be payable to, the Generator by or on behalf of the Sizewell C Company or otherwise in respect of the Sizewell C Project;

(D) the net revenues received or accrued, or forecast to be received or accrued, by the Generator in respect of, and any costs (whether capital or otherwise) incurred, paid or accrued, or forecast to be incurred, paid or accrued, by the Generator as a result of, the operation of its Wind Farm Activities;

(E) any payments by the Generator to or from NNB HoldCo in respect of tax losses;

(F) any agreed or determined Related Party Discount Amount (as defined in the Secretary of State Investor Agreement); and

(G) any costs and expenses associated with the financing (including refinancing) arrangements incurred, paid or accrued, or forecast to be incurred, paid or accrued, by members of the NNB HoldCo Group in respect of the Project (including any interest in respect of such financing or refinancing arrangements);

"**Construction Costs Report**" has the meaning given to that term in Clause 15.3 (*Construction Costs Report*);

"**Construction Gain**" means:

(A) the aggregate Nominal Construction Costs as described in the Model User Guide,

less

(B) the aggregate Nominal Revised Construction Costs,

and, for the avoidance of doubt, if the resulting amount is a saving it shall be expressed as a positive amount;

"**Construction Payment Schedules**" means the construction schedules which set out the payment profiles and timings and reflect the costs and expenses incurred, paid or accrued by the Generator (including those associated with any acceleration or delays in the construction schedules) in order to manage and undertake the design, development, engineering, construction, installation, completion, testing and commissioning of the Facility and the Associated Facilities (including, for the avoidance of doubt, all such costs and expenses incurred, paid or accrued prior to the Agreement Date);

"**Contract Year**" means each twelve (12) month period during the Term which begins on 1 January and ends on the immediately following 31 December, provided that:

(A) the first Contract Year shall be the period from and including the Reactor One Start Date to and including the immediately following 31 December; and

(B) the final Contract Year shall be the period from and including 1 January in the last calendar year of the Term and ending on the last day of the Term;

"**Contracted Generation Cap**" means nine hundred and ten million (910,000,000) MWh, as reduced by the aggregate number of MWhs:

(A) in respect of which compensation is paid by the CfD Counterparty under this Agreement, including Clause 30.4 (*QCiL Adjusted Revenues Payment*) and Part 13 (*Curtailment*) (being the relevant QC Volume as agreed or determined); and/or

(B) in respect of which the Generator has received Difference Amounts or in respect of which Difference Amounts are due and payable or have been paid by the Generator;

"**Contracting Policy**" means the contracting policy set out at annex 9 (*Contracting Policy*) to the Secretary of State Investor Agreement;

"**Contractor**" means any contractor, subcontractor, consultant or adviser of or to the Generator but excludes any Transmission System Operator, Transmission Licensee or Licensed Distributor;

"**Contribution Delta**" has the meaning given to that term in the definition of "Permitted FAP Change Contributions" in this Clause 1.1;

"**Court of Justice of the European Union**" means the institution of the European Union which includes the General Court and the Court of Justice thereof;

"**CP Fulfilment Notice**" means:

(A) an Initial CP Fulfilment Notice; and/or

(B) a Start Date CP Fulfilment Notice;

"**CPI**" means:

(A) the all items index of consumer price inflation published each month by the Office for National Statistics;

(B) if that index is no longer being published, such index as the CfD Counterparty may reasonably determine to be appropriate in the circumstances; or

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

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

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

"**CTA**" means the Corporation Tax Act 2010;

"**Curtailment**" means, in respect of any period, the prevention or restriction by, or on the instruction or as a result of the requirements (including requirements for balancing services involving an acceptance or deemed acceptance) of, the NETSO of the export from the Facility to the national electricity transmission system of all or a proportion of the electricity which the Facility is otherwise able to generate and export during the relevant period, provided that there shall be no Curtailment to the extent that the export of electricity from the Facility is so prevented or restricted as a direct result of:

(A) any unplanned Transmission System outage or Black Start;

(B) any Emergency Deenergisation Instruction given to the Generator:

(i) in the circumstances where, in the reasonable opinion of the NETSO, the condition or manner of operation of the National Electricity Transmission System or the User's System of which the Facility forms part poses an immediate threat of injury or material damage to any person or to the

Total System or to any User's System or to the National Electricity Transmission System; and

(ii) in order to avoid the occurrence of such injury or damage,

provided that this paragraph (B) exception shall cease to apply at such time as the NETSO would be reasonably expected to have Reenergised the User's Equipment had the NETSO Reenergised as quickly as practicable after the circumstances leading to that Emergency Deenergisation Instruction ceased to exist. Terms in this paragraph (B) (other than the term "NETSO") shall have the meaning given to such terms in the CUSC as at the Agreement Date;

(C) a breach or default by the Generator of this Agreement, any Law or Directive, any Industry Document or any Required Authorisation;

(D) a failure by the Generator to act in accordance with the Reasonable and Prudent Standard; or

(E) any matter relating to health, safety, security or environment at or with respect to the Facility (but not any such matter at or with respect to the national electricity transmission system) to the extent that such matter is a direct result of the Generator's fault or negligence,

and "**Curtailed**" shall be construed accordingly;

"**Curtailment Adjustment**" means a Series of Payments and/or single lump sum payment made or to be made pursuant to Part 13 (*Curtailment*) (including any Compensation Amount);

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

"**Daily Discount Rate**" means the discount rate calculated in accordance with the following formula:

$$\textit{Daily Discount Rate} = (1 + R_s)1/365 - 1$$

where:

R_s is the Compensation Calculation Discount Rate;

"**Daily Payment**" means an amount calculated in accordance with the formula set out in Clause 30.4(F) (*QCiL Adjusted Revenues Payment*);

"**Data and Original Base Case Financial Model Adjustment**" means an adjustment made or to be made pursuant to Clause 19 (*Data and Original Base Case Financial Model Strike Price Adjustment*);

"**Data Room Documentation**" means each of the documents listed in the data room index in the form provided on the date that the draft or document was inserted into the virtual data room administered by, or on behalf of, the Generator (a copy of which data room index has been initialled at the Agreement Date by the Generator and the CfD Counterparty);

"**DECC**" means the Department of Energy and Climate Change;

"**Deed of Undertaking**" means the agreement between the Secretary of State, EDF SA and other equity investors in NNB HoldCo containing an undertaking from the Secretary of State, for the benefit of, among others, each "associated" person (as defined in the EA 2008), that no proposed modification to the FDP will result in liability being imposed on any "associated" person (other than the FDP Implementation Company and any subsidiary of the Generator);

"**Default**" means:

(A) a Termination Event; or

(B) an event or a circumstance which would (with the passage of time, the giving of notice, the making of any determination pursuant to this Agreement or any combination of any of the foregoing) be a Termination Event;

"**Default Interest**" means the prevailing Base Rate plus five per cent. (5%) per annum, compounded daily for the relevant period;

"**Default Termination Notice**" means a written notice:

(A) from the CfD Counterparty to the Generator terminating this Agreement in its entirety; and

(B) which satisfies the requirements of Clause 57.3(B) (*Default termination*);

"**Deficient Collateral Amount**" has the meaning given to that term in Clause 61.4(A)(ii) (*Altering collateral*);

"**Deflated and Restated**" means, in respect of a Nominal cost or saving:

(A) where the relevant Nominal amount is in the Original Base Case Financial Model, the Base Year CPI divided by the Model CPI Index Value at the date when the cost is incurred multiplied by the Nominal Value of the cost or saving and, for the avoidance of doubt, taking into account any rebasing of the relevant index; or

(B) in any other case:

(i) if the relevant Nominal cost or saving has already been incurred or made, the Base Year CPI divided by the Actual CPI Index Value at the date the cost is incurred or the saving made, multiplied by the Nominal Value of the cost or saving and, for the avoidance of doubt, taking into account any rebasing of the relevant index; or

(ii) if the relevant Nominal cost or saving is or is forecast to be incurred or made, the Base Year CPI divided by the Projected CPI Index Value at the date the cost or saving is or is forecast to be incurred or made multiplied by the Nominal Value of the cost or saving,

in each case multiplied by the Actual CPI Index Value at the Rebasing Date divided by the Base Year CPI and, for the avoidance of doubt, taking into account any rebasing of the relevant index, and "**Deflate and Restate**" and "**Deflating and Restating**" shall be construed accordingly;

"**Delivery Body**" means the person from time to time responsible pursuant to section 12(1) of the EA 2013 for notifying the CfD Counterparty to offer and enter into FiT Contracts for Difference, acting in that capacity;

"**Designated Termination Date**" has the meaning given to that term in Clause 57.3(B)(i) (*Default termination*);

"**Difference**" means, in respect of a Settlement Unit, an amount (expressed in £/MWh) calculated in accordance with the following formula:

$$Difference = min\,(SP_t - MRP_t, SP_t)$$

where:

SP_t is the Strike Price in Settlement Unit (t); and

MRP_t is the Baseload Market Reference Price applicable to Settlement Unit (t);

"**Difference Amount**" means, in respect of a Settlement Unit, an amount (expressed in pounds) calculated in accordance with the following formula:

$$Difference\ Amount = Difference \times max\,(min\,(Q_t \times h_t \times TLM_t, M_t), 0)$$

where:

Q_t is: (i) if only one Reactor has reached its Start Date, 1,638.6 MW; (ii) if both Reactors have reached their Start Dates, 3,277.2 MW; and (iii) if Reactor One has reached the end of the Reactor One Term but Reactor Two has not reached the end of the Reactor Two Term, 1,638.6 MW;

h_t is the number of hours in Settlement Unit (t);

TLM_t is the transmission loss multiplier allocated in accordance with the BSC, or any new or substituted multiplier or factor which is in the nature of, or similar to, a transmission loss multiplier, in Settlement Unit (t); and

M_t is the Metered Output of the relevant Reactor(s) during Settlement Unit (t);

"**Direct Agreement**" means an agreement in substantially the form set out in Annex 2 (*Form of Direct Agreement*) or in such other form as may be agreed in writing by the CfD Counterparty;

"**Directed Curtailment Period**" means the period of time during which the export of electricity from the Facility to the national electricity transmission system is Curtailed provided that, for the avoidance of doubt, the Directed Curtailment Period shall not include any Ramp Down Time, Ramp Up Delay Time or any Ramp Up Time in respect of the relevant Curtailment;

"**Directive**" means, in relation to either Party, any ordinance, code, decision, directive, order, decree, regulation, determination, award, standard or rule of any Competent Authority:

(A) which is legally binding upon that Party or, if not legally binding upon that Party, with which that Party would ordinarily comply, acting (in the case of the Generator) in accordance with the Reasonable and Prudent Standard; and

(B) in circumstances in which the Generator is seeking to invoke the provisions of Clause 29 (*Qualifying Change in Law: Procedure*) or Clause 35 (*Change in Applicable Law: Procedure*) with which the Generator does comply or uses all reasonable endeavours to comply;

"**Directors' Certificate**" means a certificate given without personal liability save in the case of wilful default or fraud on the part of the signatory or signatories, signed by two (2) directors of the Generator (or, in the case of Schedule 1 (*Conditions Precedent*) and, if the context so requires, the relevant member of the NNB HoldCo Group, Ultimate Investor, Investor, Investor Super TopCo or Investor TopCo) or one (1) director of the Generator (or, in the case of Schedule 1 (*Conditions Precedent*) and, if the context so requires, the relevant member of the NNB HoldCo Group, Ultimate Investor, Investor, Investor Super TopCo or Investor TopCo) in the presence of a witness who attests the signature, such directors or director (as applicable) having made, and confirmed in the certificate as having made, all due and careful enquiries in relation to the matters set out in such certificate (or set out in the notice, or enclosures or appendices to the notice, which such certificate is accompanying) and certifying that the relevant information, notices or reports contained in, enclosed with or accompanying the certificate, or any information, notices or reports to which the certificate relates, including Supporting Information, is in all material respects true, complete, accurate and not misleading, in each case by reference to the facts and circumstances then existing, provided that where any information, notice or report is provided by a third party that is not a member of the NNB HoldCo Group or a Representative of a member of the NNB HoldCo Group and is marked as such, the certification of the director or directors (as applicable) of such information, notice or report shall only extend to the certification that such information, notice or report is in all material respects true, complete, accurate and not misleading to the best of his or their knowledge and belief having made all due and careful enquiries;

"**Discount Rate**" means the rate expressed as an annual effective discount rate as agreed in writing between the Generator and the CfD Counterparty or, in default of agreement, as determined by an Expert in accordance with the Expert Determination Procedure, required to calculate the Present Value or Future Value as at any particular

date of, relative to that particular date, a past cash flow or a future cash flow, as the case may be;

"**Discounting**" means converting a currency amount that:

(A) is forecast to be incurred, paid or accrued after a particular date; or

(B) has been incurred, paid or accrued prior to a particular date,

into Present Value terms or Future Value terms (as required) as at that particular date and "**Discounted**" shall be construed accordingly;

"**Discriminatory Change in Law**" means a Change in Law the terms of which specifically (and not merely indirectly or consequentially or by virtue of the disproportionate effect of any Change in Law that is of general application) apply to:

(A) the Project (or any part thereof) and not to the design, development, construction, conversion, installation, completion, testing, commissioning, operation, maintenance and decommissioning of any other project (or any part thereof);

(B) the Facility (or any part thereof) and not to any other generating facility (or any part thereof); or

(C) the Generator and not to any other person;

"**Dispute**" means any dispute or claim in any way relating to or arising out of this Agreement, whether contractual or non-contractual, and including any dispute or claim regarding:

(A) its existence, negotiation, validity or enforceability;

(B) the performance or non-performance of a Party's obligations pursuant to it; or

(C) breach or termination of it,

but excluding any Metering Dispute or Trading Dispute and subject to the terms of Annex 3 (*BMRP*) in the case of a BMRP Dispute;

"**Dispute Information**" has the meaning given to that term in Clause 62.3(E) (*Outline of Dispute Resolution Procedure*);

"**Dispute Notice**" means a written notice:

(A) from one Party to the other Party to initiate the Dispute Resolution Procedure; and

(B) which satisfies the requirements of Clause 62.3(A) (*Outline of Dispute Resolution Procedure*),

which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and (if applicable) all Supporting Information referred to in Clause 62.3(A)(v) (*Outline of Dispute Resolution Procedure*);

"**Dispute Resolution Procedure**" means the rules, obligations and procedures set out in Part 19 (*Dispute Resolution*) including the Arbitration Procedure and the Expert Determination Procedure but excluding the provisions of Clause 68 (*Metering and BMRP Disputes*) and Annex 3 (*BMRP*);

"**Distribution Code**" means the distribution code that a Licensed Distributor is required to prepare or maintain in force in a form approved by the Authority pursuant to Standard Condition 21 (Distribution Code) of a Distribution Licence;

"**Distribution Connection and Use of System Agreement**" means the agreement that a Licensed Distributor is required to prepare or maintain in force in a form approved by the Authority under Standard Condition 22 (Distribution Connection and Use of System Agreement) of a Distribution Licence;

"**Distribution Licence**" means a licence granted or treated as granted pursuant to section 6(1)(c) of the EA 1989;

"**Draft FDP Tracker Tool Information Request**" has the meaning given to that term in Clause 21.1(E) (*Revision of the FDP Tracker Tool*);

"**Draft Financial Model Information Request**" has the meaning given to that term in Clause 20.1(F) (*Revision of the Financial Model*);

"**Draft Revised FDP Tracker Tool**" has the meaning given to that term in Clause 21.1(A) (*Revision of the FDP Tracker Tool*);

"**Draft Revised Financial Model**" has the meaning given to that term in Clause 20.1(C) (*Revision of the Financial Model*);

"**DTM Costs**" means the sum of:

(A) the estimated undiscounted amount of the Costs of Decommissioning (as defined in the FAP);

(B) the estimated undiscounted amount of the Costs of Spent Fuel Management (as defined in the FAP) for the expected life of the Reactors (if any);

(C) the estimated undiscounted amount of the Costs of ILW Disposal (as defined in the FAP) for the expected life of the Reactors; and

(D) the estimated undiscounted amount of the Costs of Spent Fuel Disposal (as defined in the FAP) for the expected life of the Reactors,

in each case calculated at the Approved P Value (as defined in the FAP) and as set out in the then latest DWMP;

"**DWMP**" means the decommissioning and waste management plan that forms part of the FDP for the Facility, as modified (from time to time) in accordance with the EA 2008 and the FAP;

"**EA 1989**" means the Electricity Act 1989;

"**EA 2008**" means the Energy Act 2008;

"**EA 2013**" means the Energy Act 2013;

"**EDF Energy**" means EDF Energy Plc, a company incorporated under the laws of England and Wales with registered number 02366852;

"**EDF SA**" means Électricité de France joint-stock company (SA) whose registered office is at 22-30 avenue de Wagram, Paris, 75008, France, entered in the Companies register of Paris under number 552 081 317;

"**EDF SA Letters**" means:

(A) the letter dated 14 September 2016 from Jean-Bernard Levy, Le Président-Directeur Général of EDF SA, to the Secretary of State regarding, amongst other things, EDF SA's intention to remain the controlling shareholder in the Generator during construction of the Project; and

(B) the written confirmation on or around the Agreement Date provided on behalf of the board of directors of EDF SA and addressed to the Secretary of State confirming that the board of directors of EDF SA has considered and confirmed the commitments made in the letter referred to in paragraph (A) above in consideration for the Secretary of State entering into the Secretary of State Investor Agreement;

"**EIR**" means the Environmental Information Regulations 2004, together with (where the context requires) any guidance and/or codes of practice issued by the Information Commissioner or relevant Crown Body in relation to such legislation;

"**Electrical Schematic Obligation**" has the meaning given to that term in Clause 53.6(A) (*Undertakings: electrical schematic*);

"**Electrical Schematic Obligation Notice**" means a written notice setting out the details of a Metering Change that has been effected;

"**Electricity Supplier**" has the meaning given to that term in section 9(10) of the EA 2013;

"**Eligible Opex Costs**" means:

(A) all costs relating to the operating activities of the Generator, being operating activities within the meaning of IAS 7 "Statement of Cash Flows" (as at the Agreement Date); and

(B) all capital expenditure of the Generator,

in each case wholly and exclusively as required for the continuing operation and maintenance of the Facility, a Reactor or the Associated Facilities (including any arrangements made in relation to Interim Waste Management), but excluding all Non-Relevant Opex Costs;

"**Embedded Generator**" means an exemptible electricity generator whose electricity generating facility is not directly connected to the Transmission System;

"**Energy Consultant**" means an internationally recognised, leading energy market consultancy firm (not being an affiliate of either Party or any other CfD Generator, for this purpose ignoring the proviso in that definition) experienced in advising clients in the United Kingdom electricity generation sector;

"**Environment Agencies**" means:

(A) the Environment Agency in England;

(B) Natural Resources Wales; and

(C) the Scottish Environment Protection Agency;

"**Equity Contribution Agreement**" means the equity contribution agreement dated on or about the Agreement Date between, among others, the Generator and the Guarantor in respect of the contribution of base and contingent equity to the Generator by the equity investors in NNB HoldCo;

"**Equity CP Documents**" means:

(A) the shareholders' agreement dated on or about the Agreement Date between, among others, each Investor TopCo, NNB HoldCo and the Generator;

(B) the constitutional documents of the Generator, NNB HoldCo, each Investor TopCo and Investor Super TopCo and NNB FinCo;

(C) the Equity Contribution Agreement; and

(D) the Equity Subordination Agreement;

"**Equity Subordination Agreement**" means the equity subordination agreement dated on or about the Agreement Date between, among others, the Generator and the Guarantor in respect of the subordination to Lenders of contributions made to the Generator by the equity investors in NNB HoldCo;

"**Estimated Facility Generation**" means:

(A) in relation to a Qualifying Change in Law that has affected, or is expected to affect, one Reactor (but not the other Reactor):

(i) the estimated generation from that Reactor determined from the Original Base Case Financial Model and as described in the Original Model User

Guide and following the generation profile for that Reactor for the remainder of the Term as set out in the Original Base Case Financial Model, adjusted to take account of: (x) any prior Qualifying Changes in Law affecting generation by that Reactor; and (y) the projected performance of that Reactor, for:

(a) the relevant Adjusted Output Period;

(b) the remaining Term; or

(c) the design life of the relevant asset, works or equipment,

as applicable and, in each case, taking into account the actual performance of that Reactor from the Start Date of that Reactor or, where there is insufficient data to form a reasonable judgment on the performance of that Reactor, the actual performance of Other EPR Reactors; and

(ii) capped at fifty per cent. (50%) of the remaining Contracted Generation Cap,

unless, in respect of a relevant Adjusted Output Period, the output of that Reactor, as reduced, is zero (0), in which case the Estimated Facility Generation for such Adjusted Output Period for that Reactor shall be deemed to be zero (0); or

(B) in all other cases:

(i) the estimated generation from the Facility determined from the Original Base Case Financial Model and as described in the Original Model User Guide and following the generation profile for the Facility for the remainder of the Term as set out in the Original Base Case Financial Model, adjusted to take account of: (x) any prior Qualifying Changes in Law affecting generation by the Facility; and (y) the projected performance of the Facility for:

(a) the relevant Adjusted Output Period;

(b) the remaining Term; or

(c) the design life of the relevant asset, works or equipment,

as applicable and, in each case, taking into account the actual performance of the Facility from the Reactor One Start Date or, where there is insufficient data to form a reasonable judgment on the performance of the Facility, the actual performance of Other EPR Reactors; and

(ii) capped at the remaining Contracted Generation Cap,

unless, in respect of a relevant Adjusted Output Period, the output of the Facility, as reduced, is zero (0), in which case the Estimated Facility Generation for such Adjusted Output Period shall be deemed to be zero (0);

"**Estimated Metered Output**" has the meaning given to that term in Clause 10.2(B) (*Estimates of Loss Adjusted Metered Output*);

"**Estimated Output Billing Period**" has the meaning given to that term in Clause 10.2(A) (*Estimates of Loss Adjusted Metered Output*);

"**Estimated Output Billing Statement**" has the meaning given to that term in Clause 10.2(A) (*Estimates of Loss Adjusted Metered Output*);

"**Estimated Output Settlement Unit**" has the meaning given to that term in Clause 10.2(A) (*Estimates of Loss Adjusted Metered Output*);

"**Euratom**" means the European Atomic Energy Community;

"**European Union**" or "**EU**" means the European Union, established by the Treaty of the European Union signed at Maastricht on 7 February 1992 (as amended, supplemented or replaced by any later Treaty);

"**Excess Government Insurance Charges**" has the meaning given to that term in Clause 48.5(A)(ii)(b)(2) (*Increase in cost of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*);

"**Excluded Change in Law**" means a Change in Law which is not a Qualifying Change in Law;

"**Excluded Information**" means Information:

(A) in, or which enters, the public domain otherwise than as a consequence of a breach of any provision of this Agreement; or

(B) properly in the possession of the recipient on a non-confidential basis and not, to the knowledge of the recipient, as a result of a breach by it, its Representatives or any third party of any duty of confidentiality attaching thereto prior to such Information being acquired by or provided to it;

"**Excluded Opex Costs**" means:

(A) all non-maintenance capital expenditure (being capital expenditure to the extent that this is not required wholly and exclusively for the continuing operation and maintenance of the Facility, a Reactor or any Associated Facilities (but not so as to include in this definition of Excluded Opex Costs any costs, fees or expenses for any interim arrangements made in relation to Interim Waste Management));

(B) all costs, fees or expenses incurred, paid or accrued or forecast to be incurred, paid or accrued, as the case may be, by the Generator which relate, or are attributable, to operation and maintenance of the Facility, a Reactor, any Associated Facilities, or any other equipment, asset or other thing other than in accordance with:

(i) the Reasonable and Prudent Standard; or

(ii) the Contracting Policy; and

(C) without prejudice to the generality of paragraphs (A) and (B) above, all costs, fees or expenses incurred, paid or accrued or forecast to be incurred, paid or accrued, as the case may be, by the Generator which relate, or are attributable, to:

(i) operation of the Facility, a Reactor, any Associated Facilities, or any other equipment, asset or other thing other than in compliance with the requirements of the then applicable technical specifications of the original equipment manufacturer or, where no such technical specifications are applicable, other generally accepted applicable industry standards, but not so as to include in this definition of Excluded Opex Costs such costs, fees or expenses which are directly attributable to a Change in Applicable Law or Change in Regulatory Basis;

(ii) the actual performance, deliverables or outcome being different from that or those assumed under the Lifecycle Replacement Assumptions, but not so as to include in this definition of Excluded Opex Costs such costs, fees or expenses which are directly attributable to a Change in Applicable Law or Change in Regulatory Basis;

(iii) the Facility, a Reactor, any Associated Facilities or any other equipment, asset or other thing, or the design, development, engineering, construction, installation, completion, testing and commissioning thereof, not being in compliance with the design (including manufacturing) specifications therefor as and when such specifications are specified or otherwise known, but not so as to include in this definition of Excluded Opex Costs any instance where such specifications have themselves been amended thereafter pursuant to a Change in Applicable Law or Change in Regulatory Basis;

(iv) works or operations for the purpose of increasing the availability or capacity of the Facility or either Reactor but not so as to include in this definition of Excluded Opex Costs such costs, fees or expenses which are directly attributable to a Change in Applicable Law or Change in Regulatory Basis;

(v) the design, development, engineering, construction, installation, completion, testing and commissioning of a new structure and associated works (neither being within an existing building), but not so as to include in this definition of Excluded Opex Costs such costs, fees or expenses

which are directly attributable to a Change in Applicable Law or Change in Regulatory Basis;

(vi) any funding of reserve accounts required by the terms of any debt financing or refinancing in relation to the Project;

(vii) any Tax payable by the Generator;

(viii) without prejudice to the determination of the appropriate discount rate, any principal, interest, fees and costs payable in respect of any Financial Indebtedness of the Generator; and

(ix) any category of costs relating to the operating activities of the Generator that are wholly non-cash in nature (such as amortisation and provision for bad debts);

"**Expected QCiL Effective Date**" means the date on which a Notified Change in Law is expected to become effective;

"**Expected QCiL Material Costs Date**" means the date on which the Generator or the CfD Counterparty (as applicable) reasonably expects the QCiL Material Costs Date to occur;

"**Expert**" means any person appointed in accordance with the Expert Determination Procedure to determine an Expert Dispute;

"**Expert Appointment Date**" means the date on which an Expert is appointed to determine an Expert Dispute by means of an appointment letter entered into by such Expert and each Party;

"**Expert Determination Notice**" means a written notice satisfying the requirements of Clause 64.1 (*Expert Determination Procedure*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and (if applicable) all Supporting Information referred to in Clause 62.3(A)(v) (*Outline of Dispute Resolution Procedure*);

"**Expert Determination Procedure**" means the rules, obligations and procedures set out in Clause 64 (*Expert Determination Procedure*);

"**Expert Determination Response Notice**" means a written notice satisfying the requirements of Clause 64.3 (*Expert Determination Procedure*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**Expert Dispute**" means a Dispute which:

(A) this Agreement expressly provides to be determined by an Expert (unless the Parties have otherwise agreed in writing); or

(B) the Parties have agreed in writing should be determined by an Expert;

"**Expert Referral Date**" has the meaning given to that term in Clause 64.6(A) (*Expert Determination Procedure*);

"**FA 2004**" means the Finance Act 2004;

"**Facility**" means the nuclear installations referred to in schedule 1 to the Nuclear Site Licence and other electrical generating equipment within the Site boundary, but excluding assets forming part of the Transmission System or the Distribution System, and commonly known as Hinkley Point C;

"**Fallback Baseload Price**" has the meaning given to that term in Annex 3 (*BMRP*);

"**FAP**" means the funding arrangements plan for the Facility made or proposed to be made between the Generator and the FDP Implementation Company;

"**FDP**" means the funded decommissioning programme in respect of the Site approved or to be approved by the Secretary of State under the EA 2008 and comprising as at the Agreement Date:

(A) the FAP; and

(B) the DWMP,

in each case as may be amended from time to time under the EA 2008;

"**FDP Direct Agreement**" has the meaning given to that term in the FAP;

"**FDP Implementation Company**" means The Nuclear Decommissioning Fund Company Limited, a company incorporated under the laws of England and Wales with registered number 07992648;

"**FDP Tracker Tool**" means the agreed, audited financial computer model in respect of, among other things, the Permitted FAP Change Contributions (version 6.06) delivered or to be delivered to the CfD Counterparty pursuant to paragraph 13 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*) including instructions for its operation, and as updated from time to time in accordance with this Agreement;

"**Fees Regulations**" means the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004;

"**Final Construction Costs Information Request**" has the meaning given to that term in Clause 15.1(K) (*Preliminary Construction Costs Report*);

"**Final Generation Tax Report**" means the report of the Energy Consultant referred to in Clause 38.5(A)(ii) (*Generation Tax Reports*);

"**Final Generator QCiL Notice Information Request**" has the meaning given to that term in Clause 29.2(H) (*Generator QCiL Notice*);

"**Final Investment Decision**" means the date which is the earlier of:

(A) the Agreement Date; and

(B) the date on which the board of directors of the Generator makes its final investment decision with respect to the development of the Project;

"**Final Investor Shutdown Payment(s)**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Final Opex Costs Information Request**" has the meaning given to that term in Clause 16.1(J) (*Preliminary Opex Reports*);

"**Finance Document**" means:

(A) as the context requires, each Consolidated Debt Document and each other document in force (as amended from time to time) between, among others, any member of the NNB HoldCo Group and any Lender in respect of the provision of Financial Indebtedness to a member of the NNB HoldCo Group in respect and for the purposes of the Project; and

(B) any other document designated as such in writing by the CfD Counterparty and the Generator;

"**Financial Indebtedness**" means (without double counting) any indebtedness for or in respect of:

(A) moneys borrowed;

(B) any amount raised by acceptance under any acceptance credit facility;

(C) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(D) the amount of any liability in respect of any agreement which would, in accordance with IFRS, be treated as a finance or capital lease;

(E) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);

(F) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of borrowing which is of a type not referred to in any other paragraph of this definition;

(G) any hedging or derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);

(H) shares which are expressed to be redeemable or are otherwise classified as borrowings under IFRS;

(I) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;

(J) the acquisition cost of any asset to the extent payable after its acquisition or possession by the party liable where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset; or

(K) the amount of any liability in respect of any guarantee or indemnity or similar assurance for any of the items referred to in paragraphs (A) to (J) (inclusive) above;

"**Financial Model**" means the agreed financial computer model in respect of the Project (represented initially by the Original Base Case Financial Model) which uses technical, economic and other assumptions to produce financial projections and projected cash flows, as amended, revised or replaced from time to time in accordance with the Secretary of State Investor Agreement or this Agreement and, where relevant, includes the Assumptions Book;

"**Financial Period**" has the meaning given to that term in the FAP;

"**Financing Costs Discount Rate**" means, at any time:

(A) a Real Discount Rate post-tax if the costs, revenues or savings that are being Discounted are in Real terms; or

(B) a Nominal Discount Rate post-tax if the costs, revenues or savings that are being Discounted are in Nominal Terms,

expressed as an annual effective rate and reflective of the rate reasonably available to the Generator at which it could invest the amount receivable from the CfD Counterparty in connection with the relevant event taking into account the freedom of the Generator to deal with the moneys received having regard, *inter alia*, to its obligations under its then current financing arrangements, all as evidenced by the Generator and as agreed in writing between the Generator and the CfD Counterparty or, in default of agreement, as determined by an Expert in accordance with the Expert Determination Procedure;

"**First Criticality**" means the date on which a self-sustaining nuclear chain reaction first occurs at a Reactor;

"**First Nuclear Island Concrete**" means the placement of the first concrete for the nuclear island on the Sizewell C Licensed Site after the permission to commence installation of first concrete for the nuclear island has been received from ONR;

"**First Opex Reopener Date**" means the date which is the fifteenth (15th) anniversary of the Reactor One Start Date;

"**First Submission**" has the meaning given to that term in Clause 64.6(B) (*Expert Determination Procedure*);

"**First Submission Deadline**" has the meaning given to that term in Clause 64.6(B) (*Expert Determination Procedure*);

"**FiT Contract for Difference**" means:

(A) a contract for difference (as such term is defined in section 6(2) of the EA 2013); or

(B) an investment contract (as such term is defined in schedule 2 to the EA 2013);

"**FiT Market Reference Price**" means:

(A) the Baseload Market Reference Price; and

(B) the Intermittent Market Reference Price,

as applicable to (and as defined in) FiT Contracts for Difference;

"**Fitch**" means Fitch Ratings Limited, an English corporation, and any successor thereto;

"**FM Affected Party**" has the meaning given to that term in Clause 76.1 (*Relief due to Force Majeure*);

"**FoIA**" means the Freedom of Information Act 2000 and any subordinate legislation made under that Act, together with (where the context requires) any guidance and/or codes of practice issued by the Information Commissioner or relevant Crown Body in relation to such legislation;

"**FoIA Information**" means any information of whatever nature, however conveyed, and in whatever form, including written, oral and electronic and in visual or machine-readable form (including CD-ROM, magnetic and digital form);

"**Force Majeure**" means any event or circumstance (including (i) any Change in Applicable Law; (ii) any event or circumstance resulting from any action or omission by or of any CfD Settlement Services Provider, any BSC Agent or a BSC Company; and (iii) any exercise of a discretion by a Competent Authority) that is beyond the reasonable control of the FM Affected Party or, if relevant, its Representatives (in the case of the Generator and its Representatives, acting and having acted in accordance with the Reasonable and Prudent Standard) which, in either case, the FM Affected Party or its Representative (as appropriate) could not reasonably have avoided or overcome and which is not due to the FM Affected Party's fault or negligence (or that of its Representatives), provided always that:

(A) neither the non-availability of funds nor the lack of funds shall ever constitute Force Majeure; and

(B) the Generator shall never be a FM Affected Party to the extent that the event or circumstance in question is or results from the CCE Proceedings or any decision, order, determination, award or ruling of a Competent Authority with respect to or arising out of the CCE Proceedings;

"**Forecast Comparable Eligible Opex Costs**" has the meaning given to that term in Clause 16.3(B)(ii) (*HPC Comparator Group*) as submitted by the Generator or as subsequently determined by agreement with the CfD Counterparty or as procured by the CfD Counterparty in accordance with Clause 16.1(B) (*Preliminary Opex Reports*) or as determined by an Expert in accordance with the Expert Determination Procedure;

"**Forecast HPC Specific Eligible Opex Costs**" has the meaning given to that term in Clause 16.1(D)(xv) (*Preliminary Opex Reports*);

"**Forecast Individual Eligible Opex Costs**" has the meaning given to that term in Clause 16.1(D)(viii) (*Preliminary Opex Reports*);

"**Foreseeable Change in Law**" means, in respect of a Change in Law or Change in Regulatory Basis, that the relevant change:

(A) was published on or after 1 January 2000 but before the Agreement Date in any of the following (to the extent not withdrawn, lapsed, repealed, superseded or discontinued):

(i) a draft Bill;

(ii) a Bill;

(iii) an Act of Parliament which had been enacted but which had not (in whole or in part) come into effect;

(iv) draft subordinate legislation;

(v) subordinate legislation which had not (as regards that Change in Law or Change in Regulatory Basis) come into effect;

(vi) any European Union or Euratom law which had not (as regards that Change in Law or Change in Regulatory Basis) come into effect;

(vii) a draft Required Authorisation or Required Authorisation which had been made but which had not (as regards that Change in Law or Change in Regulatory Basis) come into effect;

(viii) a draft Directive or in a Directive which had been made but which had not (as regards that Change in Law or Change in Regulatory Basis) come into effect;

(ix) a draft Treaty in relation to which Her Majesty's Government of the United Kingdom had made a public statement (from which it had not prior to the Agreement Date publicly resiled) that it would be a signatory; or

(x) a Treaty to which the United Kingdom was a signatory but which had not (as regards that Change in Law or Change in Regulatory Basis) come into effect,

but only to the extent that the change has substantially the same effect as that which was contemplated in such publication;

(B) is contemplated in a proposal or option(s) which was (or were) published on or after 1 January 2000 but before the Agreement Date:

(i) in the Official Journal of the European Union;

(ii) in a consultation document of a Competent Authority and which is the stated preferred proposal (or, if only one (1) proposal was made, that proposal) of the Competent Authority (whether or not the Competent Authority is at the Agreement Date consulting (or has completed consulting) or considering (or has considered any) responses to the consultation), unless that proposal has been superseded by another stated preferred proposal or formally withdrawn, or the Competent Authority has formally indicated that it does not intend to proceed with it, but for this purpose excluding any preferred proposal not to provide public support for new nuclear where the consultation document in which that proposal was published (including the 2002 Energy Review and the 2003 Energy White Paper "Our energy future – creating a low carbon economy") in contemplation of what became the Energy Act 2004 (provided that this exception shall not apply to any proposal contemplating matters arising in relation to the Convention for the Protection of the Marine Environment of the North-East Atlantic, the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 29 July 1960 and the Brussels Supplementary Convention of 31 January 1963, the United Nations Framework Convention on Climate Change and the Kyoto Protocol (including, for the avoidance of doubt, the Clean Development Mechanism and the Joint Implementation Mechanism), the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 and 1996 Protocol thereto, Directive 2003/54/EC and all related Directives, Directive 2001/77/EC and all related Directives or the Energy Efficiency Commitment); or

(iii) in a final modification report in respect of a relevant Industry Document,

but only to the extent that the change has substantially the same effect as that which was contemplated in such publication;

(C) results from the enactment and implementation of any part of Chapters 2, 4 and 5 (including the associated schedules to any of those Chapters) of Part 2 of the EA 2013;

(D) occurs as a result of the amendment, supplement, termination, repeal, replacement or withdrawal of all or part of any document which is referred to in

any Law, Directive, Industry Document or Required Authorisation in existence at the Agreement Date, provided that:

(i) on or before the Agreement Date, a document setting out the nature of such amendment, supplement, termination, repeal, replacement or withdrawal (whether or not in draft):

(a) had been published;

(b) had been received (in hard copy or electronic form) by the Generator; or

(c) had been received (in hard copy or electronic form) by any other member of the NNB HoldCo Group or any of the Representatives of the Generator in connection with the Generator's participation in the Project, where the Generator knew or ought to have known (having made due and careful enquiries) that the documents had been so received; and

(ii) such amendment, supplement, termination, repeal, replacement or withdrawal has substantially the same effect as that so published or received;

(E) constitutes the re-enactment, re-making or similar of (in whole or in part) any Law, Directive, Industry Document or Required Authorisation, provided that the re-enacted, re-made or similar Law, Directive, Industry Document or Required Authorisation, as the case may be, has substantially the same effect as that of which it is a re-enactment, re-making or similar;

(F) implements or gives effect to (the whole or part of) any European Union or Euratom law (or draft thereof) or (the whole or part of) any Treaty which has been published on or after 1 January 2000 but before the Agreement Date (and notwithstanding that implementation proposals and/or related sanctions for any part of the United Kingdom have not been published or have not (in whole or in part) come into effect on the Agreement Date), provided that the implementation proposals and/or related sanctions which come into effect in the United Kingdom (or relevant part thereof) have substantially the same application as the provision in the European Union or Euratom law (or draft thereof) or Treaty which it implements;

(G) results from any Required Authorisation or Directive obtained or made pursuant to or for the purposes of another Required Authorisation or Directive which has been made prior to or is in force on the Agreement Date (the "**First Required Authorisation or Directive**") unless the Generator is obliged to obtain such a Required Authorisation or Directive because of an unforeseeable amendment to the First Required Authorisation or Directive made after the Agreement Date;

(H) results from any exercise of the Royal Prerogative where such exercise has the same, or substantially the same, effect as that which was proposed on or after 1 January 2000 but before the Agreement Date;

(I) constitutes a change in the interpretation or application of a Law, Directive, Industry Document or Required Authorisation by any Competent Authority if such interpretation or application is in accordance with a proposal set out in a document (whether or not in draft) which was on or after 1 January 2000 but before the Agreement Date:

(i) published; or

(ii) received (in hard copy or electronic form) by:

(a) the Generator; or

(b) any other member of the NNB HoldCo Group or any of the Representatives of the Generator in connection with the Generator's participation in the Project, where the Generator knew or ought to have known (having made due and careful enquiries) that the documents had been so received,

and in either case the change has substantially the same effect as that which was proposed in the document; or

(J) results from legal proceedings commenced or threatened in connection with the Facility or against a member of the NNB HoldCo Group on or prior to the Agreement Date,

provided always that, except in a case falling within paragraph (J) above, a Change in Law which imposes a requirement that the Facility permanently ceases operation or which prevents construction, completion or commencement of operations of the Facility or which results in the nationalisation of the Generator, the Facility or the Reactors shall not be a Foreseeable Change in Law;

"**FSMA**" means the Financial Services and Markets Act 2000;

"**Further Business Rates Information Request**" has the meaning given to that term in Clause 18.2(H) (*Preliminary Business Rates Report*);

"**Further Construction Costs Information Request**" has the meaning given to that term in Clause 15.1(I) (*Preliminary Construction Costs Report*);

"**Further Generator GT Claim Information Request**" has the meaning given to that term in Clause 39.2(H) (*Compensation on account of Generation Tax Liability*);

"**Further Generator GT Information Request**" has the meaning given to that term in Clause 38.1(F) (*Generator GT Notice*);

"**Further Generator QCiL Notice Information Request**" has the meaning given to that term in Clause 29.2(F) (*Generator QCiL Notice*);

"**Further Generator QCiL Response Notice Information Request**" has the meaning given to that term in Clause 29.4(H) (*Generator QCiL Response Notice*);

"**Further Milestone Assessment Response Notice**" means a written notice specifying whether the CfD Counterparty, acting reasonably, considers that the Generator has or has not complied with and fulfilled the Milestone Requirement;

"**Further Opex Costs Information Request**" has the meaning given to that term in Clause 16.1(H) (*Preliminary Opex Reports*);

"**Further Quarterly QC Information Request**" has the meaning given to that term in Clause 44.1(F) (*Preliminary Quarterly QC Report*);

"**Further TNUoS Charges Information Request**" has the meaning given to that term in Clause 41.1(G) (*Preliminary TNUoS Charges Report*);

"**Future Value**" means the value, as of any particular date, 't', of a currency amount or any other amount, 'AMT', that was incurred, paid or accrued on a date in the past (that is, relative to that particular date 't'), 'T' (with "t-T" expressed in years or fractions thereof), which shall be calculated in accordance with the following formula and using:

(A) a Real Discount Rate if the amount being discounted is expressed in Real terms; or

(B) a Nominal Discount Rate if the amount being discounted is expressed in Nominal Terms,

(both 'r'),

$$\textit{Future Value} = AMT \times (1 + r)^{t-T}$$

any such discounting to be calculated from day to day on the basis of the actual number of days elapsed and a year of three hundred and sixty-five (365) days, and "**Future Valued**" shall be construed accordingly;

"**Future Value CGS Nominal Compensation Amount**" means, for any given period, the Relevant CGS Compensation Amount, Future Valued from the last day of that period to the CGS Final Reconciliation Adjustment Date (both dates inclusive) at the Nominal Project IRR;

"**Gain Share Amount**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**GB System Operator**" means the operator of the GB Transmission System, acting in that capacity;

"**GB Transmission System**" means the system consisting (wholly or mainly) of high voltage electric lines owned by Transmission Licensees within Great Britain that is used for the transmission of electricity from one generating station to a substation or to another generating station or between substations or to or from any interconnector;

"**Generation Differential**" means, for any Adjusted Output Period:

(A) the Estimated Facility Generation in the Adjusted Output Period had the relevant Qualifying Change in Law not been implemented, occurred or become effective or (if the QCiL Effective Date has not yet occurred) were it not proposed that the relevant Qualifying Change in Law be implemented, occur or become effective,

less

(B) the Estimated Facility Generation in the Adjusted Output Period taking into account the relevant Qualifying Change in Law having been implemented, having occurred or having become effective or (if the QCiL Effective Date has not yet occurred) taking into account that the relevant Qualifying Change in Law has been proposed to be implemented, occur or become effective,

and, for the avoidance of doubt, expressed as a negative amount if the result is negative;

"**Generation Licence**" means an electricity generation licence granted or treated as granted pursuant to section 6(1)(a) of the EA 1989 that authorises a person to generate electricity;

"**Generation Tax**" means a tax or a levy, duty or impost in the nature of tax that is imposed by Her Majesty's Government of the United Kingdom (or which Her Majesty's Government of the United Kingdom has formally required a UK Competent Authority to charge) specifically and directly on electricity generators;

"**Generation Tax Change in Law**" means:

(A) the coming into effect, amendment, supplement, termination, repeal, replacement or withdrawal of or to any Generation Tax; or

(B) a change in the interpretation or application of any Generation Tax by any UK Competent Authority,

in each case after the Agreement Date and which is not a Foreseeable Change in Law, but shall exclude any general taxes, levies, duties or imposts on gross or net Income, Profits or Gains or any indirect taxes, levies, duties or imposts;

"**Generation Tax Effective Date**" means, in respect of a Generation Tax Change in Law, the date from which the Generation Tax Liability or, as the case may be, increase in the Generation Tax Liability resulting from such Generation Tax Change in Law is incurred by the Generator;

"**Generation Tax Information Request**" has the meaning given to that term in Clause 38.4(E)(i) (*Appointment of Energy Consultant*);

"**Generation Tax Liability**" means:

(A) the liability of the Generator to make actual payments of Generation Tax in respect of the Facility, the Reactors or either of them, in which event the amount of the relevant Generation Tax Liability shall be the actual amount paid;

(B) the loss to the Generator of, or a reduction to the Generator in the amount of, a right to repayment of Tax to which it would otherwise have been entitled but for such amount being set off against any liability of the Generator to make an actual payment of Generation Tax in respect of the Facility, the Reactors or either of them, in which event the amount of the relevant Generation Tax Liability shall be the amount of the repayment which would otherwise have been received but for such set-off; and

(C) the loss of, or a reduction in the amount of, any Tax Relief of the Generator by reason of the use of that Tax Relief to reduce or eliminate what would otherwise have been a liability of the Generator to make an actual payment of Generation Tax in respect of the Facility, the Reactors or either of them, where the use of that Tax Relief by the Generator is either automatic or required by law, in which event the amount of the relevant Generation Tax Liability shall be the value of such Tax Relief as determined by the CfD Counterparty, acting reasonably and having regard to the amount of Tax which could have been saved by the Generator if the Tax Relief had not been lost or reduced and the time at which such saving would have been realised;

"**Generation Tax Preliminary Matters**" means, in respect of a Generation Tax Change in Law, whether such Generation Tax Change in Law has occurred or will shortly occur and, if so, the applicable Generation Tax Effective Date;

"**Generation Tax Report**" means, in respect of a Generation Tax Change in Law:

(A) the Preliminary Generation Tax Report; and/or

(B) the Final Generation Tax Report,

in each case, commissioned by the CfD Counterparty in respect of such Generation Tax Change in Law pursuant to Part 11 (*Generation Tax*) and, where the context so requires or admits, includes any similar report of an Energy Consultant under any other FiT Contract for Difference in respect of such Generation Tax Change in Law;

"**Generation Technology**" means a generation technology deployed by a generating facility;

"**Generator Balancing System Charge**" means the amount (expressed in £/MWh) equal to:

(A) the total net BSUoS Charges payable by the Generator in connection with the Facility for all Settlement Units in the Balancing System Charge Review Period immediately preceding the date on which a Preliminary Opex Report is, or is required to be, delivered to the CfD Counterparty;

divided by

(B) the total metered output (expressed in MWh) of the Generator from the Facility for all Settlement Units in such Balancing System Charge Review Period,

provided that if during any such Settlement Unit there is an unplanned outage of the Facility or either Reactor, the Generator and the CfD Counterparty may agree in writing that the net BSUoS Charges and the metered output in respect of that Settlement Unit shall be substituted by the net BSUoS Charges payable by the Generator in connection with the Facility and the metered output (expressed in MWh) of the Generator from the Facility respectively for the equivalent Settlement Unit in the immediately preceding Balancing System Charge Review Period;

"**Generator Confidential Information**" means:

(A) all Information which is confidential or proprietary in nature and which relates (directly or indirectly) to a member of the NNB HoldCo Group, the Facility, a Reactor, the Site or the Project which the CfD Counterparty (or its Representatives) receives or has received from a member of the NNB HoldCo Group (or its Representatives) or from any third party who receives or has received such Information from a member of the NNB HoldCo Group (or its Representatives) in connection with this Agreement or any other Transaction Document (including any Information which the CfD Counterparty prepares which contains or makes explicit reference to such Information or from which such Information is readily ascertainable);

(B) without prejudice to the generality of paragraph (A) above, all Information relating to any QCiL Compensation or Qualifying Exit Event Compensation, including all Information relating to or arising from negotiations, discussions and correspondence in connection with any such QCiL Compensation or Qualifying Exit Event Compensation; and

(C) any Information (including any Sensitive Nuclear Information) which relates to or arises from negotiations, discussions and correspondence in connection with this Agreement or any other Transaction Document,

but excluding in each case all Excluded Information;

"**Generator GT Claim Notice**" means a written notice:

(A) confirming that, in respect of the relevant period, the Generator has incurred and/or paid a Generation Tax Liability as a result of the relevant Generation Tax Change in Law and stating the actual amount of such Generation Tax Liability; and

(B) satisfying the requirements of Clause 39.2(D) (*Compensation on account of Generation Tax Liability*),

which expression shall include:

(i) each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clauses 39.2(D)(ii) and 39.2(D)(iii) (*Compensation on account of Generation Tax Liability*); and

(ii) if and when applicable, any Revised Generator GT Claim Information;

"**Generator GT Notice**" means a written notice satisfying the requirements of Clause 38.1(B) (*Generator GT Notice*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clause 38.1(B)(v) (*Generator GT Notice*);

"**Generator Metering Remediation Notice**" means a written notice satisfying the requirements of Clause 53.4(D) (*Resolution of Metering Compliance Obligation breach*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clause 53.4(D) (*Resolution of Metering Compliance Obligation breach*);

"**Generator Metering Remediation Notice Information Request**" has the meaning given to that term in Clause 53.4(E) (*Resolution of Metering Compliance Obligation breach*);

"**Generator Permitted Purposes**" means:

(A) complying with the responsibilities and obligations, and exercising the rights, powers and discretions of the Generator, under or for the purposes of this Agreement or any other Transaction Document or any Finance Document, in relation to the Project; and

(B) complying with the responsibilities and obligations of the Generator under or by virtue of the EA 2013, any other Law, or any Euratom law, or any Directive, or published official policies or published official guidance issued in respect of any thereof;

"**Generator Preliminary Insurance Decrease Response Notice**" means a written notice satisfying the requirements of Clause 47.2(B) (*Generator Preliminary Insurance Decrease Response Notice*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clauses 47.2(B)(iii), 47.2(B)(v) and 47.2(B)(vi) (*Generator Preliminary Insurance Decrease Response Notice*);

"**Generator Preliminary Insurance Event Notice**" means a written notice satisfying the requirements of Clause 47.3(B) (*Generator Preliminary Insurance Event Notice*), which expression shall include:

(A) each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clauses 47.3(B)(vii) and 47.3(B)(viii) (*Generator Preliminary Insurance Event Notice*); and

(B) if and when applicable, any Revised Generator Insurance Event Information;

"**Generator QCiL Initial Assessment Notice**" means a written notice which satisfies the requirements of Clause 29.1(B) (*Generator QCiL Initial Assessment Notice*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clause 29.1(B)(iv) (*Generator QCiL Initial Assessment Notice*);

"**Generator QCiL Notice**" means a written notice which satisfies the requirements of Clause 29.2(B) (*Generator QCiL Notice*), which expression shall include:

(A) each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clauses 29.2(B)(vii) and 29.2(B)(viii) (*Generator QCiL Notice*); and

(B) if and when applicable, any Revised Generator QCiL Information;

"**Generator QCiL Response Notice**" means a written notice which satisfies the requirements of Clause 29.4(B) (*Generator QCiL Response Notice*) which expression shall include:

(A) each element of, and (if applicable) each computation contained or referred to in, such notice and, if applicable, all Supporting Information referred to in Clauses 29.4(B)(ii), 29.4(B)(vi), 29.4(B)(viii) and 29.4(B)(ix) (*Generator QCiL Response Notice*); and

(B) if and when applicable, any Revised Generator QCiL Response Information;

"**Generator QCiL Response Notice Information Request**" has the meaning given to that term in Clause 29.4(F) (*Generator QCiL Response Notice*);

"**Generator Repeating Warranties**" has the meaning given to that term in Clause 50.2 (*Generator Repeating Warranties*);

"**Generator TLM(CFD) Charge**" means, in respect of the TLM(CFD) Charges Review Period immediately preceding the date on which a Preliminary Opex Report is, or is required to be, delivered to the CfD Counterparty, the transmission losses adjustment (expressed as an absolute decimal) calculated in accordance with the following formula:

$$GeneratorTLM(CFD)Charge = 1 - TLM_{lj}$$

where:

TLM_{lj} is the average transmission losses adjustment (weighted by output) allocated to the Reactors in accordance with the BSC for its BM Units which are delivering Trading Units and defined in section T of the BSC (as at the Agreement Date),

and, for the avoidance of doubt, the Generator TLM(CFD) Charge will be representative of the percentage of electricity lost, and not the percentage of electricity retained;

"**Government Entity**" means:

(A) any department, non-departmental public body, authority or agency of Her Majesty's Government of the United Kingdom or the Crown;

(B) any of Her Majesty's Secretaries of State and any other Minister of the Crown;

(C) any body corporate established by statute, some or all of the members of which are appointed by a Secretary of State or Minister of the Crown; and

(D) any other entity or person directly or indirectly wholly owned by, or held on trust for, any of the foregoing;

"**Government Insurance Arrangements**" means arrangements made by Her Majesty's Government of the United Kingdom at any time and from time to time with any person for the provision of insurance or reinsurance or an indemnity or guarantee (or any other arrangements designated in writing as Government Insurance Arrangements by the Generator and the CfD Counterparty) to the extent this is for the purpose of enabling the licensee of a licensed site to make Insurance Provision;

"**Government Insurance Charges**" has the meaning given to that term in Clause 48.5(A)(ii) (*Increase in cost of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*);

"**Government Insurance Reference Date**" means the later of:

(A) the date on which the relevant Government Insurance Arrangements were introduced; and

(B) the date on which the Generator was first required to make Insurance Provision as licensee of the Site;

"**Grid Code**" means the Grid Code that is required to be prepared by the GB System Operator and approved by the Authority pursuant to Standard Condition C14 (Grid Code) of the Transmission Licence;

"**Group**" means, in respect of any person, its subsidiaries, subsidiary undertakings, associated undertakings and any holding company of that person and all other subsidiaries, subsidiary undertakings and associated undertakings of any such holding company from time to time;

"**Group Structure Chart**" means the group structure chart delivered or to be delivered to the CfD Counterparty pursuant to paragraph 8 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*);

"**GT Dispute Determination**" has the meaning given to that term in Clause 38.4(A)(iii) (*Appointment of Energy Consultant*);

"**GT Strike Price Adjustment**" has the meaning given to that term in Clause 39.1(A) (*GT Strike Price Adjustment*);

"**Guarantor**" means the Commissioners of Her Majesty's Treasury;

"**HMRC**" means Her Majesty's Revenue and Customs;

"**HPC Comparator Group**" means:

(A) nuclear power stations and/or nuclear reactors using European pressurised water nuclear reactor technology similar to that used at the Site;

(B) pressurised water reactor nuclear power stations in North America and EU Member States; and

(C) such other nuclear power stations and/or nuclear reactors as the Generator and the CfD Counterparty may agree in writing;

"**HPC Comparator Group Operator**" means an operator of a nuclear power station and/or a nuclear reactor within the HPC Comparator Group;

"**HPC Comparator Individual Benchmark Cost**" has the meaning given to that term in Clause 16.3(B)(iii) (*HPC Comparator Group*), expressed in, or converted into, sterling at the actual market rate or, as the case may be, the appropriate market rate forecast in accordance with the Reasonable and Prudent Standard by the Opex Submitting Party and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms and, if such amounts are expressed in Real terms, Rebased as at the relevant Opex Reopener Date;

"**HPC Properties**" means all properties within the Site and required for the Project, including, as at the Agreement Date, the properties listed in Annex 5 (*HPC Properties*);

"**HPC Specific Eligible Opex Costs**" means:

(A) the following categories of Eligible Opex Costs, namely:

(i) ONR fees;

(ii) TNUoS Charges; and

(iii) Business Rates; and

(B) any other individual Forecast Individual Eligible Opex Costs which are not Comparable Eligible Opex Costs;

"**IAS**" means international accounting standard;

"**IFRS**" means the body of pronouncements issued or adopted by the International Accounting Standards Board ("**IASB**") including International Financial Reporting

Standards and associated interpretations issued by the IASB and International Accounting Standards and associated interpretations adopted by the IASB;

"**ILW**" means radioactive waste, the radioactive content of which exceeds four (4) gigabecquerels per tonne of alpha activity or twelve (12) gigabecquerels per tonne of beta and/or gamma activity and which does not need heat to be taken into account in the design of disposal or storage facilities;

"**ILW Transfer Contract Certificate**" has the meaning given to that term in the FAP;

"**ILW Transfer Price**" has the meaning given to that term in the FAP at the Agreement Date;

"**ILW Waste Transfer Contract**" means the agreement entered into or to be entered into between the Secretary of State and the Generator in relation to the transfer of title to ILW;

"**Income, Profits or Gains**" includes any income, profits or gains which are deemed to be earned, accrued or received by the Generator for the purposes of any Tax;

"**Indexation Adjustment**" has the meaning given to that term in Clause 13.1 (*Indexation Adjustment*);

"**Indexation Anniversary**" has the meaning given to that term in Clause 13.2(A) (*Effective date of Indexation Adjustment*);

"**Individual Eligible Opex Costs**" means, at any time, each of the Eligible Opex Costs and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the relevant Opex Reopener Date and, if such amounts are expressed in Real terms, Rebased as at the relevant Opex Reopener Date, and for this purpose any Eligible Opex Costs shall include, as regards any capital expenditure which relates to an asset with a useful life beyond the Term, only that proportion that is equal to the proportion of the useful life of the relevant asset that falls within the Term;

"**Industry Documents**" means all agreements, codes, standards and instruments regulating the generation, transmission, distribution, supply or trading of electricity in Great Britain, including the Transmission Licence, the Grid Code, the SOTO Code, the BSC, the Code Subsidiary Documents, the CUSC, the Master Registration Agreement, any Distribution Code, any Distribution Connection and Use of System Agreement and any other connection or use of system agreement with a Transmission Licensee or Licensed Distributor, and "**Industry Document**" shall be construed accordingly;

"**Ineligible Losses**" means losses or reliefs arising in a Non-NNB HoldCo Company (the "**Loss Company**") which are eligible for Loss Surrender to any member of the NNB HoldCo Group:

(A) which arise from any arrangements which are either artificial and the tax advantage is, or might be expected to be, the main benefit or one of the main benefits of the arrangement, or which are "notifiable arrangements" for the purposes of Part 7 of the FA 2004;

(B) which arise from any material intellectual property licensing arrangements or material arrangements for the acquisition of goods or services entered into by the Loss Company with another person with whom the Loss Company is connected pursuant to which any interest in any intellectual property or any goods or services received by the Loss Company (i) are not in the interests of that company; or (ii) are not relevant to the trade or business carried on by that company; or (iii) are provided on pricing terms which both leak value from the Loss Company to the relevant person with whom the Loss Company is connected and are less favourable to the Loss Company than those that would be agreed between third parties dealing at arm's length (to the extent that the same are so provided);

(C) which comprise financing costs (whether trading or non-trading) which do not fall within paragraph (A), (B), (C) or (D) of the definition of "Tax Reopener Non-Qualifying Event" in this Clause 1.1; or

(D) which comprise a non-trading loss on intangible fixed assets arising in respect of a transaction entered into between the Loss Company and a person connected to the Loss Company, save to the extent that the acquisition by the Loss Company of such intangible fixed assets was in the interests of that company, is relevant to the trade or business carried on by that company and was on pricing terms which are no less favourable to the Loss Company than those that would be agreed between third parties dealing at arm's length, and

for the purposes of paragraph (B) of this definition:

(i) arrangements are material if:

(a) they are for the acquisition of goods with a consideration in excess of five hundred thousand pounds (£500,000); or

(b) they are licensing arrangements or arrangements for the acquisition of services pursuant to which the total payments required to be made pursuant to the arrangement are in excess of one million pounds (£1,000,000), or the amounts required to be paid in any accounting period exceed five hundred thousand pounds (£500,000); and

(ii) if a scheme or arrangement is entered into, in consequence of which the arrangements for the acquisition of goods or services would not (apart from this paragraph) be material as defined by sub-paragraph (i) above, and the main purpose, or one of the main purposes, of the scheme or arrangement, or the effect of the scheme or arrangement, is to ensure that the materiality threshold is not met for any accounting period, such arrangements for the acquisition of goods or services shall be deemed to be material;

"**Inflation Factor**" means:

(A) in the absence of any rebasing of the CPI which has taken effect prior to the relevant Indexation Anniversary in respect of the month in which the relevant Settlement Unit (t) falls:

$$P_t = \frac{CPI_t}{CPI_{base}}$$

where:

P_t	is the Inflation Factor;
CPI_t	denotes the CPI for February of the relevant calendar year or, where the CPI for February is not published by the first day of the Summer Season in such calendar year, the Reference CPI which is applicable to the month in which the relevant Settlement Unit (t) falls; and
CPI_{base}	denotes the Base Year CPI; or

(B) if the CPI is rebased and such rebasing has taken effect prior to the Indexation Anniversary in respect of the month in which the relevant Settlement Unit (t) falls:

$$\Pi_t = \frac{CPI_t^{new}}{CPI_b^{new}}$$

where:

P_t	is the Inflation Factor;
CPI_t^{new}	is the CPI, for February of the relevant calendar year or, where the CPI for February is not published by the first day of the Summer Season in such calendar year, the Reference CPI which is applicable to the month in which the relevant Settlement Unit (t) falls, using the new (rebased) index; and
CPI_b^{new}	is the CPI in November 2011, using the new (rebased) index;

"**Information**" means any information of whatever nature and in whatever form, including written, oral and electronic and in visual or machine-readable form (including CD-ROM, magnetic and digital form) and, in relation to any obligation of any person to provide information pursuant to this Agreement, shall be limited to such information that is within the control of that person, and for these purposes information shall be deemed to be within the control of a person if: (i) it is within the possession of such person; (ii) such person has a right to possession of it; or (iii) such person has a right to inspect or take copies of it;

"**Initial Balancing System Charge**" means £1.66/MWh (expressed in Money of the Year for the Base Year);

"**Initial BMRP Indices**" means the LEBA Baseload Index and the NASDAQ Baseload Index;

"**Initial Collateral Repayment Date**" means, in respect of any Collateral Posting Notice, the date falling twelve (12) months after the Collateral Posting Date specified in such notice;

"**Initial Conditions Precedent**" means the conditions precedent set out in Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*);

"**Initial CP Finance Document**" means each of the documents listed in Part 1 (*Consolidated Debt Documents signed at FID*) of Schedule 1 (*FID Documents*) to the Waiver and Amendment Letter, being:

(A) the Common Terms Agreement;

(B) the Equity Contribution Agreement;

(C) the Equity Subordination Agreement;

(D) the Secretary of State Investor Agreement;

(E) the Accounts Agreement;

(F) the CALFA;

(G) the Issuer Borrower Loan Agreement;

(H) the Guarantee Fee Letter;

(I) the Account Bank Fee Letter; and

(J) the Guarantee and Reimbursement Agreement,

(each of paragraphs (F) to (J) above, as defined in the Waiver and Amendment Letter);

"**Initial CP Fulfilment Notice**" means a written notice from the CfD Counterparty to the Generator stating that the CfD Counterparty has determined that all of the Initial Conditions Precedent have been satisfied or waived;

"**Initial CP Provisions**" means Part 10 (*Changes in Law*), Part 11 (*Generation Tax*), Part 14 (*Nuclear Third Party Liability Insurance*) and Annex 3 (*BMRP*);

"**Initial Strike Price**" means the Strike Price as at the Agreement Date as set out in Clause 11.1 (*Initial Strike Price*);

"**Initial TLM(CFD) Charge**" means for each calendar year from (and including) the Agreement Date to the end of the Term, the charge described as "Initial TLM(CFD) Charge" in the Original Model User Guide for the relevant year as set out in the Original Base Case Financial Model and, for the avoidance of doubt, the Initial TLM(CFD) Charge will be representative of the percentage of electricity lost, and not the percentage of electricity retained;

"**Inside Information**" means Generator Confidential Information which is "inside information" within the meaning of section 118C of the FSMA or section 56 of the CJA in relation to the Generator or any member of its Group;

"**Insolvency Regulations**" means The Council of The European Union Regulation No. 1346/2000 on Insolvency Proceedings;

"**Installed Capacity**" means the capacity of the Facility or, as the case may be, a Reactor (expressed in MW) were it to be operated on a continual basis at the maximum capacity possible without causing damage to it (assuming any source of power used by it to generate electricity was available to it without interruption);

"**Insurance Arrangements**" means arrangements with any person(s) for the purpose of enabling the licensee of a licensed site to make Insurance Provision, which arrangements may include the provision of insurance or reinsurance or the provision of an indemnity or guarantee, and a reference to "**Insurance Arrangements in respect of the Generator**" means Insurance Arrangements that enable the Generator to make Insurance Provision as licensee of the Site;

"**Insurance Cost Increase Event**" means an event which satisfies the conditions in Clauses 48.5(A)(i) to 48.5(A)(iv) (inclusive) (*Increase in cost of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*);

"**Insurance Event Information Request**" has the meaning given to that term in Clause 47.4(A) (*Insurance Event Information Requests*);

"**Insurance Event Notice**" has the meaning given to that term in Clause 47.6 (*Insurance Event Notice*);

"**Insurance Failure**" has the meaning given to that term in Clause 48.4(A)(iii) (*Failure by Her Majesty's Government of the United Kingdom to make Insurance Arrangements with respect to third party nuclear liability insurance cover*);

"**Insurance Failure Event**" means an event which satisfies the conditions in Clauses 48.4(A)(i) to 48.4(A)(iv) (inclusive) (*Failure by Her Majesty's Government of the United Kingdom to make Insurance Arrangements with respect to third party nuclear liability insurance cover*);

"**Insurance Mitigation Obligation**" has the meaning given to that term in Clause 49.2(A) (*Insurance Mitigation Obligation*);

"**Insurance Provision**" means, in respect of a licensed site, the provision which the licensee of such licensed site is required to make to comply with section 19(1) of the NIA 1965;

"**Insurance Withdrawal**" has the meaning given to that term in Clause 48.3(A)(ii) (*Withdrawal by Her Majesty's Government of the United Kingdom of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*);

"**Insurance Withdrawal Event**" means an event which satisfies the conditions in Clauses 48.3(A)(i) to 48.3(A)(vi) (inclusive) (*Withdrawal by Her Majesty's Government of the United Kingdom of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*);

"**Intellectual Property Rights**" means:

(A) all intellectual property rights, including patents, trade marks, rights in designs, know-how, copyrights, database rights and topography rights (whether or not any of these is registered and including applications for registration of any such thing) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world; and

(B) all data and Information (whether or not Confidential Information);

"**Interim Construction Payment**" has the meaning given to that term in Clause 15.8 (*Interim payments before the CGS Final Reconciliation Date*) and, for the avoidance of doubt, any such payment shall be expressed as a positive number;

"**Interim Waste Management**" means the Generator's costs of managing Spent Fuel and ILW (including, for the avoidance of doubt, any costs of construction, operation and maintenance of the Waste Stores) prior to transfer of title to the Spent Fuel and ILW to the Secretary of State pursuant to any Waste Transfer Contracts;

"**Intermittent Market Reference Price**" has the meaning given to that term in the CfD Standard Terms;

"**Intra-Project Services Agreement**" means an agreement made or to be made between the Generator and the Sizewell C Company to facilitate the sharing of human resource between the Generator and the Sizewell C Company;

"**Investor**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Investor Group**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Investor Super TopCo**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Investor TopCo**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Law**" means any Act of Parliament, any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, any enforceable EU right within the meaning of section 2 of the European Communities Act 1972, in each case in the United Kingdom, and (to the extent directly binding on and/or enforceable against private persons within the United Kingdom) any obligations arising from a Treaty to which the United Kingdom is a signatory;

"**LCIA**" means the London Court of International Arbitration;

"**LCIA Arbitration Rules**" means the arbitration rules published under that name by the LCIA;

"**Lead Investor**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**LEBA Baseload Index**" means the Baseload Forward Season Index reported by the London Energy Brokers' Association;

"**Legal Reservations**" means:

(A) the principle that equitable remedies may be granted or refused at the discretion of a court;

(B) the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

(C) the time-barring of claims pursuant to applicable limitation laws;

(D) defences of set-off or counterclaim; and

(E) similar principles, rights and defences available at law;

"**Lender**" means only for such period as such entity provides or, as the case may be, has acquired or is the guarantor of Financial Indebtedness in relation to the Facility:

(A) the Guarantor;

(B) NNB FinCo;

(C) any subsidiary undertaking of NNB HoldCo which is established after the Agreement Date for the purpose of providing, acquiring or guaranteeing Financial Indebtedness to the Generator, and which benefits from security over all or substantially all of the assets of the Generator (other than its rights under this Agreement) and which provides, acquires or is the guarantor of Financial Indebtedness in relation to the Facility (but excluding any other member of the NNB HoldCo Group or any parent undertaking of a member of the NNB HoldCo Group or any subsidiary undertaking of such parent undertaking);

(D) the CfD Counterparty;

(E) any subsidiary undertaking of the CfD Counterparty which is established after the Agreement Date for the purpose of providing, acquiring or guaranteeing Financial Indebtedness to the Generator or in relation to the Facility, and which benefits from security over all or substantially all of the assets of the Generator (other than its rights under this Agreement); and

(F) any other bank, financial institution, trust, fund or other entity which is regularly engaged in, or established for the purpose of, providing, acquiring, guaranteeing or investing in loans (but excluding any member of the NNB HoldCo Group or any parent undertaking of a member of the NNB HoldCo Group or any subsidiary undertaking of such parent undertaking);

"**Letter of Credit**" means an unconditional, irrevocable standby letter of credit denominated in pounds and in form and content reasonably satisfactory to the CfD Counterparty which is issued by a Qualifying Issuer and which shall be available for payment at a United Kingdom branch of such Qualifying Issuer in favour of the CfD Counterparty or its designee;

"**Letter of Credit Details Notice**" means a written notice satisfying the requirements of Clause 61.3(A)(ii) (*Letters of Credit*), which expression shall include each element of, and (as applicable) each computation contained or referred to in, such notice;

"**Licensed Distributor**" means a person who is authorised pursuant to a Distribution Licence to distribute electricity, acting in that capacity;

"**Lifecycle Replacement Assumptions**" means the lifecycle assumptions set out in the Original Assumptions Book, as refined in accordance with Clause 52.1(P) (*Generator undertakings*);

"**Longstop Date**" means the date falling four (4) years after the last day of the Reactor Two Target Commissioning Window, as such date may be extended in accordance with Clause 2.4 (*Extension of the Longstop Date*);

"**Loss Adjusted Metered Output**" means, in respect of a Reactor, the BM Unit Metered Volume for the relevant Reactor in respect of a Settlement Unit as measured by the Metering Equipment in respect of such Reactor, adjusted for:

(A) the transmission loss multiplier allocated in accordance with the BSC; or

(B) any new or substituted multiplier or factor which is in the nature of, or similar to, a transmission loss multiplier;

"**Loss Company**" has the meaning given to that term in the definition of "Ineligible Losses" in this Clause 1.1;

"**Loss Surrender**" means a surrender of losses or other reliefs pursuant to Part 5 of the CTA;

"**Market Service Agreement Provider**" means the person(s) appointed by the Generator to act as the provider to it of electricity marketing, trading and sales services;

"**Master Registration Agreement**" means the agreement that a Licensed Distributor is required to maintain in force in a form approved by the Authority pursuant to Standard Condition 23 (Master Registration Agreement) of a Distribution Licence;

"**Material Adverse Effect**" means, in respect of either Party, a material adverse effect on the ability of that Party to perform or comply with its obligations under this Agreement or any other Transaction Document (other than those obligations that are immaterial);

"**Material Generation Technologies**" means a Generation Technology that accounts from time to time for at least one per cent. (1%) of all installed generation capacity (expressed in MW) in the United Kingdom;

"**Material Suspension Information Requirement**" means the provision by the Generator to the CfD Counterparty of:

(A) a Tax Reopener Report in respect of an accounting period within the period referred to in Clause 17.2(A) (*Tax Reopener Report*); and

(B) any further Supporting Information required pursuant to a Tax Reopener Information Request within the period referred to in Clause 17.2(G) (*Tax Reopener Report*);

"**Material Suspension Provision**" means each of:

(A) the undertaking in Clause 54.1(F) (*Provision of Information to the CfD Counterparty*);

(B) the undertakings or obligations in the Secretary of State Investor Agreement to: (i) make a payment of any agreed or determined Project Gain Share Amount by the Project Gain Share Payment Deadline; or (ii) maintain an Acceptable Credit Standing in respect of each Investor;

(C) the Electrical Schematic Obligation; and

(D) the Metering Access Right;

"**Material Termination Representation**" means each of the representations and warranties set out in Clauses 50.1(A) (*Status*), 50.1(B) (*Power and authority*), 50.1(C) (*Enforceability*), 50.1(D) (*Non-conflict with other obligations*), 50.1(E) (*Centre of main interests*) and 50.1(N) (*Corporate structure*);

"**Material Termination Undertaking**" means each of the undertakings set out in Clauses 52.1(A) (*Status*), 52.1(C) (*Centre of main interests*), 52.1(I) (*Tax residency*), 52.1(K) (*No change of business*) and 52.1(M) (*Non-conflict with other obligations*);

"**Maximum Permitted Financial Indebtedness Level**" means sixteen billion pounds (£16,000,000,000);

"**Metered Output**" means, in respect of each Settlement Unit and subject to Clauses 10.2 (*Estimates of Loss Adjusted Metered Output*) and 10.3 (*Reconciliations of Estimated Metered Output*), the aggregate of:

(A) the Loss Adjusted Metered Output in respect of Reactor One for such Settlement Unit (from the Reactor One Start Date and for so long as the Reactor One Term is continuing); and

(B) the Loss Adjusted Metered Output in respect of Reactor Two for such Settlement Unit (from the Reactor Two Start Date and for so long as the Reactor Two Term is continuing),

in each case as reported by a BSC Company or a BSC Agent to the CfD Counterparty;

"**Metered Output Cut-Off Time**" means, in relation to each Billing Period, 14:00 on the sixth (6th) Business Day following such Billing Period;

"**Metering Access Right**" has the meaning given to that term in Clause 53.7(A) (*Undertakings: access to and testing of meters*);

"**Metering Access Termination Event**" means an event as set out in Clause 53.8 (*Failure to provide Metering Access Right*);

"**Metering Breach Notice**" means a written notice satisfying the requirements of Clause 53.2(B) (*Notification of Metering Compliance Obligation breach*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice and all Supporting Information referred to in Clause 53.2(B)(ii) (*Notification of Metering Compliance Obligation breach*);

"**Metering Breach Response Notice**" means a written notice satisfying the requirements of Clause 53.3(B) (*Response to notification of Metering Compliance Obligation breach*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**Metering Breach Response Notice Period**" has the meaning given to that term in Clause 53.3(A) (*Response to notification of Metering Compliance Obligation breach*);

"**Metering Change**" has the meaning given to that term in Clause 53.6(A) (*Undertakings: electrical schematic*);

"**Metering Compliance Obligation(s)**" has the meaning given to that term in Clause 53.1 (*Undertakings: Metering Equipment*);

"**Metering Dispute**" has the meaning given to that term in Clause 24.3(D) (*Billing Statement disputes*);

"**Metering Equipment**" means, in respect of a Reactor, the Metering Equipment measuring the flows of electricity associated with that Reactor, its Metering System and its associated BM Unit(s);

"**Metering Inspection Notice**" means a written notice satisfying the requirements of Clause 53.7(C) (*Undertakings: access to and testing of meters*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**Metering Remediation Plan**" means a plan developed by the Generator setting out appropriate milestones and actions to be taken to remedy a breach of a Metering Compliance Obligation which:

(A) is consistent with its obligations pursuant to the BSC; and

(B) has been approved, signed and dated by a BSC Company;

"**Milestone Assessment Response Notice**" means a written notice satisfying the requirements of Clause 9.1(E) (*Milestone Requirement Notice*);

"**Milestone Delivery Date**" means the date falling thirty-three (33) months after the Final Investment Decision as such date may be extended day for day for each day of delay to the Project by reason of Force Majeure affecting the Generator or its Representatives who are engaged in connection with the Project and acting in that capacity but, in the case of its Representatives, only to the extent that the relevant Representative's failure or delay in the performance of its obligations by reason of the Force Majeure does in fact cause delay to the Project;

"**Milestone Requirement**" means the commissioning of the main concrete batching plant at the Site for the purpose of the start of the construction of the Facility;

"**Milestone Requirement Notice**" means a written notice from the Generator to the CfD Counterparty that the Generator considers that it has complied with and fulfilled the Milestone Requirement, which expression shall include all Supporting Information referred to in Clause 9.1(B) (*Milestone Requirement Notice*);

"**Model CPI**" means CPI as set out in the Original Base Case Financial Model;

"**Model CPI Index Value**" means:

(A) if a cost was incurred or a saving made on, or an amount was Deflated and Restated or Rebased to, any date between 1 January and 30 June (inclusive) in any Contract Year:

(i) Model CPI as at the Indexation Anniversary in the immediately preceding Contract Year (or, if there is no immediately preceding Contract Year, the first day of the Summer Season in the immediately preceding calendar year);

plus

(ii) Model CPI as at the Indexation Anniversary in that Contract Year;

divided by two (2); and

(B) if a cost was incurred or a saving made on, or an amount was Deflated and Restated or Rebased to, any date between 1 July and 31 December (inclusive) in any Contract Year, Model CPI as at the Indexation Anniversary in that Contract Year;

"**Model User Guide**" means the model user guide in respect of the Financial Model delivered or to be delivered to the CfD Counterparty pursuant to paragraph 12 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*) as updated from time to time and at the same time as any updates to the Financial Model;

"**Money of the Year**" means a currency amount in a particular year and expressed in the price base of that particular year;

"**Moody's**" means Moody's Investors Service, Inc., a Delaware corporation, and any successor thereto;

"**Mutual Appointment Decision**" has the meaning given to that term in Clause 65.7 (*Arbitration Procedure*);

"**NASDAQ Baseload Index**" means the Baseload Forward Season Index reported by NASDAQ OMX Commodities A.S.;

"**Net Payable Amount**" means, in respect of a Billing Period or other period, the amount calculated in accordance with Clause 23.6 (*Calculation of Net Payable Amount*)*;*

"**NETSO**" means the person(s) who at the relevant time has or have (as applicable) the power and authority to co-ordinate and/or to direct the flow of electricity on to and over the national electricity transmission system, acting in that capacity;

"**NIA 1965**" means the Nuclear Installations Act 1965;

"**NNB FinCo**" means NNB Finance Company (HPC) Ltd, a company incorporated under the laws of England and Wales with registered number 09284824;

"**NNB HoldCo**" means NNB Holding Company (HPC) Limited, a company incorporated under the laws of England and Wales with registered number 06937080;

"**NNB HoldCo Group**" means each of NNB HoldCo, NNB FinCo and the Generator;

"**Nominal Project IRR**" means [redacted]

"**Nominal Value**" means a currency amount expressed in Money of the Year for the year in which the amount was incurred or saved or forecast to be incurred or saved, and "**Nominal**" and "**Nominal Terms**" shall be construed accordingly;

"**Non-NNB HoldCo Company**" means a company or other person which is not a member of the NNB HoldCo Group;

"**Non-NPA Payment Cure Period**" has the meaning given to that term in Clause 59.1(B)(ii) (*Termination Events*);

"**Non-Relevant Opex Costs**" means:

(A) all Excluded Opex Costs;

(B) all contributions to the FAP; and

(C) all fees payable by the Generator to the FDP Implementation Company;

"**Notified Change in Law**" means the Qualifying Change in Law to which a CfD Counterparty QCiL Notice, a Generator QCiL Initial Assessment Notice, a Generator QCiL Notice or a Generator QCiL Response Notice relates;

"**NPA Payment Cure Period**" has the meaning given to that term in Clause 59.1(B)(i) (*Termination Events*);

"**NTPLI Indexation Anniversary**" has the meaning given to that term in Clause 48.5(A) (*Increase in cost of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*);

"**NTPLI Threshold**" means:

(A) until and including the later of the First Opex Reopener Date and its related Opex Report Effective Date, nine million seven hundred thousand pounds (£9,700,000) (in 2012 prices);

(B) from the day after the later of the First Opex Reopener Date and its related Opex Report Effective Date until and including the later of the Second Opex Reopener Date and its related Opex Report Effective Date, the Applicable NTPLI Costs as set out in the Opex Report in respect of the First Opex Reopener Date; and

(C) thereafter, the Applicable NTPLI Costs as set out in the Opex Report in respect of the Second Opex Reopener Date;

"**Nuclear Installations**" means any installation within Great Britain designed or adapted for:

(A) the production or use of atomic energy;

(B) the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiation; or

(C) the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter, being matter which has been produced or irradiated in the course of the production or use of nuclear fuel;

"**Nuclear Installations Order**" means the Nuclear Installations (Liability for Damage) Order 2016;

"**Nuclear Site Licence**" means the nuclear site licence (site licence no. 97) granted to the Generator pursuant to section 1 of the NIA 1965;

"**Nuclear Third Party Liability Insurance Adjustment**" means a Strike Price Adjustment and/or Series of Payments and/or single lump sum payment made or to be made pursuant to Part 14 (*Nuclear Third Party Liability Insurance*);

"**Nuclear Transport**" means those aspects of the civil transport of radioactive material in Great Britain by road, rail, inland water or sea within the territorial waters of Great Britain which are specific to the transport of radioactive material, with the transport of the radioactive material beginning with any preparatory process (such as packaging) and continuing until the radioactive material has been unloaded at its destination;

"**ONR**" means the Office for Nuclear Regulation established under the EA 2013;

"**Opex Adjustment Amount**" means the aggregate amount for the relevant Opex Reopener Period (expressed in pounds) of:

$A - B + C - D$

where:

A means the aggregate of:

(i) the Forecast HPC Specific Eligible Opex Costs;

(ii) the Applicable NTPLI Costs; and

(iii) in respect of Forecast Comparable Eligible Opex Costs, the lower of:

(a) the Average Benchmark Costs; and

(b) the Forecast Comparable Eligible Opex Costs,

which have, in respect of each cost, been Discounted to Present Value as at the relevant Opex Reopener Date using the Compensation Calculation Discount Rate;

B means the Base Eligible Opex Costs Discounted to Present Value as at the relevant Opex Reopener Date using the same Compensation Calculation Discount Rate as used under *A* above;

C means the Permitted FAP Change Contributions Discounted to Present Value as at the relevant Opex Reopener Date using the same Compensation Calculation Discount Rate as used under *A* above; and

D means the aggregate of all Capital Receipts, which have, in respect of each Capital Receipt, been Discounted to Present Value as at the relevant Opex Reopener Date using the same Compensation Calculation Discount Rate as used under *A* above;

(and, for the avoidance of doubt, all elements of *A, B* and *D* above shall be positive numbers),

for each Contract Year in the Opex Reopener Period and each as set out in the relevant Opex Report in respect of such Opex Reopener Date and, for the avoidance of doubt, expressed as a negative amount if the result is negative;

"**Opex Balancing System Adjustment Amount**" means in respect of and as at the relevant Opex Reopener Date:

(A) at the First Opex Reopener Date, the amount (expressed in £/MWh) calculated in accordance with the following formula:

$$OBSA_{OP1} = GBC_{OP1} - ABC_{OP1}$$

where:

$OBSA_{OP1}$ means the Opex Balancing System Adjustment Amount in respect of and as at the First Opex Reopener Date;

GBC_{OP1} means the Generator Balancing System Charge referable to the First Opex Reopener Date, Deflated and Restated to Money of the Year in which the First Opex Reopener Date falls; and

ABC_{OP1} means the Actual Balancing System Charge set out in the Balancing System Charge Report for the Balancing System Charge Review Period immediately preceding the date on which the Preliminary Opex Report for the First Opex Reopener Date is, or is required to be, delivered to the CfD Counterparty, Deflated and Restated to Money of the Year in which the First Opex Reopener Date falls; and

(B) at the Second Opex Reopener Date, the amount (expressed in £/MWh) calculated in accordance with the following formula:

$$OBSA_{OP2} = GBC_{OP2} - (OBSA_{OP1} \times P_t) - ABC_{OP2}$$

where:

$OBSA_{OP2}$ means the Opex Balancing System Adjustment Amount in respect of and as at the Second Opex Reopener Date;

GBC_{OP2} means the Generator Balancing System Charge referable to the Second Opex Reopener Date, Deflated and Restated to Money of the Year in which the Second Opex Reopener Date falls;

$OBSA_{OP1}$ means the Opex Balancing System Adjustment Amount calculated as at the First Opex Reopener Date and expressed in Money of the Year for the year in which the First Opex Reopener Date falls;

P_t is the applicable Inflation Factor, but for this purpose references to Base Year CPI (CPI_{base} or CPI_b^{new}, as applicable) in the definition of Inflation Factor shall be to the value used for CPI_t or CPI_t^{new} (as applicable) in the definition of Inflation Factor as at the First Opex Reopener Date (and, for the avoidance of doubt, taking into account any rebasing of the relevant index); and

ABC_{OP2} means the Actual Balancing System Charge set out in the Balancing System Charge Report for the Balancing System Charge Review Period immediately preceding the date on which the Preliminary Opex Report for the Second Opex Reopener Date is, or is required to be, delivered to the CfD Counterparty;

"**Opex Reopener Adjustment**" means a Strike Price Adjustment and/or Series of Payments and/or single lump sum payment (including any Compensation Amount) made or to be made pursuant to Clause 16 (*Opex Reopener Adjustment*);

"**Opex Reopener Date**" means the First Opex Reopener Date or, as the case may be, the Second Opex Reopener Date;

"**Opex Reopener Fallback Date**" has the meaning given to that term in Clause 16.5(B) (*Eligible Opex Costs adjustment*);

"**Opex Reopener Period**" means, in respect of an Opex Reopener Date, the period from and including such Opex Reopener Date to the end of the Term;

"**Opex Report**" has the meaning given to that term in Clause 16.4 (*Opex Report*);

"**Opex Report Effective Date**" means, in respect of an Opex Reopener Date, the date on which the Preliminary Opex Report (as amended, if applicable) becomes the Opex Report in respect of such Opex Reopener Date in accordance with Clause 16.4 (*Opex Report*);

"**Opex Submitting Party**" has the meaning given to that term in Clause 16.3(A) (*HPC Comparator Group*);

"**Opex TLM(CFD) Adjustment Amount**" means in respect of and as at the relevant Opex Reopener Date:

(A) at the First Opex Reopener Date, the amount (expressed in £/MWh) calculated in accordance with the following formula:

$$OTAA_{OP1} = \left(SP - (IBSC \cdot \Pi_t) - BSCD\right) \cdot \left(\frac{TLM(CFD)_{G1} - TLM(CFD)_{A1}}{1 - TLM(CFD)_{G1}}\right)$$

where:

$OTAA_{OP1}$ means the Opex TLM(CFD) Adjustment Amount in respect of and as at the First Opex Reopener Date;

SP is the then prevailing Strike Price;

IBSC is the Initial Balancing System Charge;

Π_t is the applicable Inflation Factor calculated in accordance with Clause 42.1(D) (*Balancing System Charge Reports*) in respect of the latest applicable Balancing System Charge Review Period;

BSCD is the latest applicable Balancing System Charge Difference calculated in accordance with Clause 42.1(D) (*Balancing System Charge Reports*);

$TLM(CFD)_{G1}$ means the Generator TLM(CFD) Charge referable to the TLM(CFD) Charges Review Period immediately preceding the date on which the Preliminary Opex Report for the First Opex Reopener Date is, or is required to be, delivered to the CfD Counterparty; and

$TLM(CFD)_{A1}$ means the Actual TLM(CFD) Charge set out in the TLM(CFD) Charges Report for the TLM(CFD) Charges Review Period immediately preceding the date on which the Preliminary Opex Report for the First Opex Reopener Date is, or is required to be, delivered to the CfD Counterparty;

(B) at the Second Opex Reopener Date, the amount (expressed in £/MWh) calculated in accordance with the following formula:

$$OTAA_{OP2} = \left(SP - (IBSC \cdot \Pi_{t1}) - BSCD\right) \cdot \left(\frac{TLM(CFD)_{G2} - TLM(CFD)_{A2}}{1 - TLM(CFD)_{G2}}\right) - (OTAA_{OP1} \cdot \Pi_{t2})$$

where:

$OTAA_{OP2}$ means the Opex TLM(CFD) Adjustment Amount in respect of and as at the Second Opex Reopener Date;

SP is the then prevailing Strike Price;

IBSC is the Initial Balancing System Charge;

Π_{t1} is the applicable Inflation Factor calculated in accordance with Clause 42.1(D) (*Balancing System Charge Reports*) in respect of the latest applicable Balancing System Charge Review Period;

BSCD is the latest applicable Balancing System Charge Difference calculated in accordance with Clause 42.1(D) (*Balancing System Charge Reports*);

$TLM(CFD)_{G2}$ means the Generator TLM(CFD) Charge referable to the TLM(CFD) Charges Review Period immediately preceding the date on which the Preliminary Opex Report for the Second Opex Reopener Date is, or is required to be, delivered to the CfD Counterparty;

$TLM(CFD)_{A2}$ means the Actual TLM(CFD) Charge set out in the TLM(CFD) Charges Report for the TLM(CFD) Charges Review Period immediately preceding the date on which the Preliminary Opex Report for the Second Opex Reopener Date is, or is required to be, delivered to the CfD Counterparty;

$OTAA_{OP1}$ means the Opex TLM(CFD) Adjustment Amount calculated as at the First Opex Reopener Date and expressed in the Money of the Year for the year in which the First Opex Reopener Date falls; and

Π_{t2} is the applicable Inflation Factor, but for this purpose references to Base Year CPI (CPI_{base} or CPI_b^{new}, as applicable) in the definition of Inflation Factor shall be to the value used for CPI_t or CPI_t^{new} (as applicable) in the definition of Inflation Factor as at the First Opex Reopener Date (and, for the avoidance of doubt, taking into account any rebasing of the relevant index);

"**Original Assumptions Book**" means the assumptions book in respect of the Financial Model delivered or to be delivered to the CfD Counterparty pursuant to paragraph 12 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*);

"**Original Base Case Financial Model**" means the agreed, audited financial computer model in respect of the Project (version 33.17) delivered or to be delivered to the CfD Counterparty pursuant to paragraph 12 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*) and, where relevant, includes the Original Assumptions Book;

"**Original Business Rates**" has the meaning given to that term in Clause 18.2(D)(v)(e) (*Preliminary Business Rates Report*);

"**Original Contribution Amounts**" means:

(A) at the First Opex Reopener Date, the values for the "Original Contribution Amounts" as determined in accordance with the instructions in the FDP Tracker Tool (and taking into account any change in First Criticality); and

(B) at the Second Opex Reopener Date, the Revised Contribution Amounts as at the First Opex Reopener Date,

and "**Original Contribution Amount**" shall be construed accordingly;

"**Original Investor**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Original Investor Super TopCo**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Original Investor TopCo**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Original Model User Guide**" means the model user guide in respect of the Financial Model delivered or to be delivered to the CfD Counterparty pursuant to paragraph 12 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*);

"**Original TNUoS Charges**" has the meaning given to that term in Clause 41.1(C)(iii) (*Preliminary TNUoS Charges Report*);

"**Other Change in Law**" means a Change in Law made by Her Majesty's Government of the United Kingdom or which Her Majesty's Government of the United Kingdom has formally required a Competent Authority to make and which in either such case has an undue (being not objectively justifiable) discriminatory effect on the out-of-pocket costs incurred or saved by the Generator or the Project when compared with the out-of-pocket costs incurred or saved as a result of such Change in Law by:

(A) all generators which operate generating facilities deploying one or more Material Generation Technologies;

(B) all other generators which operate generating facilities deploying nuclear generation technology or particular types of nuclear generation technology;

(C) all generators which operate generating facilities deploying a Generation Technology other than nuclear generation technology; or

(D) all generators which operate generating facilities the generation output of which is not subject to a FiT Contract for Difference,

in each case in the United Kingdom, provided that the fact that a Change in Law has a disproportionate effect shall not, of itself, mean that it is discriminatory;

"**Other EPR Reactors**" means nuclear reactors, located in North America or an EU Member State, using the same or similar technology to the UK EPR Technology;

"**Partial Indexation Calculation Discount Rate**" means a Real Discount Rate (post-tax) expressed as an annual effective rate reflective of Project risk and the post-refinancing capital structure at or as forecast to be at the applicable Partial Indexation Trigger Event Effective Date, as agreed in writing between the Generator and the CfD Counterparty or, in default of agreement, as determined by an Expert in accordance with the Expert Determination Procedure;

"**Partial Indexation Reopener Adjustment**" means a Strike Price Adjustment made or to be made pursuant to Clause 13.5 (*Partial Indexation Reopener Adjustment*);

"**Partial Indexation Strike Price Adjustment**" means an amount, expressed in £/MWh, equal to:

(A) the applicable Partial Indexation Strike Price Indexed Portion;

plus

(B) the applicable Partial Indexation Strike Price Fixed Portion;

less

(C) (i) the Initial Strike Price (indexed at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the Partial Indexation Trigger Event Effective Date); or

(ii) if there has been one or more prior Partial Indexation Reopener Adjustments, the Partial Indexation Strike Price Fixed Portion plus the Partial Indexation Strike Price Indexed Portion each as calculated at the immediately preceding Partial Indexation Trigger Event Effective Date (and, in the case of the Partial Indexation Strike Price Indexed Portion, indexed at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the Partial Indexation Trigger Event Effective Date),

in each case, expressed in Nominal terms as at the applicable Partial Indexation Trigger Event Effective Date,

and, for the avoidance of doubt, expressed as a negative amount if the result is negative;

"**Partial Indexation Strike Price Fixed Portion**" means an amount, expressed in £/MWh, equal to:

(A) the forecast debt service in respect of any fixed rate debt (and, in the determination of whether debt is fixed rate, any hedging or derivative transaction entered into by any member of the NNB HoldCo Group for the purpose of fixing the rate of the debt shall be taken into account to the extent of the amount and for the period that the rate is forecast to be fixed) for the period from the applicable Partial Indexation Trigger Event Effective Date to the end of the Term, expressed in Nominal terms, then Deflated and Restated to Real terms as at the applicable Partial Indexation Trigger Event Effective Date, and then Discounted to such Partial Indexation Trigger Event Effective Date at the Partial Indexation Calculation Discount Rate;

divided by:

(B) the Estimated Facility Generation over the remainder of the Term, Discounted to the applicable Partial Indexation Trigger Event Effective Date at the Partial Indexation Calculation Discount Rate;

"**Partial Indexation Strike Price Indexed Portion**" means an amount, expressed in £/MWh, equal to:

(A) (i) the indexed Initial Strike Price (indexed on the basis of (i) the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the Partial Indexation Trigger Event Effective Date and (ii) each forecast Inflation Factor for the remainder of the Term), over the remainder of the Term and expressed in Nominal terms, forecast as at the applicable Partial Indexation Trigger Event Effective Date using forecast CPI as agreed in writing between the Generator and the CfD Counterparty or, in default of agreement, as determined by an Expert in accordance with the Expert Determination Procedure); or

(ii) if there has been one or more prior Partial Indexation Reopener Adjustments, the Partial Indexation Strike Price Fixed Portion plus the Partial Indexation Strike Price Indexed Portion each as calculated at the immediately preceding Partial Indexation Trigger Event Effective Date (and, in the case of the Partial Indexation Strike Price Indexed Portion, indexed on the basis of (i) the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the Partial Indexation Trigger Event Effective Date and (ii) each forecast Inflation Factor for the remainder of the Term), over the remainder of the Term and expressed in Nominal terms, forecast as at the applicable Partial Indexation Trigger Event Effective Date using forecast CPI as agreed in writing between the Generator and the CfD Counterparty or, in default of agreement, as determined by an Expert in accordance with the Expert Determination Procedure,

in each case, multiplied by the Estimated Facility Generation for the remainder of the Term;

(B) then Deflated and Restated to Real terms as at the applicable Partial Indexation Trigger Event Effective Date; and

(C) then Discounted to such Partial Indexation Trigger Event Effective Date at the Partial Indexation Calculation Discount Rate;

less

(D) the applicable Partial Indexation Fixed Portion multiplied by the Estimated Facility Generation for the remainder of the Term, this product being Deflated and Restated to Real terms as at the applicable Partial Indexation Trigger Event Effective Date, and then Discounted to such Partial Indexation Trigger Event Effective Date at the Partial Indexation Calculation Discount Rate;

plus

(E) such positive amount, if any, which the Secretary of State, in the Secretary of State's sole discretion having considered the result given by the operation of paragraphs (A) to (D) (inclusive) above, shall consider appropriate,

divided by the Estimated Facility Generation for the remainder of the Term, Discounted to the applicable Partial Indexation Trigger Event Effective Date at the Partial Indexation Calculation Discount Rate (and, for the avoidance of doubt, expressed as a negative amount if the result is negative);

"**Partial Indexation Trigger Event**" means each refinancing of Financial Indebtedness of any member of the NNB HoldCo Group:

(A) entered into for the purposes of the Project and on arm's length terms;

(B) in a principal amount of five hundred million pounds (£500,000,000) or more or in a principal amount which when aggregated with the principal amount of any such other refinancing(s) in the immediately preceding twelve (12) months is five hundred million pounds (£500,000,000) or more; and

(C) where the refinancing lenders do not comprise solely members of any Investor Group (and for this purpose any state-owned bank or financial institution which is a member of an Investor Group shall not be treated as such),

whether or not such refinancing occurs before, on or after the Reactor One Start Date;

"**Partial Indexation Trigger Event Date**" means, in relation to any Partial Indexation Strike Price Adjustment that the CfD Counterparty has validly elected to implement, the date on which the Partial Indexation Trigger Event occurred;

"**Partial Indexation Trigger Event Effective Date**" means, in relation to any Partial Indexation Strike Price Adjustment that the CfD Counterparty has validly elected to implement, the later of the applicable Partial Indexation Trigger Event Date and the Reactor One Start Date (known or forecast, as the case may be);

"**Party**" means a party to this Agreement;

"**Payment Disruption Event**" means a material disruption to those payment systems or to those financial markets which are, in each case, required to operate in order for payments or transfers of money to be made pursuant to this Agreement which the PDE Affected Party (or, if relevant, its Representatives) could not reasonably have overcome and which is not due to the PDE Affected Party's fault or negligence (or that of its Representatives);

"**Payment Failure**" means a failure by the Generator to pay a Net Payable Amount in accordance with Clause 24.1 (*Payment from the Generator*) (except to the extent that such failure is due to the occurrence of a Payment Disruption Event and the Generator, as the PDE Affected Party, has complied with Clause 75.2 (*Conditions to Payment*

Disruption Event relief) but irrespective of whether or not the Generator has paid any such Net Payable Amount within the applicable NPA Payment Cure Period);

"**Payment Obligations**" means any and all obligations of the Generator pursuant to this Agreement to make payment, and/or transfer and deliver Acceptable Collateral, to the CfD Counterparty, and "**Payment Obligation**" shall be construed accordingly;

"**Payment Reconciliation Date**" means the date of completion of final payment reconciliation by the Generator with its Contractors in relation to the development, construction and commissioning of the Facility or the Reactor(s), including full settlement of any claims (whether contractual, including under defect liability provisions, or otherwise) and payment by or to its Contractors of any gain or pain sharing payments under target cost contracts related to the development, construction and commissioning of the Facility or the Reactor(s) to or by the Generator;

"**PDE Affected Party**" has the meaning given to that term in Clause 75.1 (*Relief due to Payment Disruption Event*);

"**PDE Obligations**" has the meaning given to that term in Clause 75.1 (*Relief due to Payment Disruption Event*);

"**Permitted FAP Change Contributions**" means the aggregate amount for the relevant Opex Reopener Period calculated by:

(A) updating the FDP Tracker Tool in accordance with this Agreement for the Actual Selected DTM Costs (but, for this purpose, without making any other adjustments to the FDP Tracker Tool) to generate a revised set of contributions in the FDP Tracker Tool for each Contract Year in the Opex Reopener Period, which will be in Nominal Terms as forecast using the Original Base Case Financial Model inflation assumptions at each Contract Year in the Opex Reopener Period (the "**Revised Contribution Amounts**" and each a "**Revised Contribution Amount**");

(B) deducting the Original Contribution Amount for each corresponding Contract Year in the relevant Opex Reopener Period which will be in Nominal Terms as forecast using the Original Base Case Financial Model inflation assumptions in each Contract Year from the Revised Contribution Amount in that Contract Year (each such resulting amount, a "**Contribution Delta**") which will be in Nominal Terms as forecast using the Original Base Case Financial Model inflation assumptions; and

(C) Deflating and Restating each Contribution Delta to Real terms as at the Base Year and Rebasing to the relevant Opex Reopener Date;

"**Permitted Gearing Level**" has the meaning given to that term in the FAP as at the Agreement Date;

"**Pooled Insurance Arrangements**" means any group, mutual or pooled insurance arrangements, schemes or companies (including any policies of insurance or any reinsurance, indemnities or guarantees) under which the Generator makes Insurance

Provision and any other beneficiaries of such arrangements insure against analogous risks;

"**Post-Start Date Operating Costs**" means the costs, fees and expenses in connection with the operation, maintenance, decommissioning and waste management of or relating to the Facility, a Reactor or the Site, incurred by or on behalf of the Generator after the Start Date of a Reactor;

"**Posted Collateral**" means the aggregate amount of all Acceptable Collateral transferred or delivered by or on behalf of the Generator in accordance with this Agreement from time to time to the extent that the same has not been:

(A) returned to the Generator by or on behalf of the CfD Counterparty pursuant to the provisions of Part 18 (*Credit Support*); or

(B) subject to a Posted Collateral Demand;

"**Posted Collateral Demand**" has the meaning given to that term in Clause 61.6(A) (*Making a Posted Collateral Demand*);

"**Preliminary Business Rates Report**" means a written report satisfying the requirements of Clause 18.2(D) (*Preliminary Business Rates Report*), which expression shall include:

(A) each element of, and (if applicable) each computation contained or referred to in, such report and all Supporting Information referred to in Clause 18.2(D)(vi) (*Preliminary Business Rates Report*); and

(B) if and when applicable, any Revised Business Rates Information;

"**Preliminary Construction Costs Report**" means a written report satisfying the requirements of Clause 15.1(D) (*Preliminary Construction Costs Report*), which expression shall include:

(A) each element of, and (if applicable) each computation contained or referred to in, such report and all Supporting Information referred to in Clause 15.1(D)(vi) (*Preliminary Construction Costs Report*); and

(B) if and when applicable, any Revised Construction Costs Information;

"**Preliminary Generation Tax Report**" means the report of the Energy Consultant referred to in Clause 38.5(A)(i) (*Generation Tax Reports*);

"**Preliminary Opex Report**" means a written report satisfying the requirements of Clause 16.1(D) (*Preliminary Opex Reports*), which expression shall include:

(A) each element of, and (if applicable) each computation contained or referred to in, such report and all Supporting Information referred to in Clause 16.1(D)(xxii) (*Preliminary Opex Reports*); and

(B) if and when applicable, any Revised Opex Information;

"**Preliminary Quarterly QC Report**" means a written report satisfying the requirements of Clause 44.1(B) (*Preliminary Quarterly QC Report*), which expression shall include:

(A) each element of, and (if applicable) each computation contained or referred to in, such report and all Supporting Information referred to in Clause 44.1(B)(v) (*Preliminary Quarterly QC Report*); and

(B) if and when applicable, any Revised Quarterly QC Information;

"**Preliminary TNUoS Charges Report**" means a written report satisfying the requirements of Clause 41.1(C) (*Preliminary TNUoS Charges Report*), which expression shall include:

(A) each element of, and (if applicable) each computation contained or referred to in, such report and all Supporting Information referred to in Clause 41.1(C)(xiii) (*Preliminary TNUoS Charges Report*); and

(B) if and when applicable, any Revised TNUoS Charges Information;

"**Present Value**" means the value, as of any particular date, 't', of a currency amount or any other amount, 'AMT', that is forecast to be incurred, paid or accrued on any other date (that is, relative to that particular date 't'), 'T' (with "t-T" expressed in years or fractions thereof), which shall be calculated in accordance with the following formula and using:

(A) a Real Discount Rate, expressed as an annual effective discount rate, if the amount being discounted is expressed in Real terms; or

(B) a Nominal Discount Rate, expressed as an annual effective discount rate, if the amount being discounted is expressed in Nominal Terms,

(both 'r'),

$$\textit{Present Value} = \frac{AMT}{(1+r)^{t-T}}$$

any such discounting to be calculated from day to day on the basis of the actual number of days elapsed and a year of three hundred and sixty-five (365) days, and "**Present Valued**" shall be construed accordingly;

"**Pre-Start Date Termination Date**" has the meaning given to that term in Clause 57.1(B)(i) (*Pre-Start Date termination*);

"**Pre-Start Date Termination Notice**" means a written notice:

(A) from the CfD Counterparty to the Generator terminating this Agreement in its entirety in accordance with Clause 57.1(A) (*Pre-Start Date termination*); and

(B) which satisfies the requirements of Clause 57.1(B) (*Pre-Start Date termination*);

"**Proceedings**" means any proceeding, suit or action relating to or arising out of a Dispute or this Agreement, but excluding any Metering Dispute, BMRP Dispute or Trading Dispute;

"**Project**" means the design, development, engineering, construction, installation, completion, testing, commissioning, operation, maintenance, decommissioning and clean-up of the Facility and the Reactors and each of them;

"**Project Gain Share Amount**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Project Gain Share Payment Deadline**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Projected CPI**" means the projected CPI as at the Indexation Anniversary in the Contract Year in which a cost or saving is forecast to be incurred or saved, being:

(A) if such cost or saving is expressed as a Nominal Value, the projected CPI value that was used to calculate the forecast Nominal Value (whether expressly set out in that estimate or derived by implication); or

(B) if a cost or saving is expressed as a Real Value, the projected CPI value that was used to calculate the forecast Real Value as at the Real Reference Date (whether expressly set out in that estimate or derived by implication);

"**Projected CPI Index Value**" means Projected CPI as at the Indexation Anniversary immediately preceding the date on which a cost is forecast to be incurred or a saving is forecast to be made, or to which an amount is forecast to be Deflated and Restated or Rebased (as applicable);

"**Projected Net Generation**" means, in respect of any period, the projected net export generation from the Facility for that period, as set out in the Original Base Case Financial Model and adjusted for any Adjusted Output Periods;

"**Proposed CiAL Expert**" has the meaning given to that term in Clause 36.2(B)(ii) (*CiAL Dispute Response Notices*);

"**QC Compensation**" means the amount (expressed in pounds) required to place the Generator in a no better and no worse position with respect to the QC Volume but for the Qualifying Curtailment, provided that:

(A) subject to paragraph (B) below, the determination of such amount shall take into account any additional costs or liabilities incurred by the Generator (including any costs associated with Ramp Down Time, Ramp Up Delay Time (if applicable) and Ramp Up Time and any balancing charges or other costs associated with bringing the Facility back into contractual balance) and any costs or liabilities saved or avoided, or benefits received by, the Generator (acting in accordance with the Reasonable and Prudent Standard);

(B) save for any costs reasonably incurred in respect of additional 'wear and tear' maintenance directly caused by the relevant Qualifying Curtailment (which shall be taken into account), no account shall be taken of any costs in respect of maintenance (including any costs related to planned maintenance or unplanned maintenance the requirement for which becomes apparent during the Qualifying Curtailment); and

(C) for the avoidance of doubt, the determination of such amount shall take into account any amount received by the Generator (or its nominee) or which would have been received by the Generator (or its nominee) had the Generator complied in full with its obligations under Clauses 69 (*General Mitigation and Compensation*) and 70 (*No Double Recovery*), in each case, in respect of the relevant Qualifying Curtailment (other than from the CfD Counterparty as a result of the operation of Part 13 (*Curtailment*));

"**QC Period**" means each three (3) month period during the Term which:

(A) begins on 1 January and ends on 31 March;

(B) begins on 1 April and ends on 30 June;

(C) begins on 1 July and ends on 30 September; and

(D) begins on 1 October and ends on 31 December,

provided that:

(i) the first QC Period shall be the period from and including the Reactor One Start Date to and including the relevant last day of the period in which the Reactor One Start Date falls under paragraphs (A) to (D) above; and

(ii) the final QC Period shall be the period from and including the relevant first day of the period in which the last day of the Term falls and ends on the last day of the Term;

"**QC Volume**" means the aggregate amount of electricity (in MWh) that the Generator is prevented from generating and exporting from the Facility to the national electricity transmission system, by reason of a Qualifying Curtailment, in respect of all Settlement Units falling within the Ramp Down Time, the Directed Curtailment Period, the Ramp Up Delay Time (if applicable) or the Ramp Up Time, which shall be calculated for each such Settlement Unit as:

(A) the lesser of:

(i) the amount of electricity (in MWh) which the Generator can reasonably demonstrate that the Facility would, but for such Qualifying Curtailment, have been able to generate and export during such Settlement Unit; and

(ii) the aggregate amount of Relevant Sold Contracted Power (in MWh) for such Settlement Unit,

minus

(B) in the case of a Settlement Unit falling within the Ramp Down Time or the Ramp Up Time, the amount of electricity (in MWh) actually exported from the Facility to the national electricity transmission system; or

(C) in the case of a Settlement Unit falling within the Directed Curtailment Period or, if applicable, the Ramp Up Delay Time, the amount of electricity (in MWh) permitted for export from the Facility to the national electricity transmission system by the relevant Curtailment;

"**QCiL Adjusted Revenues**" shall be calculated as the Generation Differential for the relevant Adjusted Output Period multiplied by the prevailing Strike Price as adjusted for any agreed or determined Strike Price Adjustments;

"**QCiL Adjusted Revenues Payment**" shall be calculated as the value of any QCiL Adjusted Revenues (which shall be expressed in Real terms or Nominal Terms, depending on whether the applicable discount rate is a Real or Nominal Discount Rate, as at the QCiL Calculation Base Date), all Discounted to Present Value as at the QCiL Calculation Base Date using:

(A) if the QCiL Compensation is to be paid by way of a Strike Price Adjustment or Daily Payments, the Compensation Calculation Discount Rate; or

(B) if the QCiL Compensation is to be paid by way of a single lump sum payment or a Series of Payments:

(i) to the extent that a Settlement Unit within the Adjusted Output Period falls before the QCiL Calculation Base Date, the Actual Financing Costs Discount Rate; or

(ii) to the extent that a Settlement Unit within the Adjusted Output Period falls on or after the QCiL Calculation Base Date, the Financing Costs Discount Rate,

and, for the avoidance of doubt, the resulting amount shall be expressed as a negative amount if the result is negative;

"**QCiL Calculation Base Date**" means:

(A) in the case of an Adjusted Output Period that occurs as a result of a QCiL Start Date Delay, the first day of that Adjusted Output Period; and

(B) in all other cases, the later of the QCiL Effective Date and the QCiL Material Costs Date;

"**QCiL Capex Payment**" shall be calculated as:

(A) the QCiL Capital Costs:

(i) to the extent that the costs have been incurred prior to or on the QCiL Calculation Base Date, expressed in Nominal Terms and Discounted to Present Value as at the QCiL Calculation Base Date using the Actual Financing Costs Discount Rate; or

(ii) to the extent that the costs have been incurred or are forecast to be incurred after the QCiL Calculation Base Date, expressed in either Real or Nominal Terms and:

(a) if the QCiL Compensation is to be paid by way of a Strike Price Adjustment, and:

(1) the costs are expressed in Nominal Terms, Deflated and Restated to Real terms as at the QCiL Calculation Base Date; or

(2) the costs are expressed in Real terms, Rebased to the QCiL Calculation Base Date,

and, in each case, Discounted to Present Value as at the QCiL Calculation Base Date using the Compensation Calculation Discount Rate; or

(b) if the QCiL Compensation is to be paid by way of a single lump sum payment or a Series of Payments, Discounted to Present Value as at the QCiL Calculation Base Date using the Financing Costs Discount Rate,

less

(B) the QCiL Capital Savings:

(i) to the extent that the savings have been made prior to or on the QCiL Calculation Base Date, expressed in Nominal Terms and Discounted to Present Value as at the QCiL Calculation Base Date using the Actual Financing Costs Discount Rate; or

(ii) to the extent that the savings have been made or are forecast to be made after the QCiL Calculation Base Date, expressed in either Real or Nominal Terms and:

(a) if the QCiL Compensation is to be paid by way of a Strike Price Adjustment, and:

(1) the savings are expressed in Nominal Terms, Deflated and Restated to Real terms as at the QCiL Calculation Base Date; or

(2) the savings are expressed in Real terms, Rebased to the QCiL Calculation Base Date,

and, in each case, Discounted to Present Value as at the QCiL Calculation Base Date using the Compensation Calculation Discount Rate which, if applicable, shall be the same Compensation Calculation Discount Rate as used under paragraph (A)(ii)(a) above; or

(b) if the QCiL Compensation is to be paid by way of a single lump sum payment or a Series of Payments, Discounted to Present Value as at the QCiL Calculation Base Date using the Financing Costs Discount Rate which, if applicable, shall be the same Financing Costs Discount Rate as used under paragraph (A)(ii)(b) above,

and, for the avoidance of doubt, expressed as a negative amount if the result is negative;

"**QCiL Capital Costs**" means any QCiL Costs that relate to the acquisition, disposal, modification, construction or bringing into operation of any asset in respect of the Project (including costs of site preparation, initial delivery and handling costs, installation and assembly costs, commissioning costs, costs incurred in testing whether the asset is functioning properly and professional fees, in each case which are directly associated with the acquisition, modification or construction of the relevant asset), and for the purposes of this definition any QCiL Costs which relate to an asset with a useful life beyond the Term shall include only that proportion that is equal to the proportion of the useful life of the relevant asset that falls within the Term;

"**QCiL Capital Savings**" means any QCiL Savings that relate to the acquisition, disposal, modification, construction or bringing into operation of any asset in respect of the Project (including costs of site preparation, initial delivery and handling costs, installation and assembly costs, commissioning costs, costs incurred in testing whether the asset is functioning properly and professional fees, in each case which are directly associated with the acquisition, modification or construction of the relevant asset), and for the purposes of this definition any QCiL Savings which relate to an asset with a useful life beyond the Term shall include only that proportion that is equal to the proportion of the useful life of the relevant asset that falls within the Term;

"**QCiL Cessation Event Notice**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**QCiL Compensation**" means any of:

(A) a QCiL Opex Payment;

(B) a QCiL Capex Payment;

(C) a QCiL Adjusted Revenues Payment; and

(D) a Change in Regulatory Basis Payment,

and any combination of any of the foregoing, including any adjustment following the cost review provided for in Clause 33 (*Qualifying Change in Law: Cost Review*);

"**QCiL Compensation Termination Notice**" means a written notice:

(A) from the CfD Counterparty to the Generator terminating this Agreement in its entirety in accordance with Clause 30.1(D) (*QCiL Compensation*); and

(B) which satisfies the requirements of Clause 57.4(B) (*QCiL Compensation termination*);

"**QCiL Costs**" means, in relation to a Qualifying Change in Law that is not a Change in Regulatory Basis, all out-of-pocket costs (including any QCiL Tax Liability) which have been or will or are reasonably likely to be incurred during the Term in respect of the Project by the Generator arising directly as a result or in anticipation of such Qualifying Change in Law being implemented, occurring or becoming effective and, in the case of forecast costs, including a reasonable risk-based contingency on those costs, but excluding:

(A) any Termination Default Amount;

(B) any costs incurred in respect of the agreement or determination of any Termination Default Amount; and

(C) any costs associated with the financing arrangements made by members of the NNB HoldCo Group in respect of the Project (including any interest incurred in respect of such financing arrangements);

"**QCiL Effective Date**" means, in relation to a Notified Change in Law, the date on which it becomes effective;

"**QCiL Material Costs Date**" means, in relation to a Qualifying Change in Law:

(A) that has given rise to, will give rise to or is expected to give rise to a QCiL Adjusted Revenues Payment and:

    (i) no other form of QCiL Compensation, the first day of the relevant Adjusted Output Period; or

    (ii) one or more other forms of QCiL Compensation, the earlier of the first day of the relevant Adjusted Output Period and the date that five per cent. (5%) of the QCiL Costs or Change in Regulatory Basis Costs (as applicable) in relation to the Qualifying Change in Law have been, will be, or are expected to be incurred; and

(B) in all other cases:

    (i) if the Qualifying Change in Law has given rise to, will give rise to or is expected to give rise to QCiL Net Savings, the date that five per cent. (5%) of the QCiL Savings or negative Change in Regulatory Basis Costs (as applicable) in relation to the Qualifying Change in Law have been, will be, or are expected to be saved; or

(ii) in all other cases, the date that five per cent. (5%) of the QCiL Costs or Change in Regulatory Basis Costs (as applicable) in relation to the Qualifying Change in Law have been, will be, or are expected to be incurred;

"**QCiL Net Capital Costs**" means, in relation to any Qualifying Change in Law, the QCiL Capital Costs (exclusive of any QCiL Capital Costs attributable to any QCiL Tax Liability) Deflated and Restated to Real terms as at the QCiL Calculation Base Date less the QCiL Capital Savings (exclusive of any QCiL Capital Savings attributable to any reduction in QCiL Tax Liability) Deflated and Restated to Real terms as at the QCiL Calculation Base Date and, for the avoidance of doubt, expressed as a negative amount if the result is negative;

"**QCiL Net Operating Costs**" means, in relation to any Qualifying Change in Law, the QCiL Operating Costs (exclusive of any QCiL Operating Costs attributable to any QCiL Tax Liability) Deflated and Restated to Real terms as at the QCiL Calculation Base Date less the QCiL Operating Savings (exclusive of any QCiL Operating Savings attributable to any reduction in QCiL Tax Liability) Deflated and Restated to Real terms as at the QCiL Calculation Base Date and, for the avoidance of doubt, expressed as a negative amount if the result is negative;

"**QCiL Net Savings**" means, in respect of any Qualifying Change in Law, the aggregate QCiL Compensation, if any, payable by Generator to the CfD Counterparty;

"**QCiL Operating Costs**" means all QCiL Costs other than QCiL Capital Costs;

"**QCiL Operating Savings**" means all QCiL Savings other than QCiL Capital Savings;

"**QCiL Opex Payment**" shall be calculated as:

(A) the QCiL Operating Costs:

(i) to the extent that the costs have been incurred prior to or on the QCiL Calculation Base Date, expressed in Nominal Terms and Discounted to Present Value as at the QCiL Calculation Base Date using the Actual Financing Costs Discount Rate; or

(ii) to the extent that the costs have been incurred or are forecast to be incurred after the QCiL Calculation Base Date, expressed in either Real or Nominal Terms and:

(a) if the QCiL Compensation is to be paid by way of a Strike Price Adjustment, and:

(1) the costs are expressed in Nominal Terms, Deflated and Restated to Real terms as at the QCiL Calculation Base Date; or

(2) the costs are expressed in Real terms, Rebased to the QCiL Calculation Base Date,

and, in each case, Discounted to Present Value as at the QCiL Calculation Base Date using the Compensation Calculation Discount Rate; or

(b) if the QCiL Compensation is to be paid by way of a single lump sum payment or a Series of Payments, Discounted to Present Value as at the QCiL Calculation Base Date using the Financing Costs Discount Rate,

less

(B) the QCiL Operating Savings:

(i) to the extent that the savings have been made prior to or on the QCiL Calculation Base Date, expressed in Nominal Terms and Discounted to Present Value as at the QCiL Calculation Base Date using the Actual Financing Costs Discount Rate; or

(ii) to the extent that the savings have been made or are forecast to be made after the QCiL Calculation Base Date, expressed in either Real or Nominal Terms and:

(a) if the QCiL Compensation is to be paid by way of a Strike Price Adjustment, and:

(1) the savings are expressed in Nominal Terms, Deflated and Restated to Real terms as at the QCiL Calculation Base Date; or

(2) the savings are expressed in Real terms, Rebased to the QCiL Calculation Base Date,

and, in each case, Discounted to Present Value as at the QCiL Calculation Base Date using the Compensation Calculation Discount Rate which, if applicable, shall be the same Compensation Calculation Discount Rate as used under paragraph (A)(ii)(a) above; or

(b) if the QCiL Compensation is to be paid by way of a single lump sum payment or a Series of Payments, Discounted to Present Value as at the QCiL Calculation Base Date using the Financing Costs Discount Rate which, if applicable, shall be the same Financing Costs Discount Rate as used under paragraph (A)(ii)(b) above,

and, for the avoidance of doubt, expressed as a negative amount if the result is negative;

"**QCiL Response Information**" means, in relation to a Generator QCiL Response Notice, the information specified in Clause 29.4(B) (*Generator QCiL Response Notice*);

"**QCiL Savings**" means, in respect of a Qualifying Change in Law that is not a Change in Regulatory Basis, all savings and efficiencies (including avoided out-of-pocket costs, reliefs from or reductions in a QCiL Tax Liability, insurance proceeds and other compensation) which have been or will or are reasonably likely to be made or received during the Term in respect of the Project by the Generator arising directly as a result or in anticipation of such Qualifying Change in Law being implemented, occurring or becoming effective;

"**QCiL Start Date Delay**" means, in relation to any Qualifying Change in Law, any changes to the Start Dates in respect of one or both Reactors arising directly as a result of such Qualifying Change in Law becoming effective;

"**QCiL Strike Price Adjustment**" means any QCiL Compensation which has been, or will be, made by way of a Strike Price Adjustment;

"**QCiL Tax**" means:

(A) in relation to any Specific Tax Clearance, any Tax to which that Specific Tax Clearance applies; and

(B) in any other case, any Tax other than any Tax on gross or net Income, Profits or Gains, save to the extent that the rate at which such Tax on gross or net Income, Profits or Gains is chargeable has been introduced or amended by a Qualifying Change in Law;

"**QCiL Tax Liability**" means:

(A) a liability of the Generator to make an actual payment of a QCiL Tax to a tax authority; and

(B) the loss to the Generator of, or a reduction to the Generator in the amount of, a right to repayment of Tax to which it would otherwise be entitled but for such amount being set off against any liability of the Generator to make an actual payment of QCiL Tax;

"**Qualifying Change in Law**" means:

(A) a Discriminatory Change in Law;

(B) a Specific Change in Law;

(C) a Specific Tax Change in Law;

(D) an Other Change in Law; or

(E) a Change in Regulatory Basis,

which, in each case, is not a Foreseeable Change in Law, and provided that no decision by the European Commission or other Competent Authority in respect of the application of the State Aid Rules to or in connection with this Agreement or FiT Contracts for

Difference (including the annulment, invalidation, suspension, revocation, modification or replacement of any prior decision pursuant to such rules) shall constitute a Qualifying Change in Law;

"**Qualifying Curtailment**" means a Curtailment in respect of which the following conditions are satisfied:

(A) after the Agreement Date there has been a change to, or to the effect of, the industry arrangements applicable at the Agreement Date in relation to which compensation is calculated and/or paid to the Generator (or its nominee) in respect of a Curtailment relating to the Facility;

(B) the export of Relevant Sold Contracted Power from the Facility to the national electricity transmission system has been Curtailed; and

(C) the Generator (or its nominee) requires compensation in order to place the Generator in a no better and no worse position than if the Curtailment in respect of the Relevant Sold Contracted Power had not occurred;

"**Qualifying Effective Shutdown Event Notice**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Qualifying Exit Event**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Qualifying Exit Event Compensation**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Qualifying Insurance Event**" means:

(A) an Insurance Cost Increase Event;

(B) an Insurance Failure Event;

(C) an Insurance Withdrawal Event;

(D) a Relevant Insurance Decrease Event;

(E) a Relevant Insurance Increase Event;

(F) a Relevant Insurance Scope Increase Event; or

(G) an Approval Insurance Withdrawal Event;

"**Qualifying Insurance Event Date**" means the date on which a Qualifying Insurance Event takes effect;

"**Qualifying Issuer**" means:

(A) a bank or financial institution having a minimum short-term rating of A-1 with Standard & Poor's, P-1 with Moody's or F1 with Fitch; or

(B) such other bank or financial institution, having such lower minimum rating as the CfD Counterparty may consent to or specify from time to time;

"**Quarterly QC Report**" has the meaning given to that term in Clause 44.4 (*Quarterly QC Report*);

"**Quinquennial Report**" has the meaning given to that term in the FAP;

"**Ramp Down Time**" means the period of time reasonably anticipated by the Generator, acting in accordance with the Reasonable and Prudent Standard, to ramp the Facility down, provided that the time at which the Generator shall reasonably anticipate such Ramp Down Time shall be as soon as reasonably practicable after the Generator has received an instruction from, or has been notified of the requirements of, the NETSO leading to the relevant Curtailment;

"**Ramp Up Delay Time**" means the period of time, if any, by which:

(A) the actual period of time between: (i) the time at which the Generator has, to the satisfaction of the ONR, provided all information and taken all such steps and other action required by the ONR to be in a position to consent to, permit or approve the Generator to proceed to ramp the Facility up after and specifically as a result of the relevant Curtailment; and (ii) the time at which the ONR formally provides such consent, approval or permission;

exceeds

(B) the period of time reasonably anticipated by the Generator at the time referred to in paragraph (A)(i), acting in accordance with the Reasonable and Prudent Standard, as the period of time in which, in the relevant circumstances, the ONR would take ordinarily to provide formally the relevant consent, approval or permission after the Generator has provided all information and taken all such steps and other action required by the ONR to be in a position to provide such consent, permission or approval,

provided that, for the avoidance of doubt, the Ramp Up Delay Time shall not include the Ramp Down Time, Directed Curtailment Period or Ramp Up Time in respect of the relevant Curtailment;

"**Ramp Up Time**" means the period of time reasonably anticipated by the Generator, acting in accordance with the Reasonable and Prudent Standard, to ramp the Facility up (including the reasonable period of downtime required prior to the restart of the Facility and the period in paragraph (B) of the definition of "Ramp Up Delay Time" in this Clause 1.1), provided that the time at which the Generator shall reasonably anticipate such Ramp Up Time shall be as soon as reasonably practicable after the Generator is or becomes aware that the Facility (or part thereof) is or will no longer be Curtailed;

"**Rateable Value Assessment**" means the aggregate of:

(A) the official assessment of the rateable value of each of the HPC Properties agreed with the Valuation Office Agency; or

(B) any new or substitute official assessment of the rateable value of each of the HPC Properties which is in the nature of, or similar to, the rateable value assessment agreed with the Valuation Office Agency as at the Agreement Date,

in each case, as applicable as at the Reactor One Start Date;

"**RCRC Credits**" means:

(A) Residual Cashflow Reallocation Cashflow; and

(B) any new or substitute payments or credits which are in the nature of, or similar to, Residual Cashflow Reallocation Cashflow,

in each case, receivable or payable by electricity generators in Great Britain (not being Embedded Generators) or by the Subsidiary Parties of their BM Units;

"**Reactor**" means any or, as the context requires or admits, a particular nuclear reactor (as defined in the NIA 1965) at the Site (being Reactor One or Reactor Two or either of them) and "**Reactors**" shall be construed accordingly;

"**Reactor One**" has the meaning given to that term in Clause 2.1 (*Reactor One*);

"**Reactor One Start Date**" has the meaning given to that term in Clause 4.1(B) (*Notification of Reactor One Start Date*);

"**Reactor One Start Date Notice**" means a written notice satisfying the requirements of Clause 4.1(B) (*Notification of Reactor One Start Date*);

"**Reactor One Target Commissioning Date**" has the meaning given to that term in Clause 2.1(B) (*Reactor One*);

"**Reactor One Target Commissioning Window**" has the meaning given to that term in Clause 2.1(C) (*Reactor One*);

"**Reactor One Term**" has the meaning given to that term in Clause 5(A) (*Reactor Term*);

"**Reactor Redesignation Date**" has the meaning given to that term in Clause 2.5(B)(iii) (*Redesignation of the Reactors*);

"**Reactor Redesignation Notice**" means a written notice:

(A) from the Generator to the CfD Counterparty electing to redesignate "Reactor One" as "Reactor Two" and contemporaneously "Reactor Two" as "Reactor One"; and

(B) which satisfies the requirements of Clause 2.5(B) (*Redesignation of the Reactors*);

"**Reactor Two**" has the meaning given to that term in Clause 2.2 (*Reactor Two*);

"**Reactor Two Start Date**" has the meaning given to that term in Clause 4.2(B) (*Notification of Reactor Two Start Date*);

"**Reactor Two Start Date Notice**" means a written notice satisfying the requirements of Clause 4.2(B) (*Notification of Reactor Two Start Date*);

"**Reactor Two Target Commissioning Date**" has the meaning given to that term in Clause 2.2(B) (*Reactor Two*);

"**Reactor Two Target Commissioning Window**" has the meaning given to that term in Clause 2.2(C) (*Reactor Two*);

"**Reactor Two Term**" has the meaning given to that term in Clause 5(B) (*Reactor Term*);

"**Real**" means a currency amount that has been adjusted from a Nominal Value to remove the effects of inflation, thus expressed in prices at any one particular day, being the Real Reference Date. For the avoidance of doubt, this is irrespective of the date at which the amount was incurred or saved, or forecast to be incurred or saved, and "**Real Value**" and "**Real Terms**" shall be construed accordingly;

"**Real Reference Date**" means the date in whose prices a Real currency amount is expressed, irrespective of the date or year in which the amount was incurred or saved, or forecast to be incurred or saved;

"**Reasonable and Prudent Standard**" means the standard of a person seeking honestly and diligently to comply with its contractual obligations and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight that would reasonably and ordinarily be expected from a skilled and experienced person complying with all applicable Laws, Directives, Industry Documents and Required Authorisations and engaged in the same type of undertaking under the same or similar circumstances and conditions, including taking account of nuclear safety procedures and relevant guidance;

"**Rebased**" means changing the Real Reference Date which a Real cost or saving is expressed in, and such Rebased amount shall be calculated as the relevant Real cost or saving multiplied by the Actual CPI Index Value as at the Rebasing Date, divided by:

(A) if a cost or saving has been extracted from the Original Base Case Financial Model, the Model CPI Index Value as at the date that the cost was incurred or the saving was made; or

(B) if a cost or saving has previously been Rebased or Deflated and Restated to Real terms as at a different date, the Projected CPI Index Value or Actual CPI Index Value (as applicable) that was used to Rebase or Deflate and Restate the cost or saving to the Real Reference Date; or

(C) if a cost or saving is presented in Real terms at time *t*, the Projected CPI Index Value or Actual CPI Index Value (as applicable) underlying such cost or saving as at time *t*,

and in each case, for the avoidance of doubt, taking into account any rebasing of the relevant index;

"**Rebasing Date**" means the date to which a cost or saving is Deflated and Restated or Rebased (as applicable);

"**Reconciliation Amounts**" has the meaning given to that term in Clause 23.3 (*Calculation of Reconciliation Amounts*);

"**Reconciliation Billing Period**" has the meaning given to that term in Clause 23.5 (*Calculation of Compensatory Interest Amount*);

"**Reconciliation Date**" means the CGS Initial Reconciliation Date or, as the case may be, the CGS Final Reconciliation Date;

"**Reconciliation Payments**" has the meaning given to that term in Clause 56.2(G) (*State Aid Suspension*);

"**Reference CPI**" means the most recently published CPI as at the date to or as at which the relevant reference to CPI refers;

"**Reference Price Sample Period**" means the Season before the Calculation Season;

"**Relevant CGS Compensation Amount**" means a series of amounts (expressed in pounds) equal to:

(A) in respect of each full or part period from (but excluding) one Indexation Anniversary to (and including) the following Indexation Anniversary that falls in the period from (and including) the Reactor One Start Date to (and including) the CGS Initial Reconciliation Effective Date if there is one or, if not, to (but excluding) the CGS Final Reconciliation Effective Date:

(i) (CGS Pre-Gainshare Strike Price – CGS Final Post-Gainshare Strike Price),

multiplied by

(ii) the Loss Adjusted Metered Output for the relevant period,

as indexed to Nominal Value at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding each relevant first-mentioned period above; and

(B) if there is a CGS Initial Reconciliation Effective Date, in respect of each full or part period from (but excluding) one Indexation Anniversary to (and including) the following Indexation Anniversary that falls in the period from (but excluding) the

CGS Initial Reconciliation Effective Date to (but excluding) the CGS Final Reconciliation Effective Date:

(i) (CGS Interim Post-Gainshare Strike Price – CGS Final Post-Gainshare Strike Price),

multiplied by

(ii) the Loss Adjusted Metered Output for the relevant period,

as indexed to Nominal Value at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding each relevant first-mentioned period above;

"**Relevant Commercial Insurance Market**" means the insurance market comprising those person(s) who arrange, provide or underwrite Insurance Arrangements to a licensee of a licensed site, but excluding any Government Insurance Arrangements;

"**Relevant Connected Party**" means any Investor or any Non-NNB HoldCo Company connected with any Investor, but, in relation to any loan, does not include a state-owned bank or financial institution to the extent such loan is advanced by that bank or financial institution to NNB FinCo or the Generator and the loan ranks ahead of all funding advanced to NNB FinCo or the Generator by NNB HoldCo, any Investor or any Non-NNB HoldCo Company connected with any Investor;

"**Relevant Insurance Decrease**" has the meaning given to that term in Clause 48.2(A) (*Decrease in third party nuclear liability insurance limits*);

"**Relevant Insurance Decrease Event**" means an event which satisfies the conditions in Clauses 48.2(A)(i) and 48.2(A)(ii), subject to the proviso at the end of Clause 48.2(A) (*Decrease in third party nuclear liability insurance limits*);

"**Relevant Insurance Increase**" has the meaning given to that term in Clause 48.1(A) (*Increase in third party nuclear liability insurance limits*);

"**Relevant Insurance Increase Event**" means an event which satisfies the conditions in Clauses 48.1(A)(i) and 48.1(A)(ii) (*Increase in third party nuclear liability insurance limits*);

"**Relevant Insurance Scope Increase**" has the meaning given to that term in Clause 48.6(A) (*Increase in the categories of third party nuclear liability insurance cover*);

"**Relevant Insurance Scope Increase Event**" means an event which satisfies the conditions in Clauses 48.6(A)(i) and 48.6(A)(ii) (*Increase in the categories of third party nuclear liability insurance cover*);

"**Relevant Insured Amount**" means:

(A) €1.2 billion; or

(B) if there has (or, as the case may be, have) been one or more Relevant Insurance Increase(s), the amount to which the Required Insured Amount was adjusted following each such Relevant Insurance Increase; or

(C) if there has (or, as the case may be, have) been one or more Relevant Insurance Decrease(s), the amount to which the Required Insured Amount was adjusted following each such Relevant Insurance Decrease,

provided that the Relevant Insured Amount shall never be less than €1.2 billion for the purposes of Part 14 (*Nuclear Third Party Liability Insurance*);

"**Relevant Opex Costs**" has the meaning given to that term in Clause 16.1(B) (*Preliminary Opex Reports*);

"**Relevant Sold Contracted Power**" means, in respect of a Settlement Unit, the gross amount of the electricity which the Generator (or the Market Service Agreement Provider or any other specified person authorised for the purpose by the Generator) has sold on or before a Season-ahead (or where the Baseload Market Reference Price is calculated using contracts relating to the delivery of a firm volume of energy within a period shorter or longer than a Season, such shorter or longer period) basis, as evidenced by the electricity trade books recording the trades relating to electricity generated by the Facility (or if such electricity trade books are no longer used, such other evidence as is satisfactory to the CfD Counterparty, acting reasonably), provided that the electricity shall be deemed to be Relevant Sold Contracted Power where there has been:

(A) a Change in Applicable Law which prevents or otherwise restricts the Generator (or the Market Service Agreement Provider or any other specified person authorised for the purpose by the Generator) selling electricity on or before a Season-ahead (or where the Baseload Market Reference Price is calculated using contracts relating to the delivery of a firm volume of energy within a period shorter or longer than a Season, such shorter or longer period) basis; or

(B) an action by a Competent Authority (provided that, for the purposes of this paragraph (B), the exclusion(s) at the end of the definition of "Competent Authority" in this Clause 1.1 shall be disregarded) in the exercise of its public functions which prevents or otherwise restricts the Generator (or the Market Service Agreement Provider or any other specified person authorised for the purpose by the Generator) selling electricity on or before a Season-ahead (or where the Baseload Market Reference Price is calculated using contracts relating to the delivery of a firm volume of energy within a period shorter or longer than a Season, such shorter or longer period) basis, save to the extent due to the Generator (or the Market Service Agreement Provider or such other specified person) being in breach of or default under or with respect to any Law, Directive, Industry Document or Required Authorisation;

"**Removed Reactor**" has the meaning given to that term in Clause 2.6(B) (*Single Reactor Protocol*);

"**Replacement Collateral Notice**" means a written notice satisfying the requirements of Clause 60.1(C) (*Notification of collateral requirement*) which expression shall include

each element of, and (as applicable) each computation contained or referred to in, such notice;

"**Replacement Collateral Repayment Date**" means, in circumstances in which any Payment Failure occurs after the date of a Collateral Posting Notice but before the Initial Collateral Repayment Date specified in such notice, the date falling twelve (12) months after the last day of the NPA Payment Cure Period applicable to the Net Payable Amount to which such Payment Failure relates;

"**Replicated Trade**" has the meaning given to that term in Clause 12.3 (*Baseload Market Reference Price*);

"**Representatives**" means:

(A) in respect of the CfD Counterparty:

(i) its directors, officials, officers, employees, agents, consultants and advisers; and

(ii) the CfD Settlement Services Provider and its directors, officers, employees, agents, consultants and advisers who are engaged in connection with the Project and acting in that capacity;

(B) in respect of the Generator:

(i) its directors, officers, employees or secondees;

(ii) any of its Contractors, agents, consultants and advisers who are engaged in connection with the Project and acting in that capacity; and

(iii) the directors, officers, employees, agents, consultants and advisers of any of its Contractors who are engaged in connection with the Project and acting in that capacity;

(C) in respect of any Government Entity (other than the CfD Counterparty), its directors, officials, officers, employees, agents, consultants and advisers who are engaged in connection with the Project and acting in that capacity; or

(D) in respect of any other person, its directors, officers, officials, employees, agents, consultants and advisers;

"**Request for Information**" means:

(A) a request for information (as such term is defined in section 8 of the FoIA);

(B) a request that environmental information (as such term is defined in the EIR) be made available pursuant to the EIR; or

(C) any apparent request for information under the FoIA or the EIR;

"**Requested Milestone Supporting Information**" has the meaning given to that term in Clause 9.1(E)(ii) (*Milestone Requirement Notice*);

"**Required Authorisation**" means, in relation to the Generator, each authorisation, licence, accreditation, permit, consent, certificate, resolution, clearance, exemption, order, confirmation, permission or other approval of or from any Competent Authority required at the relevant time to enable the Generator:

(A) to perform and comply with its obligations under this Agreement and the other Transaction Documents to which it is a party; and

(B) to design, develop, construct, install, complete, test, commission, operate, maintain and decommission the Facility or the Reactors or either of them;

"**Required CiL Amendment**" means any such amendment or supplement to this Agreement which is, as a direct result of a Change in Applicable Law being implemented, occurring or becoming effective, necessary to ensure that the Required CiL Amendment Objectives are met, provided that any such amendment or supplement shall not affect either:

(A) the commercial intent of this Agreement; or

(B) the overall balance of risk, rights and obligations between the Parties,

in each case as provided for in this Agreement;

"**Required CiL Amendment Objectives**" means that:

(A) this Agreement continues in force; and

(B) no provision of this Agreement is rendered illegal, invalid, unenforceable or inoperable;

"**Required Insured Amount**" means the maximum amount of funds in respect of which provision is required to be made by the Generator as licensee of the Site by section 19(1) of the NIA 1965 (and which amount is referred to in that section as "the required amount") in respect of any, or each severally, of the cover periods mentioned in sections 19(1)(a), (b) and (c) of the NIA 1965;

"**Resolution Period**" has the meaning given to that term in Clause 63.1(A) (*Resolution by Senior Representatives*);

"**Resource Co**" means the company which may be established by, or at the direction of, EDF SA, to enable the sharing of resources between the Generator and other developers of UK EPR Technology;

"**Respondent**" has the meaning given to that term in Clause 64.3 (*Expert Determination Procedure*);

"**Response Submission**" has the meaning given to that term in Clause 64.6(C) (*Expert Determination Procedure*);

"**Retained Reactor**" has the meaning given to that term in Clause 2.6(B) (*Single Reactor Protocol*);

"**Revised Business Rates**" has the meaning given that term in Clause 18.2(D)(v)(f) (*Preliminary Business Rates Report*);

"**Revised Business Rates Information**" has the meaning given to that term in Clause 18.2(F)(ii) (*Preliminary Business Rates Report*);

"**Revised Construction Costs**" has the meaning given to that term in Clause 15.1(G)(ii) (*Preliminary Construction Costs Report*);

"**Revised Construction Costs Information**" has the meaning given to that term in Clause 15.1(F)(iv) (*Preliminary Construction Costs Report*);

"**Revised Construction Payment Schedules**" has the meaning given to that term in Clause 15.1(G)(v) (*Preliminary Construction Costs Report*);

"**Revised Contribution Amounts**" has the meaning given to that term in the definition of "Permitted FAP Change Contributions" in this Clause 1.1;

"**Revised Generator GT Claim Information**" has the meaning given to that term in Clause 39.2(F)(ii) (*Compensation on account of Generation Tax Liability*);

"**Revised Generator GT Information**" has the meaning given to that term in Clause 38.1(D)(ii) (*Generator GT Notice*);

"**Revised Generator Insurance Event Information**" has the meaning given to that term in Clause 47.3(D)(ii) (*Generator Preliminary Insurance Event Notice*);

"**Revised Generator QCiL Information**" has the meaning given to that term in Clause 29.2(D)(ii) (*Generator QCiL Notice*);

"**Revised Generator QCiL Response Information**" has the meaning given to that term in Clause 29.4(E)(ii) (*Generator QCiL Response Notice*);

"**Revised Opex Information**" has the meaning given to that term in Clause 16.1(F)(ii) (*Preliminary Opex Reports*);

"**Revised Quarterly QC Information**" has the meaning given to that term in Clause 44.1(D)(ii) (*Preliminary Quarterly QC Report*);

"**Revised Tax Reopener Information**" has the meaning given to that term in Clause 17.2(D)(ii) (*Tax Reopener Report*);

"**Revised TNUoS Charges**" has the meaning given to that term in Clause 41.1(C)(v) (*Preliminary TNUoS Charges Report*);

"**Revised TNUoS Charges Information**" has the meaning given to that term in Clause 41.1(E)(ii) (*Preliminary TNUoS Charges Report*);

"**RPI**" means:

(A) the all items index of retail price inflation published each month by the Office for National Statistics;

(B) if that index is no longer being published, such index as the CfD Counterparty may reasonably determine to be appropriate in the circumstances; or

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

"**Season**" means, subject to the application of a Year-Ahead Switch Notice in accordance with (and as defined in) Annex 3 (*BMRP*), a period of six (6) consecutive months commencing on either 1 April or 1 October;

"**Second Opex Reopener Base Eligible Opex Costs**" means the aggregate of:

(A) the Forecast HPC Specific Eligible Opex Costs;

(B) the Applicable NTPLI Costs; and

(C) if applicable (as agreed or otherwise determined), the lower of:

(i) the Average Benchmark Costs; and

(ii) the Forecast Comparable Eligible Opex Costs,

as at the First Opex Reopener Date and Deflated and Restated to Money of the Year in which the Second Opex Reopener Date falls;

"**Second Opex Reopener Date**" means the date which is the twenty-fifth (25th) anniversary of the Reactor One Start Date;

"**Second Payment Failure Notice**" means a written notice satisfying the requirements of Clause 60.1(A) (*Notification of collateral requirement*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**Secretary of State**" means, unless otherwise expressly stated or the context otherwise requires, the Secretary of State for Energy and Climate Change, acting in that capacity;

"**Secretary of State Investor Agreement**" means the agreement entered into on or around the Agreement Date between, among others, the Secretary of State, the CfD Counterparty, NNB HoldCo, the Generator, each Original Investor, each Original Investor Super TopCo and each Original Investor TopCo;

"**Section 46 Agreement**" means the agreement entered into or to be entered into between the Generator, the FDP Implementation Company and the Secretary of State in accordance with section 46(3A) of the EA 2008;

"**Section C (system operator standard conditions) Direction**" means a direction issued by the Authority or any Secretary of State, where appropriate, in accordance with Standard Condition A2 (Application of Section C) of the Transmission Licence;

"**Security Document**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Senior Representative**" means one (1) or more senior employees or officers selected by a Party to represent it in relation to Clause 63 (*Resolution by Senior Representatives*);

"**Senior Representatives Settlement**" has the meaning given to that term in Clause 63.1(A) (*Resolution by Senior Representatives*);

"**Sensitive Competitor Information**" has the meaning given to that term in Clause 16.3(C) (*HPC Comparator Group*);

"**Sensitive Information**" means Generator Confidential Information which is either:

(A) Commercially Sensitive Information; or

(B) Sensitive Nuclear Information;

"**Sensitive Nuclear Information**" means:

(A) information relating to, or capable of use in connection with, the enrichment of uranium; or

(B) information relating to activities carried out on or in relation to nuclear sites or other nuclear premises which appears to the Secretary of State to be information which needs to be protected in the interests of national security and which the Secretary of State has notified the Generator is sensitive nuclear information,

and in each case where the information has been clearly and correctly marked as sensitive nuclear information by the Generator;

"**Series of Payments**" means, in respect of any amount payable by a Party, a series of payments which is commercially equivalent to such amount had it been paid as a lump sum on the due date therefor, taking into account the payment plan and the risk associated with the payments being made;

"**Service Document**" means a claim form, application notice, order, judgment or other document relating to any Proceedings;

"**Settlement Unit**" means each half-hour period in a day divided into half-hour long periods starting at 00:00 on such day;

"**SF Transfer Contract Certificate**" has the meaning given to that term in the FAP;

"**SF Transfer Price**" has the meaning given to that term in the FAP at the Agreement Date;

"**Side Letter Party**" means the Secretary of State, the CfD Counterparty, the Generator or the Lead Investor (for itself and for the benefit of those named as beneficiaries in the State Aid Side Letter and such other Investor(s) as the CfD Counterparty agrees, acting reasonably), as the case may be;

"**Single Purpose Company**" means that the Generator's business is limited to:

(A) its Wind Farm Activities;

(B) the holding of a "Non-Voting Operator Share" (as defined in the FAP);

(C) the Project;

(D) the holding of shares in Resource Co, if the CfD Counterparty consents in writing to the holding of shares in Resource Co;

(E) providing services under the Intra-Project Services Agreement; and

(F) activities associated with any or all of the foregoing or reasonably incidental or preparatory thereto, including under any Transaction Documents or Finance Documents to which it is a party;

"**Single Reactor Protocol**" means the protocol set out at Part A (*Single Reactor Protocol*) of Annex 7 (*Single Reactor Protocol and Protocol Reversal*);

"**Single Reactor Protocol Reversal**" means the protocol reversal set out at Part B (*Single Reactor Protocol Reversal*) of Annex 7 (*Single Reactor Protocol and Protocol Reversal*);

"**Single Reactor Scenario**" has the meaning given to that term in Clause 2.6(B) (*Single Reactor Protocol*);

"**Site**" means the site known as Hinkley Point C being land situated near Stogursey in the District of West Somerset in the County of Somerset and shown outlined in red on the Generator's drawing referenced HPC-NNBOSL-XX-000-DRW-000001, revision L entitled "Hinkley Point C Nuclear Site Licence Area" and dated 4 October 2012, annexed to the Nuclear Site Licence;

"**Site Plan**" means the site plan in respect of the Site (including co-ordinates) delivered or to be delivered to the CfD Counterparty pursuant to paragraph 17 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*);

"**Sizewell C Adjustment**" means a Strike Price Adjustment made or to be made pursuant to Clause 14 (*Sizewell C Pricing Adjustment*);

"**Sizewell C Company**" means NNB Generation Company (SZC) Limited, a company incorporated under the laws of England and Wales with registered number 09284825 whose registered office is at 40 Grosvenor Place, London SW1X 7EN;

"**Sizewell C Condition**" means the earlier of:

(A) the entry into a FiT Contract for Difference (or equivalent support) in relation to the Sizewell C Project by each of the parties thereto and the satisfaction or permitted waiver of the State aid condition precedent (if any) in respect thereof; and

(B) the date of First Nuclear Island Concrete pour for the Sizewell C Project;

"**Sizewell C Licensed Site**" means the site of the Sizewell C Project that is the subject of a nuclear site licence granted to the Sizewell C Company pursuant to section 1 of the NIA 1965;

"**Sizewell C Project**" means the proposed new nuclear power project which is, or which at the Agreement Date is intended to be:

(A) located at Leiston-cum-Sizewell, Suffolk; and

(B) based on the UK EPR Technology;

"**SOTO Code**" means the System Operator – Transmission Owner Code required to be in place pursuant to Standard Condition B12 (System Operator – Transmission Owner Code) of the Transmission Licence;

"**Specific Change in Law**" means a Change in Law the terms of which specifically (and not merely indirectly or consequentially or by virtue of the disproportionate effect of any Change in Law that is of general application) apply to:

(A) generating facilities which deploy nuclear generation technology or particular types of nuclear generation technology, or the generation from, or generation-related processes carried out at, such generating facilities, and not to other generating facilities, or the generation from, or generation-related processes carried out at, other generating facilities;

(B) generating facilities the generation output of which is subject to a FiT Contract for Difference, or the generation from, or any generation-related processes carried out at, such generating facilities, and not in respect of any generating facilities to the extent these are not subject to a FiT Contract for Difference, or the generation from, or generation-related processes carried out at, any such generating facilities;

(C) generating facilities which deploy nuclear generation technology or particular types of nuclear generation technology and the generation output of which is subject to a FiT Contract for Difference, or the generation from, or any generation-related processes carried out at, such generating facilities, and not to any generating facilities which are not of the same or a similar type to the Facility but

which are subject to a FiT Contract for Difference, or the generation from, or generation-related processes carried out at, such other generating facilities;

(D) Nuclear Installations, or any nuclear-related process carried out at Nuclear Installations, and not to any other installation or process which is not the same or a similar type;

(E) Nuclear Transport, or any nuclear-related process carried out as part of Nuclear Transport, and not to any other transport or process which is not the same or a similar type; or

(F) the holding of shares in companies, the membership of partnerships, limited partnerships or limited liability partnerships, the participation in joint ventures (whether or not incorporated) or the holding of any other economic interest, including by way of debt, in each case whether directly or indirectly, in an undertaking whose main business is the development, construction, operation and maintenance of generating facilities first referred to in paragraph (A), (B) or (C) above, Nuclear Installations or Nuclear Transport, and not other generating facilities, installations or transport;

"**Specific Tax Change in Law**" means:

(A) a Uranium Tax Change in Law; or

(B) a Change in Law or HMRC practice which results in the Generator's tax treatment being less or more favourable than that set out in the Specific Tax Clearances, but in the case of the tax treatment being less favourable:

(i) only to the extent that the context, facts and assumptions relating to the Generator's affairs as set out or referred to in correspondence from the Generator and/or EDF Energy or other member of its Group to HMRC in connection with obtaining the relevant Specific Tax Clearance was or were true and not misleading at the time of that correspondence; and

(ii) not if the Generator no longer qualifies for the treatment set out in the Specific Tax Clearances due to a change in any such context, facts or assumptions;

"**Specific Tax Clearances**" means:

(A) the letter from HMRC to EDF Energy dated 10 September 2010 which confirms:

(i) the tax deductibility of the costs of interim storage and disposal of Spent Fuel;

(ii) that the income of the FDP Implementation Company shall be taxed on general principles and that the arrangement between the Generator and the FDP Implementation Company shall be treated as a loan relationship; and

(iii) that input VAT incurred on decommissioning costs will be recoverable;

(B) the letter from HMRC to EDF Energy dated 19 November 2010 which confirms that on the facts and circumstances presented the Generator has a single continuous trade of generation and sale of electricity, which commences when the Generator acquires its first generation asset;

(C) the letter from HMRC to EDF Energy dated 25 June 2013 which confirms that payments made by or to the Generator under the FiT Contract for Difference would not be treated as consideration in respect of any supply for VAT purposes and nor will they affect the Generator's ability to recover all VAT on its costs;

(D) Statutory Instrument 2013/3218 which amended the definition of 'contract for differences' in the Corporation Tax derivative contracts legislation (Corporation Tax Act 2009 s582(1)) so that it includes a contract which falls within section 6(2) of, or paragraph 1(1) of schedule 2 to, the EA 2013; and

(E) the Advance Thin Capitalisation Agreement dated 30 July 2014, between HMRC, NNB HoldCo, the Generator and NNB FinCo (the "**ATCA**"), in so far as the ATCA confirms that there will be no disallowance of "Total Interest" (as that term is defined in the ATCA) on the bonds and loans listed at sections F1 to F3 of the ATCA under Part 4 of the TIOPA 2010;

"**Spent Fuel**" means nuclear fuel that has been irradiated in a nuclear reactor and that has been permanently removed from the reactor core, or that is in a nuclear reactor upon the cessation of its operation;

"**Spent Fuel Waste Transfer Contract**" means the agreement entered into or to be entered into between the Secretary of State and the Generator in relation to the transfer of title to, and management of, Spent Fuel;

"**Standard & Poor's**" means Standard & Poor's Ratings Service, a division of the McGraw-Hill Companies, Inc., and any successor thereto;

"**Start Date**" means the Reactor One Start Date and/or the Reactor Two Start Date, as the context requires or admits;

"**Start Date Conditions Precedent**" means, in respect of each Reactor, the conditions precedent set out in Part B (*Start Date Conditions Precedent*) of Schedule 1 (*Conditions Precedent*);

"**Start Date Conditions Precedent Evidence**" has the meaning given to that term in Clause 3.3(F)(ii) (*Start Date Conditions Precedent*);

"**Start Date CP Fulfilment Notice**" means a written notice from the CfD Counterparty to the Generator stating that the CfD Counterparty has determined that all of the Start Date Conditions Precedent in respect of a Reactor have been satisfied or waived;

"**Start Date CP Non-Compliance Notice**" means a written notice satisfying the requirements of Clause 3.3(I) (*Start Date Conditions Precedent*), which expression shall

include each element of, and (if applicable) each computation contained or referred to in, such notice, and all Supporting Information referred to in Clause 3.3(I)(iv) (*Start Date Conditions Precedent*);

"**Start Date CP Notice**" means a written notice satisfying the requirements of Clause 3.3(C) (*Start Date Conditions Precedent*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice, and all Supporting Information referred to in Clause 3.3(C)(iii) (*Start Date Conditions Precedent*);

"**Start Date CP Provisions**" means Clauses 10 (*Metered Output*), 15 (*Construction Gain Share Adjustment*), 16 (*Opex Reopener Adjustment*), 23.3 (*Calculation of Reconciliation Amounts*), 27 (*Deductions and Withholdings*), 41 (*TNUoS Charges*) to 46 (*Qualifying Curtailment: General Provisions*) (inclusive), 60 (*Collateral Requirement*) and 61 (*Acceptable Collateral*);

"**Start Date CP Response Notice**" means a written notice satisfying the requirements of Clause 3.3(F) (*Start Date Conditions Precedent*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**Start Date CP Satisfaction Date**" has the meaning given to that term in Clause 3.4(A)(ii) (*Notices of fulfilment*);

"**Start Date Notice**" means a Reactor One Start Date Notice and/or a Reactor Two Start Date Notice, as the context requires or admits;

"**State Aid Competent Authority**" means:

(A) the European Commission;

(B) the Court of Justice of the European Union; or

(C) the national courts of any European Union member state that have jurisdiction over the Secretary of State and/or the CfD Counterparty and the decisions, determinations, rulings or other actions of which are binding on the Secretary of State and/or the CfD Counterparty;

"**State Aid Rules**" means:

(A) the State aid provisions of the Treaty on the Functioning of the European Union;

(B) any associated European Union legislation in relation to such State aid provisions including Council Regulation 2015/1589; and

(C) any relevant decisions or judgments of the European Commission, the Court of Justice of the European Union or any other Competent Authority in relation to such State aid provisions;

"**State Aid Side Letter**" means the letter to be entered into between the Side Letter Parties;

"**Strike Price**" means the Initial Strike Price, as may be adjusted from time to time in accordance with this Agreement;

"**Strike Price Adjustment**" means any adjustment to the Strike Price effected pursuant to and in accordance with this Agreement;

"**Strike Price Adjustment Calculation Period**" means, in respect of any calendar year, the period from the date the CPI for January in the relevant calendar year is published (or, where the Reference CPI is used, the fifth Business Day prior to the end of March in the relevant calendar year) to and including the first day of the Summer Season in that calendar year;

"**Summer Season**" in any year, means the Season commencing on 1 April in that year;

"**Supplier Obligation Regulations**" means the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014;

"**Supporting Information**" means any and all relevant calculations, confirmations, data, documentation, evidence (including experts' reports), explanations, information, measurements, readings, reports (including experts' reports), representations and statements (whether in written or documentary form);

"**Suspension Cessation Event**" has the meaning given to that term in Clause 56.2(F) (*State Aid Suspension*);

"**Target Commissioning Window**" means:

(A) in respect of Reactor One, the Reactor One Target Commissioning Window; and

(B) in respect of Reactor Two, the Reactor Two Target Commissioning Window;

"**Tax**" means any taxes, levies, duties, imposts and any charges, deductions or withholdings in the nature of tax including taxes on gross or net Income, Profits or Gains and taxes on receipts, sales, use, occupation, development, franchise, employment, value added and personal property, together with any penalties, charges and interest relating to any of them;

"**Tax Relief**" means any loss, relief, allowance or credit in respect of any Tax other than Generation Tax;

"**Tax Reopener Adjustment**" means:

(A) save in the case of paragraphs (E) and (F) of the definition of "Tax Reopener Qualifying Event" in this Clause 1.1, an amount equal to the aggregate amount of additional corporation tax which would have been payable by each member of the NNB HoldCo Group (taken together) but for the corporation tax consequences in the relevant accounting period of any Tax Reopener Qualifying Event occurring or having occurred at any time;

(B) in the case of paragraph (E) of the definition of "Tax Reopener Qualifying Event" in this Clause 1.1, an amount equal to any amount paid by the claimant company to the relevant surrendering company in consideration of the Loss Surrender; and

(C) in the case of paragraph (F) of the definition of "Tax Reopener Qualifying Event" in this Clause 1.1, an amount equal to *y* (as defined in paragraph (F) of the definition of "Tax Reopener Non-Qualifying Event" in this Clause 1.1) less any amount paid by the claimant company to the relevant surrendering company in consideration of the Loss Surrender, provided that the resulting amount shall not be less than zero (0);

"**Tax Reopener Information Request**" has the meaning given to that term in Clause 17.2(F) (*Tax Reopener Report*);

"**Tax Reopener Non-Qualifying Event**" means:

(A) any arrangements or transactions (covering both the scale and the terms) which are set out in the Original Base Case Financial Model (including, for the avoidance of doubt, any contingent equity and/or associated downside financing) and, without limitation, regardless of whether the identity of the counterparty to such arrangement or transaction (for example, in the case of a funding arrangement, the identity of the Lender) is the same as provided in the Original Base Case Financial Model, save to the extent that the arrangement or transaction in question constitutes funding advanced from a Relevant Connected Party;

(B) any funding arrangement (excluding any funding advanced from a Relevant Connected Party), to the extent that such funding does not exceed the Maximum Permitted Financial Indebtedness Level;

(C) any funding arrangement, whether or not a Relevant Connected Party is party to that arrangement, in excess of:

(i) the total amount of funding provided for in the Original Base Case Financial Model; plus

(ii) six billion pounds sterling (£6,000,000,000); less

(iii) for both Reactors, the amount by which the third party interest costs provided for in the Original Base Case Financial Model in respect of each Reactor for the period prior to its Start Date (the "**Provision**") exceeds the amount of third party interest costs which are actually paid in respect of that Reactor for such period (the "**Interest Paid**"), unless the Interest Paid exceeds the Provision, in which case this sub-paragraph shall instead require the addition of an amount equal to that excess,

where such funding is advanced and used (directly or indirectly) to fund the construction of the Facility, the Reactors or the Associated Facilities;

(D) any funding arrangement in excess of that provided for in the Original Base Case Financial Model, whether or not a Relevant Connected Party is party to that arrangement, where such funding is advanced and used (directly or indirectly) to fund additional expenditure required for the continuing operation and maintenance of the Facility, the Reactors or the Associated Facilities, but only, in the case of funding advanced from a Relevant Connected Party, to the extent that (i) such arrangement is on terms which would be agreed between third parties dealing at arm's length and (ii) the costs relating to such funding in respect of which corporation tax relief is available to the NNB HoldCo Group are such that the proportion of the total funding costs in respect of which corporation tax relief is available is no greater than the proportion (for the accounting period in question) of the funding in the Original Base Case Financial Model in respect of which corporation tax relief is available (not being funding which would constitute a Tax Reopener Qualifying Event);

(E) any arrangement entered into between any of the members of the NNB HoldCo Group provided that the corporation tax payable by the relevant companies (taken together) is not less than would have been payable had the relevant companies been a single company;

(F) any Loss Surrender by any of the members of the NNB HoldCo Group to a Non-NNB HoldCo Company provided that such surrender is in consideration of the payment by the claimant company to the relevant surrendering company of an amount not less than *y*, applying the formula:

[redacted]

(G) any agreement by any of the members of the NNB HoldCo Group to claim, for no payment, losses or other reliefs from any Non-NNB HoldCo Company which is eligible to make a Loss Surrender provided that such losses or reliefs are not Ineligible Losses;

(H) any member of the NNB HoldCo Group being required by law to become party to a consolidated group for corporation tax purposes with a Non-NNB HoldCo Company, but only to the extent that this does not result in substantially the same effect for the NNB HoldCo Group and the Non-NNB HoldCo Company as would have been achieved by a Tax Reopener Qualifying Event (other than

paragraph (G) of the definition of "Tax Reopener Qualifying Event" in this Clause 1.1); and

(I) any member of the NNB HoldCo Group choosing (by election or similar action) to become party to a consolidated group for corporation tax purposes with a Non-NNB HoldCo Company, but only to the extent that:

(i) this does not have the effect that members of the NNB HoldCo Group benefit for corporation tax purposes from losses or reliefs which (absent the consolidation) would arise in any Non-NNB HoldCo Company in excess of those losses or reliefs which (absent the consolidation) they would be able to benefit from by way of Loss Surrender (or would have been able to benefit from by way of Loss Surrender but for a Change in Law that has the effect of reducing (or eliminating) the availability to the NNB HoldCo Group of such Loss Surrender); and

(ii) this does not result in substantially the same effect for the NNB HoldCo Group and the Non-NNB HoldCo Company as would have been achieved by a Tax Reopener Qualifying Event (other than paragraph (G) of the definition of "Tax Reopener Qualifying Event" in this Clause 1.1);

"**Tax Reopener Qualifying Event**" means any of the following but only if they are not a Tax Reopener Non-Qualifying Event:

(A) any loans or other funding advanced to any member of the NNB HoldCo Group, including any transactions which have substantially the same economic effect for the parties as loans, where such advance is from an Investor or any Non-NNB HoldCo Company connected with an Investor;

(B) any funding arrangement advanced to any member of the NNB HoldCo Group in excess of that agreed in the Original Base Case Financial Model;

(C) any refinancing of any arrangements or transactions which are agreed in the Original Base Case Financial Model, save to the extent that such refinancing is on arm's length terms and does not increase the corporation tax relief available to the NNB HoldCo Group compared with the relief so available before such refinancing took place;

(D) any arrangements entered into by any member of the NNB HoldCo Group which are either artificial and the tax advantage is, or might be expected to be, the main benefit or one of the main benefits of the arrangements, or that are "notifiable arrangements" for the purposes of Part 7 of the FA 2004;

(E) any Loss Surrender by a Non-NNB HoldCo Company to any member of the NNB HoldCo Group either of Ineligible Losses or of losses or reliefs which are not Ineligible Losses but for which payment is agreed to be made by the relevant claimant company;

(F) any Loss Surrender by any member of the NNB HoldCo Group to a Non-NNB HoldCo Company other than in respect of any accounting period ended prior to

the Agreement Date or the accounting period in which the Agreement Date falls to the extent that the losses or reliefs which are the subject of that Loss Surrender arise before the Agreement Date;

(G) any member of the NNB HoldCo Group joining or becoming party to a consolidated group for corporation tax purposes with a Non-NNB HoldCo Company; and

(H) the entry by any member of the NNB HoldCo Group into any material intellectual property licensing arrangements or material arrangements for the acquisition of goods or services with an Investor or any Non-NNB HoldCo Company connected with an Investor, pursuant to which any interest in any intellectual property or any goods or services received by any member of the NNB HoldCo Group (as the case may be) (i) are not considered by the directors of that company to be in the interests of that company, or (ii) are not relevant to the Project, or (iii) are provided on pricing terms which both leak value from the NNB HoldCo Group to the Investor or other Non-NNB HoldCo Company and are less favourable to the NNB HoldCo Group than those which would be agreed between third parties dealing at arm's length (to the extent that the same are so provided),

and, for the purposes of paragraph (E) of this definition, where a Non-NNB HoldCo Company has in respect of any accounting period both Ineligible Losses and other losses or reliefs available for a Loss Surrender to any member of the NNB HoldCo Group, the Non-NNB HoldCo Company shall be treated as having made a Loss Surrender to any member of the NNB HoldCo Group of the other losses or reliefs in priority to a Loss Surrender of the Ineligible Losses, and where the Non-NNB HoldCo Company has also made a Loss Surrender to another Non-NNB HoldCo Company (which shall include any company which is party to another FiT Contract for Difference), the Loss Surrender to that other company shall be treated as a Loss Surrender of Ineligible Losses before any other losses or reliefs; and

for the purposes of paragraph (H) of this definition:

(i) arrangements are material if:

(a) they are for the acquisition of goods with a consideration in excess of five hundred thousand pounds (£500,000); or

(b) they are licensing arrangements or arrangements for the acquisition of services pursuant to which the total payments required to be made pursuant to the arrangement are in excess of one million pounds (£1,000,000), or the amounts required to be paid in any accounting period exceed five hundred thousand pounds (£500,000); and

(ii) if a scheme or arrangement is entered into, in consequence of which the arrangements for the acquisition of goods or services would not (apart from this paragraph) be material as defined by sub-paragraph (i) above, and the main purpose, or one of the main purposes, of the scheme or arrangement, or the effect of the scheme or arrangement, is to ensure that the materiality threshold is

not met for any accounting period, such arrangements for the acquisition of goods or services shall be deemed to be material;

"**Tax Reopener Report**" means a written report satisfying the requirements of Clause 17.2(B) (*Tax Reopener Report*), which expression shall include:

(A) each element of, and (if applicable) each computation contained or referred to in, such report and all Supporting Information referred to in Clause 17.2(B)(vi) (*Tax Reopener Report*); and

(B) if and when applicable, any Revised Tax Reopener Information;

"**Technical Compliance Termination Event**" means an event as set out in Clause 53.5 (*Failure to remedy Metering Compliance Obligation breach*);

"**Term**" means the period commencing on the Agreement Date and, subject to Clause 56.2(G) (*State Aid Suspension*), ending on the last day of:

(A) the Reactor One Term, if the Reactor Two Start Date has not occurred on or by such day; or

(B) the Reactor Two Term,

or such earlier date as the Parties may agree in writing;

"**Termination Date**" means the day designated in accordance with this Agreement as an early termination date in respect of this Agreement in its entirety;

"**Termination Default Amount**" means an amount (expressed in pounds) calculated in accordance with the formula set out in paragraph 2.1 of Annex 1 (*Calculation of Termination Default Amount*);

"**Termination Default Amount Notice**" means a written notice satisfying the requirements of Clause 58.3(B) (*Consequences of Default termination*), which expression shall include each element of, and (if applicable) each computation contained or referred to in, such notice;

"**Termination Event**" has the meaning given to that term in Clause 59.1 (*Termination Events*);

"**Third Party**" has the meaning given to that term in Clause 90.1(A) (*Third Party Provisions*);

"**Third Party Provisions**" has the meaning given to that term in Clause 90.1(A) (*Third Party Provisions*);

"**Threshold Cash Collateralisation Cost**" means what would reasonably be, or would reasonably be expected to be, the net cost to the Generator of setting €1.2 billion (as adjusted by the Inflation Factor with effect from each Indexation Anniversary) in cash aside towards meeting the Insurance Provision as such cost is reasonably evidenced by

the Generator (or as determined by an Expert in accordance with the Expert Determination Procedure in the event of any dispute) adjusted for any relevant compensation paid to or by the Generator under Part 14 (*Nuclear Third Party Liability Insurance*);

"**TIOPA 2010**" means the Taxation (International and Other Provisions) Act 2010;

"**TLM(CFD)**" means:

(A) the transmission losses adjustment allocated in accordance with the BSC for BM Units belonging to delivering Trading Units and defined in section T of the BSC (as at the Agreement Date) as $TLMO^{+}_{j}$ (and expressed as an absolute decimal); and

(B) any new or substitute multiplier or factor which is in the nature of, or similar to, that adjustment,

and, for the avoidance of doubt, this will be representative of the percentage of electricity lost, and not the percentage of electricity retained;

"**TLM(CFD) Charges Difference**" has the meaning given to that term in Clause 43.1(E) (*TLM(CFD) Charges Reports*);

"**TLM(CFD) Charges Report**" has the meaning given to that term in Clause 43.1 (*TLM(CFD) Charges Reports*);

"**TLM(CFD) Charges Report Year**" has the meaning given to that term in Clause 43.1 (*TLM(CFD) Charges Reports*);

"**TLM(CFD) Charges Review Period**" has the meaning given to that term in Clause 43.1(C) (*TLM(CFD) Charges Reports*);

"**TLM(CFD) Strike Price Adjustment**" has the meaning given to that term in Clause 43.2 (*TLM(CFD) Strike Price Adjustment*);

"**TNUoS Charges**" means:

(A) transmission network use of system charges which, at the Agreement Date, are levied or credited by the GB System Operator pursuant to the CUSC; and

(B) any new or substitute payments or credits which are in the nature of, or similar to, transmission network use of system charges, whether or not levied or credited by the GB System Operator or pursuant to the CUSC,

in each case, payable or receivable by electricity generators in Great Britain but excluding distribution network use of system charges (or any new or substitute payments or credits which are in the nature of, or similar to, distribution network use of system charges);

"**TNUoS Charges Difference**" has the meaning given to that term in Clause 41.1(C)(vii) (*Preliminary TNUoS Charges Report*);

"**TNUoS Charges Fallback Date**" has the meaning given to that term in Clause 41.4(C) (*TNUoS Charges adjustment*);

"**TNUoS Charges Report**" has the meaning given to that term in Clause 41.3 (*TNUoS Charges Report*);

"**TNUoS Charges Report Effective Date**" means the date on which a Preliminary TNUoS Charges Report (as amended, if applicable) becomes a TNUoS Charges Report pursuant to Clause 41.3 (*TNUoS Charges Report*);

"**TNUoS Charges Strike Price Adjustment**" means a Strike Price Adjustment made or to be made pursuant to Clause 41 (*TNUoS Charges*) and which shall be calculated as the Aggregate TNUoS Charges Difference divided by the Projected Net Generation for the remainder of the Term as Discounted to Present Value as at the Reactor One Start Date using the Compensation Calculation Discount Rate;

"**TNUoS Tariff Statement**" means, in respect of a period, the TNUoS Tariff Statement (or equivalent) published by the GB System Operator for such period;

"**Trading Day**" means any day on which trading on the markets from which the Baseload Price Sources are derived ordinarily takes place;

"**Transaction Documents**" means:

(A) this Agreement;

(B) the Secretary of State Investor Agreement;

(C) the State Aid Side Letter;

(D) the Direct Agreement;

(E) any direct agreement referred to in clause 36 (*Direct Agreement*) of the Secretary of State Investor Agreement; and

(F) any Security Document;

"**Transfer**" has the meaning given to that term in Clause 86.1 (*Restriction on Transfers*);

"**Transfer Scheme**" means a transfer scheme made under paragraph 1(1) of schedule 1 to the EA 2013;

"**Transferee**" has the meaning given to that term in Clause 86.1 (*Restriction on Transfers*);

"**Transferring Rights and Obligations**" has the meaning given to that term in Clause 86.5(A) (*General provisions relating to Permitted Transfers*);

"**Transmission Entry Capacity**" has the meaning given to that term in the CUSC;

"**Transmission Licence**" means an electricity transmission licence granted or treated as granted pursuant to section 6(1)(b) of the EA 1989 that authorises a person to transmit electricity;

"**Transmission Licensee**" means any person who is authorised by a Transmission Licence to transmit electricity, acting in that capacity;

"**Transmission System**" means those parts of the GB Transmission System that are owned by a Transmission Licensee within the transmission area specified in its Transmission Licence;

"**Transmission System Operator**" means the holder of a Transmission Licence in relation to which licence the Authority or any Secretary of State, where appropriate, has issued a Section C (system operator standard conditions) Direction in accordance with such licence and where that direction remains in effect, acting in that capacity;

"**Treaty**" has the meaning given to that term in Article 2(1)(a) of the Vienna Convention on the Law of Treaties 1969;

"**Tribunal**" has the meaning given to that term in the FoIA;

"**Trigger Event**" means the occurrence of any event or circumstance that under the terms of any debt financing with a Lender entered into with any member of the NNB HoldCo Group in relation to and for the purposes of the Project:

(A) prevents or entitles any lender, guarantor or credit provider in respect of that financing to prevent the Generator or any parent undertaking of the Generator which is a member of the NNB HoldCo Group from making dividends or other distributions to its shareholders; or

(B) suspends or entitles any lender, guarantor or credit provider in respect of that financing to suspend the availability of debt (or the proceeds of debt) for funding the Project and/or Project costs;

"**UK Competent Authority**" means a Competent Authority of the United Kingdom;

"**UK EPR Technology**" means technology that falls within the definition of "the EPR practice" in The Justification Decision (Generation of Electricity by the EPR Nuclear Reactor) Regulations 2010 and in respect of which the Health and Safety Executive issued a Design Acceptance Confirmation on 13 December 2012 (as amended) and the Environment Agency issued a Statement of Design Acceptability on 13 December 2012 (as amended), including any changes required as part of the evolution of the design process and development of "the EPR practice";

"**Ultimate Investor**" has the meaning given to that term in the Secretary of State Investor Agreement;

"**Uranium Tax**" means a tax or a levy, duty or impost in the nature of tax that is imposed by Her Majesty's Government of the United Kingdom (or which Her Majesty's Government of the United Kingdom has formally required a UK Competent Authority to charge)

specifically and directly on the exploration, mining, processing, manufacture, transportation, supply, storage, use, purchase or sale of uranium or the natural materials from which uranium is derived (in whatever form or combination);

"**Uranium Tax Change in Law**" means:

(A) the coming into effect or amendment of any Uranium Tax; or

(B) a change in the interpretation or application of any Uranium Tax by any UK Competent Authority,

in each case after the Agreement Date, but shall exclude any general taxes, levies, duties or imposts on gross or net Income, Profits or Gains or any indirect taxes, levies duties or imposts;

"**Valuation Office Agency**" means the executive agency of that name of HMRC (or its successor);

"**VAT**" means any value added tax or any replacement or other tax levied by reference to value added;

"**Volume Comparison Metric**" has the meaning given to that term in Clause 12.3(A) (*Baseload Market Reference Price*);

"**Waiver and Amendment Letter**" means the waiver and amendment letter dated on or about the Agreement Date between, among others, NNB FinCo, the Guarantor and the Generator;

"**Waste Stores**" means the Generator's interim facilities required for the purposes of handling and storing Spent Fuel and ILW in each case from the Facility;

"**Waste Transfer Contracts**" means:

(A) the Spent Fuel Waste Transfer Contract; and

(B) the ILW Waste Transfer Contract;

"**Waste Transfer Price**" means:

(A) in relation to Spent Fuel, the "Expected Waste Transfer Price" or "Waste Transfer Price" (as applicable) as such terms are defined in the Spent Fuel Waste Transfer Contract and identified as such in the most recent SF Transfer Contract Certificate; and

(B) in relation to ILW, the "Expected Waste Transfer Price" or "Waste Transfer Price" (as applicable) as such terms are defined in the ILW Waste Transfer Contract and identified as such in the most recent ILW Transfer Contract Certificate;

"**Wind Farm Activities**" means the ownership of Trimdon Grange Wind Farm, Southern Law Farm, Trimdon Grange, County Durham TS29 6NR and the subcontracting of the operation and maintenance of Trimdon Grange Wind Farm; and

"**Working Hours**" means 09:00 to 17:00 on a Business Day.

1.2 **BSC definitions**

(A) References in this Agreement to "BM Unit", "BM Unit Metered Volume", "BSC Agent", "BSC Company", "Code Subsidiary Document", "Communications Equipment", "Distribution System", "Metering Equipment", "Metering System", "MSID", "Registrant", "Residual Cashflow Reallocation Cashflow", "Settlement Run", "Subsidiary Party", "Trading Dispute" and "Trading Unit" shall have the meanings given to such terms in the BSC.

(B) Clause 1.2(A) shall operate without prejudice to the application of Part 10 (*Changes in Law*) to changes in the meaning of those terms under the BSC after the Agreement Date.

1.3 **Interpretation**

(A) Any reference in this Agreement to:

(i) a Law, Directive or other similar enactment or instrument (including any European Union or Euratom instrument) (each, an "**enactment**") includes references to:

(a) that enactment as amended, supplemented or applied by or pursuant to any other enactment before, on or after the Agreement Date;

(b) any enactment which re-enacts, restates or replaces (in each case with or without modification) that enactment; and

(c) any subordinate legislation made (before, on or after the Agreement Date) pursuant to any enactment, including an enactment falling within Clause 1.3(A)(i)(a) or 1.3(A)(i)(b); or

(ii) an Industry Document includes reference to such Industry Document as amended, supplemented, restated, novated or replaced from time to time,

except, in each case, that this is without prejudice to the application of Part 10 (*Changes in Law*) to such changes and except to the extent otherwise expressly specified.

(B) Unless otherwise expressly specified in this Agreement:

(i) any reference in this Agreement (or in any certificate or other document made or delivered pursuant to this Agreement) to:

(a) this "**Agreement**" shall be deemed to include the Schedules and the Annexes;

(b) a "**company**" shall be construed as including any corporation or other body corporate, wherever and however incorporated or established;

(c) the expressions "**holding company**" and "**subsidiary**" shall have the meanings respectively ascribed to them by section 1159 of the Companies Act 2006, the expressions "**parent undertaking**" and "**subsidiary undertaking**" shall have the meanings respectively ascribed to them by section 1162 of the Companies Act 2006 and the expression "**associated undertaking**" shall have the meaning ascribed to it in schedule 6 to The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (but for this purpose ignoring paragraph 19(1)(b) of those regulations);

(d) a "**person**" shall be construed as including any individual, firm, company, unincorporated organisation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any other entity;

(e) a person shall be construed as including its successors, permitted assignees and permitted transferees and, where a person ceases to exist, any other person to which some or all of its duties, functions, liabilities, obligations, powers or responsibilities may from time to time be transferred;

(f) an "**agreement**" shall be construed as including any commitment or arrangement, whether legally binding or not, and references to being party to an agreement or having agreed to do anything shall be construed accordingly;

(g) any agreement or document shall (subject as provided in Clause 1.3(A)) be construed as a reference to that agreement or document as amended, supplemented, restated, novated or replaced from time to time;

(h) "**licensed site**" and "**licensee**" have the meanings given to those terms in section 26(1) of the NIA 1965;

(i) any English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than England be treated as including what most nearly approximates in that jurisdiction to the English legal term; and

(j) time shall be a reference to time in London, England;

(ii) words in the singular shall be interpreted as including the plural and *vice versa*;

(iii) any gender includes the other genders;

(iv) in construing this Agreement (or any certificate or other document made or delivered pursuant to this Agreement):

(a) the rule of interpretation known as the *ejusdem generis* rule shall not apply and, accordingly, general words introduced by the word "other" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and

(b) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words;

(v) any reference in this Agreement to "**includes**" or "**including**" shall be construed as "**includes without limitation**" or "**including without limitation**"; and

(vi) any reference in this Agreement to a "**paragraph**", "**Clause**", "**Part**", "**Schedule**", "**Annex**" or "**Appendix**" is a reference to a paragraph, Clause or Part of, or a Schedule, Annex or Appendix to, this Agreement.

(C) Headings and sub-headings used in this Agreement are for ease of reference only and shall not affect the interpretation of this Agreement.

(D) If there is a conflict between the main body of this Agreement and any Schedule, Annex or Appendix, the main body of this Agreement shall prevail.

(E) If there is a conflict between this Agreement and the Model User Guide or the instructions for the FDP Tracker Tool, this Agreement shall prevail.

(F) For the avoidance of doubt, Clause 1.3(B)(i)(e) shall apply (without limitation) to any references in this Agreement to the Authority, DECC, the Environment Agencies and the Secretary of State.

1.4 **Symbols and currency**

(A) Any reference in this Agreement to:

(i) "**£**", "**sterling**" or "**pounds**" is to the lawful currency of the United Kingdom; and

(ii) "**€**" or "**euro**" is to the lawful currency of each Participating Member State that remains a member of the single currency of the European Union in accordance with the treaties of the European Union as amended from time to time, and "**Participating Member State**" means any member

state of the European Union in accordance with legislation of the European Union relating to Economic and Monetary Union.

(B) Any reference in this Agreement to "**MW**" is to megawatts and to "**MWh**" is to megawatt hours.

1.5 **Nuclear Third Party Liability Insurance**

(A) References in Part 14 (*Nuclear Third Party Liability Insurance*) to "**cost to**" or, as the case may be, "**cost incurred by**" or "**cost of**" "**the Generator as licensee of the Site of making Insurance Provision**" shall take into account any mitigation, cost savings and benefits which the Generator either itself or as a member of Agreed Pooled Insurance Arrangements has undertaken or achieved, such cost savings and benefits to be determined (where there are such Agreed Pooled Insurance Arrangements) on the assumption that they have been equally apportioned (by reference to the installed capacity of the relevant generating units) between the relevant parties to those arrangements.

(B) If the premium, fees and/or other costs in relation to Insurance Provision are charged to:

(i) any person other than the Generator, where that person provides insurance arrangements to other members of the Generator's Group including to the Generator as licensee of the Site;

(ii) person(s) who provide insurance arrangements to any person other than the Generator, where that person provides insurance arrangements to other members of the Generator Group including to the Generator as licensee of the Site (whether or not such person(s) also provide insurance arrangements to other licensees); or

(iii) person(s) who provide insurance arrangements to licensees including the Generator as licensee of the Site,

that amount of the premium, fees and/or other costs as is deemed attributable to the Generator as licensee of the Site shall be on the basis of equal apportionment (by reference to the installed capacity of the relevant generating units) among the above-mentioned persons.

1.6 **Electrical generation and output**

For the avoidance of doubt:

(A) references in this Agreement to generation technology or output shall be construed as references to electric generation technology or electrical output, as the case may be; and

(B) the electrical output of the Facility or any Reactor used in the calculation or determination of any amount or payment under this Agreement shall exclude the

electrical output of any diesel or non-nuclear generating unit forming part of the Facility.

1.7 **No interest in the Facility**

Nothing in this Agreement is intended to create, or shall create, a legal or beneficial interest in a Reactor, the Facility or the Project in favour of any person other than the Generator.

1.8 **Sensitive Nuclear Information**

Nothing in this Agreement shall oblige the Generator to disclose Sensitive Nuclear Information in breach of applicable Law. There shall be no failure or deemed failure by the Generator to provide Supporting Information to the extent that the relevant Supporting Information is Sensitive Nuclear Information and such provision would constitute a breach of applicable Law.

1.9 **Interaction of Strike Price Adjustments**

The provisions and operation of each and every Strike Price Adjustment under any provision of this Agreement are independent of and separate from the provisions and operation of any and every other Strike Price Adjustment under any other provision of this Agreement.

1.10 **Payments prior to Reactor One Start Date**

The Generator shall not be obliged to pay any Net Payable Amounts or any amount in respect of QCiL Compensation to the CfD Counterparty prior to the Reactor One Start Date. Notwithstanding the foregoing, the Generator shall:

(A) continue to accrue liability prior to the Reactor One Start Date in respect of any such sums, with any payment in respect of that liability and such sums to be payable and made forthwith by the Generator upon the Reactor One Start Date; and

(B) pay when due (recognising that this may be prior to the Reactor One Start Date) all out-of-pocket costs, fees and expenses, including costs of claims and indemnity payments for costs (but not, for the avoidance of doubt, the underlying compensation amounts), payable by it and incurred under this Agreement.

1.11 **Payment methods and Trigger Events**

In determining (where relevant) whether any amount payable by any Party under this Agreement (other than a Termination Default Amount) shall be payable by means of a Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment, the CfD Counterparty shall take into account any reasonable written representations made by the Generator that a particular payment method is reasonably likely to lead to a Trigger Event.

1.12 **CCE Proceedings**

Without prejudice to any right or remedy which the CfD Counterparty may otherwise have, if any or all of the obligations of the Generator under the Transaction Documents (or any of them) are suspended under or pursuant to the CCE Proceedings, the Generator shall, to the extent permitted by applicable law:

(A) provide the CfD Counterparty with such Information as the CfD Counterparty reasonably requires relating to the CCE Proceedings and the suspension, in each case which is available to the Generator; and

(B) upon cessation of the suspension, resume performance of those obligations and shall as soon as reasonably practicable do or procure the doing of all things reasonably necessary to perform the obligations that were suspended.

Part 2
The Reactors

2. THE REACTORS

2.1 Reactor One

The Reactor referred to in the Site Plan as "Unit 1" as at the Agreement Date shall, unless otherwise agreed or determined pursuant to Clause 2.5 (*Redesignation of the Reactors*), be referred to in this Agreement as "**Reactor One**" and:

(A) the Start Date applicable to Reactor One and determined in accordance with Clause 4.1(B) (*Notification of Reactor One Start Date*) shall be the Reactor One Start Date;

(B) the target commissioning date for Reactor One shall be 1 May 2025 (the "**Reactor One Target Commissioning Date**"); and

(C) the target commissioning window for Reactor One shall be the period from and including the Reactor One Target Commissioning Date to but excluding the date falling four (4) years after the Reactor One Target Commissioning Date, as the same may be extended in accordance with Clause 2.3 (*Extension of Target Commissioning Windows*) (the "**Reactor One Target Commissioning Window**").

2.2 Reactor Two

The Reactor referred to in the Site Plan as "Unit 2" as at the Agreement Date shall, unless otherwise agreed or determined pursuant to Clause 2.5 (*Redesignation of the Reactors*), be referred to in this Agreement as "**Reactor Two**" and:

(A) the Start Date applicable to Reactor Two and determined in accordance with Clause 4.2(B) (*Notification of Reactor Two Start Date*) shall be the Reactor Two Start Date;

(B) the target commissioning date for Reactor Two shall be 1 November 2025 (the "**Reactor Two Target Commissioning Date**"); and

(C) the target commissioning window for Reactor Two shall be the period from and including the Reactor Two Target Commissioning Date to but excluding the date falling four (4) years after the Reactor Two Target Commissioning Date, as the same may be extended in accordance with Clause 2.3 (*Extension of Target Commissioning Windows*) (the "**Reactor Two Target Commissioning Window**").

2.3 Extension of Target Commissioning Windows

Each Target Commissioning Window shall be extended day for day for each day of delay to the Project by reason of:

(A) Force Majeure affecting the Generator or its Representatives who are engaged in connection with the Project and acting in that capacity but, in the case of its Representatives, only to the extent that the relevant Representative's failure or delay in the performance of its obligations by reason of the Force Majeure does in fact cause delay to the Project; or

(B) any failure by any Transmission System Operator, Transmission Licensee or Licensed Distributor to carry out in a timely manner any required system reinforcement or connection works in breach of any Connection Construction Agreement (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives),

to the extent that the Force Majeure or failure affects the relevant Reactor. For the avoidance of doubt, if the Force Majeure or failure affects the Project as a whole then each Target Commissioning Window shall be extended.

2.4 **Extension of the Longstop Date**

The Longstop Date shall be extended day for day for each day of delay to the Project by reason of:

(A) Force Majeure affecting the Generator or its Representatives who are engaged in connection with the Project and acting in that capacity but, in the case of its Representatives, only to the extent that the relevant Representative's failure or delay in the performance of its obligations by reason of the Force Majeure does in fact cause delay to the Project; or

(B) any failure by any Transmission System Operator, Transmission Licensee or Licensed Distributor to carry out in a timely manner any required system reinforcement or connection works in breach of any Connection Construction Agreement (except to the extent that such failure is due to the fault or negligence of the Generator or its Representatives),

to the extent that the Reactor Two Target Commissioning Window has not already been extended by reason of the same event in accordance with Clause 2.3 (*Extension of Target Commissioning Windows*).

2.5 **Redesignation of the Reactors**

(A) The Generator may at any time and from time to time before the first Start Date give a Reactor Redesignation Notice to the CfD Counterparty.

(B) A Reactor Redesignation Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) set out the Generator's reasons for the redesignation of the Reactors; and

(iii) specify the date which the Generator proposes to be the date from which the redesignation of the Reactors should apply, such date being no earlier than the date of the Reactor Redesignation Notice and no later than the date on which the first Start Date Notice is given (the date so notified being the "**Reactor Redesignation Date**").

(C) On and with effect from the Reactor Redesignation Date, all references in this Agreement to "Reactor One" and "Reactor Two" shall be construed accordingly.

2.6 **Single Reactor Protocol**

(A) In each of the circumstances set out in Clauses 2.6(B)(i) and 2.6(B)(ii) the amendments to this Agreement, the Original Base Case Financial Model and the Original Model User Guide and to the calculations and procedures in respect of this Agreement, the Original Base Case Financial Model and the Original Model User Guide as set out in the Single Reactor Protocol shall apply.

(B) The circumstances referred to in Clause 2.6(A) are:

(i) the Generator notifies the CfD Counterparty in writing (which notice will, subject to Clause 2.6(D), be irrevocable) that:

(a) (1) it has ceased construction of one Reactor before its completion (but has not ceased construction of the other Reactor); or

(2) it does not intend to commission or start or restart or continue nuclear generation at one Reactor (but intends to commission, start and/or restart and/or continue nuclear generation at the other Reactor); and

(b) neither the Lead Investor nor the Generator has delivered or will deliver a Qualifying Effective Shutdown Event Notice or a QCiL Cessation Event Notice under and in accordance with the terms of the Secretary of State Investor Agreement in respect of that one Reactor; or

(ii) if:

(a) a Qualifying Effective Shutdown Event Notice or a QCiL Cessation Event Notice is delivered under and in accordance with the terms of the Secretary of State Investor Agreement in respect of a matter which affects one Reactor but not the other Reactor; and

(b) in respect of that Reactor the CfD Counterparty has not approved a Qualifying Effective Shutdown Event Notice and the Courts of England and Wales have made a determination in respect of the Qualifying Effective Shutdown Event to which the Qualifying Effective Shutdown Event Notice relates and that determination

is not a Positive QESE Determination (as defined in the Secretary of State Investor Agreement) or, as applicable, the CfD Counterparty has not approved a QCiL Cessation Event Notice and the Courts of England and Wales have made a determination in relation to the QCiL Cessation Event to which the QCiL Cessation Event Notice relates and that determination is not a Positive QCiL Cessation Determination (as defined in the Secretary of State Investor Agreement),

(each a "**Single Reactor Scenario**" and the one Reactor which is the subject of such Single Reactor Scenario being the "**Removed Reactor**" and the other Reactor being the "**Retained Reactor**").

(C) The Parties acknowledge that if a Qualifying Effective Shutdown Event Notice or a QCiL Cessation Event Notice is delivered in respect of one Reactor as described in Clause 2.6(B)(ii) then such notice (as applicable) can be delivered in respect of both Reactors in accordance with the terms of the Secretary of State Investor Agreement.

(D) If, on or at any time following the date on which a Single Reactor Scenario occurs:

(i) the Generator has either recommenced construction or commissioned, started or restarted the nuclear generation at the Removed Reactor; and

(ii) the CfD Counterparty, in its sole and absolute discretion, has notified the Generator in writing that, subject to Part 4 (*Duration*), all rights and obligations of the Parties under this Agreement (other than the Generator's rights under Clause 2.6(B)(i)) shall recommence in respect of the Removed Reactor,

then, on and from the date of receipt of such notification by the Generator, subject to Part 4 (*Duration*):

(a) all rights and obligations of the Parties under this Agreement (other than the Generator's rights under Clause 2.6(B)(i)) shall recommence in respect of the Removed Reactor; and

(b) the amendments to this Agreement, the Original Base Case Financial Model and the Original Model User Guide and to the calculations and procedures in respect of this Agreement, the Original Base Case Financial Model and the Original Model User Guide as set out in the Single Reactor Protocol Reversal shall apply.

(E) If the Parties fail to agree or give effect to the amendments to this Agreement, the Original Base Case Financial Model or the Original Model User Guide or the calculations and procedures in respect of this Agreement, the Original Base Case Financial Model or the Original Model User Guide required by the Single Reactor Protocol or by Clause 2.6(D), either Party may refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure or, if the Parties agree in writing that such Dispute should instead be resolved by an

Arbitral Tribunal, refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

(F) The operation of the Single Reactor Protocol shall be irreversible except as otherwise specified in Clause 2.6(D) or as otherwise agreed in writing by the Parties.

Part 3
Conditions Precedent and Start Dates

3. CONDITIONS PRECEDENT

3.1 Conditions Precedent

Save as set out in Clause 1.10 (*Payments prior to Reactor One Start Date*) and this Clause 3.1, the provisions of, and the rights and obligations of the Parties pursuant to, this Agreement shall become effective and binding on the Agreement Date, other than those arising under:

(A) the Initial CP Provisions, which are conditional upon the Initial Conditions Precedent being:

(i) fulfilled by the Generator; or

(ii) waived by the CfD Counterparty in accordance with Clause 3.5 (*Waiver of Conditions Precedent and Default*); and

(B) the Start Date CP Provisions, which, in respect of each Reactor, are conditional upon the Start Date Conditions Precedent in respect of that Reactor being:

(i) fulfilled by the Generator; or

(ii) waived by the CfD Counterparty in accordance with Clause 3.5 (*Waiver of Conditions Precedent and Default*).

3.2 Initial Conditions Precedent

The Generator shall use reasonable endeavours to deliver the Initial Conditions Precedent as soon as reasonably practicable, and in any event within twenty (20) Business Days after the Agreement Date.

3.3 Start Date Conditions Precedent

(A) The Generator shall use reasonable endeavours to fulfil or procure the fulfilment of the Start Date Conditions Precedent in respect of each Reactor, as soon as reasonably practicable after the Agreement Date.

(B) The Generator shall keep the CfD Counterparty reasonably informed as to progress towards fulfilment of the Start Date Conditions Precedent and in particular (but without limitation) shall:

(i) provide the CfD Counterparty with reports (in form and content reasonably satisfactory to the CfD Counterparty and in accordance with the reasonable requirements of the CfD Counterparty as to the timing and frequency of such reports) as to the progress made in or towards fulfilment of the Start Date Conditions Precedent; and

(ii) give the CfD Counterparty a Start Date CP Notice each time the Generator considers a Start Date Conditions Precedent has been fulfilled.

(C) Each Start Date CP Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) identify the Start Date Condition Precedent which the Generator considers to have been fulfilled and, where appropriate, the Reactor to which it relates; and

(iii) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to evidence the fulfilment of the relevant Start Date Condition Precedent.

(D) Each Start Date CP Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Start Date CP Notice.

(E) The CfD Counterparty shall, within twenty (20) Business Days after receipt of a Start Date CP Notice, give a Start Date CP Response Notice to the Generator.

(F) A Start Date CP Response Notice shall specify whether the CfD Counterparty considers that:

(i) the Generator has or has not fulfilled the Start Date Condition Precedent to which the Start Date CP Notice relates; or

(ii) it has not been provided with sufficient Supporting Information to determine whether the Generator has fulfilled the Start Date Condition Precedent to which the Start Date CP Notice relates and, if so, details of the additional Supporting Information which the CfD Counterparty requires to determine whether the Generator has fulfilled the Start Date Condition Precedent (the "**Start Date Conditions Precedent Evidence**").

(G) If the CfD Counterparty states in the Start Date CP Response Notice that:

(i) the Generator has fulfilled the Start Date Condition Precedent, then the Start Date Condition Precedent will be deemed to have been fulfilled (where appropriate, in respect of the relevant Reactor) for the purposes of this Agreement;

(ii) the Generator has not fulfilled the Start Date Condition Precedent, then the Start Date Condition Precedent will be deemed not to have been fulfilled for the purposes of this Agreement unless and until a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure; or

(iii) the Generator has not provided the CfD Counterparty with sufficient Supporting Information to determine whether the Generator has fulfilled the Start Date Condition Precedent, the CfD Counterparty may request, on one occasion only with respect to that Start Date Condition Precedent, the Generator to provide the CfD Counterparty with the Start Date Conditions Precedent Evidence, in which case:

(a) the Generator shall provide the Start Date Conditions Precedent Evidence as soon as reasonably practicable, and in any event within twenty (20) Business Days after receipt of the Start Date CP Response Notice, together with a Directors' Certificate in relation to the Start Date Conditions Precedent Evidence; and

(b) upon receipt of the Start Date Conditions Precedent Evidence and related Directors' Certificate, the CfD Counterparty shall as soon as reasonably practicable, and in any event within twenty (20) Business Days after receipt of such Start Date Conditions Precedent Evidence and related Directors' Certificate, give an Additional Start Date CP Response Notice to the Generator.

(H) The Generator shall give the CfD Counterparty a Start Date CP Non-Compliance Notice as soon as reasonably practicable upon the Generator becoming aware:

(i) of any fact, matter or circumstance which will or is reasonably likely to prevent any of the Start Date Conditions Precedent in respect of Reactor One from being fulfilled by the Longstop Date; or

(ii) that any of the Start Date Conditions Precedent which had previously been notified to the CfD Counterparty as fulfilled pursuant to Clause 3.3(B)(ii) is no longer fulfilled at any time prior to the Reactor One Start Date,

and the Start Date Condition Precedent referenced in such notice shall be an "**Affected Start Date CP**".

(I) Any Start Date CP Non-Compliance Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) identify the Affected Start Date CP and, if appropriate, the Reactor(s) to which it relates;

(iii) specify the reasons why the Affected Start Date CP will not be, or is reasonably likely not to be, fulfilled or is no longer fulfilled;

(iv) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to the content of the Start Date CP Non-Compliance Notice; and

(v) include details of any remedial action that the Generator is taking or proposes to take,

provided that no Start Date CP Non-Compliance Notice need be given by the Generator to the CfD Counterparty if the Affected Start Date CP has been waived by the CfD Counterparty (as appropriate, in respect of the relevant Reactor(s)) in accordance with Clause 3.5 (*Waiver of Conditions Precedent and Default*).

(J) Each Start Date CP Non-Compliance Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Start Date CP Non-Compliance Notice.

3.4 **Notices of fulfilment**

(A) The CfD Counterparty shall give:

(i) an Initial CP Fulfilment Notice to the Generator within twenty (20) Business Days after the CfD Counterparty has determined that all of the Initial Conditions Precedent have been satisfied or waived; and

(ii) a Start Date CP Fulfilment Notice to the Generator within twenty (20) Business Days after the CfD Counterparty has determined that all of the Start Date Conditions Precedent have been satisfied or waived in respect of a Reactor (or, if there is a Dispute as to whether the Start Date Conditions Precedent have been satisfied or waived, within twenty (20) Business Days after it has been determined in accordance with the Dispute Resolution Procedure that the Start Date Conditions Precedent in respect of that Reactor have been satisfied or waived), which notice shall specify the date on which the final Start Date Condition Precedent in respect of that Reactor has been, or has been determined to be, satisfied or waived (a "**Start Date CP Satisfaction Date**").

(B) Nothing in this Clause 3 shall require the CfD Counterparty:

(i) to specify in any Start Date CP Response Notice or Additional Start Date CP Response Notice in respect of a Reactor that the CfD Counterparty accepts that a Start Date Condition Precedent has been fulfilled (where appropriate, in respect of a Reactor) unless the CfD Counterparty is satisfied of the same; or

(ii) save as provided in Clause 3.4(A)(ii), to give a CP Fulfilment Notice unless the CfD Counterparty is satisfied that all of the Initial Conditions Precedent, or, as the case may be, the relevant Start Date Conditions Precedent, have been fulfilled (where appropriate, in respect of a Reactor) and, without limitation, a Start Date CP Non-Compliance Notice shall be evidence that the Affected Start Date CP will not be, or is reasonably likely not to be, fulfilled or is no longer fulfilled, as the case may be.

3.5 **Waiver of Conditions Precedent and Default**

(A) The CfD Counterparty may agree by notice in writing to the Generator to waive the fulfilment of any of the Conditions Precedent.

(B) Clauses 72 (*No Waiver*) and 73 (*Consents*) shall apply to any waiver given by the CfD Counterparty pursuant to Clause 3.5(A).

3.6 **Disputes in relation to fulfilment of Conditions Precedent**

If the Generator does not agree with a CfD Counterparty determination with respect to the fulfilment of Conditions Precedent, the Generator may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute to resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

4. START DATE NOTIFICATIONS

4.1 **Notification of Reactor One Start Date**

(A) The Generator may (at its own cost and expense), following receipt of the Start Date CP Fulfilment Notice in respect of Reactor One, give a Reactor One Start Date Notice to the CfD Counterparty.

(B) The Reactor One Start Date Notice shall specify the date (the "**Reactor One Start Date**") that the Generator proposes, subject to Clause 4.3 (*Effectiveness of a Start Date Notice*), to be the Reactor One Start Date for the purposes of this Agreement, such date being:

(i) no earlier than the applicable Start Date CP Satisfaction Date;

(ii) no earlier than the first day of the Reactor One Target Commissioning Window; and

(iii) no later than the Longstop Date.

(C) On the later of the Reactor One Start Date and the date of the Reactor One Start Date Notice, the Generator shall deliver to the CfD Counterparty a Directors' Certificate in relation to the information referred to in Clause 4.3(A)(ii) (*Effectiveness of a Start Date Notice*).

4.2 **Notification of Reactor Two Start Date**

(A) The Generator may (at its own cost and expense), following receipt of the Start Date CP Fulfilment Notice in respect of Reactor Two, give a Reactor Two Start Date Notice to the CfD Counterparty.

(B) The Reactor Two Start Date Notice shall specify the date (the "**Reactor Two Start Date**") which the Generator proposes, subject to Clause 4.3 (*Effectiveness of a*

Start Date Notice), to be the Reactor Two Start Date for the purposes of this Agreement, such date being:

(i) no earlier than the applicable Start Date CP Satisfaction Date; and

(ii) no earlier than the first day of the Reactor Two Target Commissioning Window.

(C) On the later of the Reactor Two Start Date and the date of the Reactor Two Start Date Notice, the Generator shall deliver to the CfD Counterparty a Directors' Certificate in relation to the information referred to in Clause 4.3(A)(ii) (*Effectiveness of a Start Date Notice*).

4.3 **Effectiveness of a Start Date Notice**

(A) A Start Date Notice shall be effective in determining a Start Date only if:

(i) the Generator complies with its obligation under Clause 4.1(C) (*Notification of Reactor One Start Date*) or, as the case may be, Clause 4.2(C) (*Notification of Reactor Two Start Date*); and

(ii) on the date such Start Date Notice is given and on the proposed Start Date specified in the relevant Start Date Notice:

(a) each of the Generator Repeating Warranties is true, accurate and not misleading by reference to the facts and circumstances then existing except in so far as the same is incorrect or misleading as a result of a Change in Applicable Law; and

(b) all Conditions Precedent (except those waived at any time in accordance with Clause 3.5 (*Waiver of Conditions Precedent and Default*)) continue to be fulfilled, in each case as updated (if necessary) in form and content satisfactory to the CfD Counterparty, acting reasonably, save that any necessary updates to the documents referred to at paragraphs 15, 16 and 19 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*) need not be in form or content satisfactory to the CfD Counterparty.

(B) If the Generator gives a Start Date Notice to the CfD Counterparty in respect of a Reactor and such notice is, pursuant to Clause 4.3(A), ineffective, this shall not, subject to Part 17 (*Termination*), preclude the Generator from giving a further Start Date Notice to the CfD Counterparty in respect of such Reactor or, as the case may be, in respect of the other Reactor. Clauses 4.1 (*Notification of Reactor One Start Date*) and 4.3(A) or, as the case may be, Clauses 4.2 (*Notification of Reactor Two Start Date*) and 4.3(A) (inclusive) shall apply, with the necessary modifications, to any such further Start Date Notice(s).

4.4 **Disputes in relation to Start Date**

If the Generator and the CfD Counterparty are not able to agree a Start Date in respect of a Reactor, either the Generator or the CfD Counterparty may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

Part 4
Duration

5. REACTOR TERM

Subject as provided in this Part 4, this Agreement shall continue in full force and effect:

(A) in respect of Reactor One, from and including the Agreement Date until the thirty-fifth (35th) anniversary of the earlier of:

(i) the Reactor One Start Date; and

(ii) the last day of the Reactor One Target Commissioning Window,

(the "**Reactor One Term**") whereupon this Agreement shall automatically expire with respect to Reactor One only (unless the Reactor Two Term is not then continuing in which event this Agreement shall automatically expire in its entirety); and

(B) in respect of Reactor Two, from and including the Agreement Date until the thirty-fifth (35th) anniversary of the earlier of:

(i) the Reactor Two Start Date; and

(ii) the last day of the Reactor Two Target Commissioning Window,

(the "**Reactor Two Term**") whereupon this Agreement shall automatically expire in its entirety.

6. EXPIRY

6.1 Contracted Generation Cap

Notwithstanding the provisions of Clause 5 (*Reactor Term*), this Agreement shall automatically expire in its entirety when the Contracted Generation Cap has reduced to zero (0) in accordance with the definition of "Contracted Generation Cap" in Clause 1.1 (*Definitions*).

6.2 Reactor Term expiry

Subject to Clause 6.4 (*Preservation of rights on expiry*) and Clause 8 (*Survival*), upon expiry of this Agreement with respect to a Reactor:

(A) no termination payment shall be payable by either Party to the other Party; and

(B) all rights and obligations of the Parties under this Agreement shall end with respect to that Reactor.

6.3 **Agreement expiry**

Subject to Clause 6.4 (*Preservation of rights on expiry*) and Clause 8 (*Survival*), upon expiry of this Agreement in its entirety:

(A) no termination payment shall be payable by either Party to the other Party; and

(B) all rights and obligations of the Parties under this Agreement shall end.

6.4 **Preservation of rights on expiry**

Expiry of this Agreement, whether with respect to a Reactor or in its entirety:

(A) shall not affect, and shall be without prejudice to, any and all accrued rights and liabilities of each Party under or with respect to this Agreement and the rights and liabilities of each Party arising as a result of:

(i) any antecedent breach of any provision of this Agreement; or

(ii) any breach of any provisions of this Agreement which are expressed to survive expiry or termination of this Agreement under Clause 8 (*Survival*); and

(B) shall be subject to Clause 8 (*Survival*).

7. EARLY TERMINATION

Subject to Clause 8 (*Survival*), this Agreement shall terminate early in the circumstances set out or referred to in Clause 57 (*Termination*).

8. SURVIVAL

Expiry or termination of this Agreement shall not affect:

(A) save to the extent taken into account in the calculation of the Termination Default Amount (if any), the provisions of this Agreement as they relate to the calculation, determination or payment of any sum due or owing by one Party to the other Party pursuant to this Agreement as at the date of expiry or termination, provided that no payment shall be made if and to the extent such payment or the making of such payment would be unlawful State aid; and

(B) the continued existence and validity of, and the continuing rights and obligations of, each Party under:

(i) Part 1 (*Introduction*);

(ii) this Part 4;

(iii) Part 9 (*Billing and Payment*);

(iv) Clause 17.3 (*Disputes in relation to a Tax Reopener Report*);

(v) Clause 33 (*Qualifying Change in Law: Cost Review*);

(vi) Clause 55(C) (*State Aid Undertakings*);

(vii) Part 17 (*Termination*);

(viii) Part 19 (*Dispute Resolution*);

(ix) Part 20 (*General Provisions Regarding Liabilities, Remedies and Waivers*);

(x) Part 21 (*Confidentiality, Announcements and Freedom of Information*);

(xi) Part 22 (*Intellectual Property Rights*); and

(xii) Part 23 (*Miscellaneous*).

Part 5
Milestone

9. MILESTONE REQUIREMENT

9.1 Milestone Requirement Notice

(A) No later than the Milestone Delivery Date, the Generator may (at its own cost and expense) give a Milestone Requirement Notice to the CfD Counterparty.

(B) The Milestone Requirement Notice shall include such Supporting Information, in reasonable detail, as the Generator considers relevant to evidence that the Milestone Requirement has been fulfilled.

(C) The Milestone Requirement Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Milestone Requirement Notice.

(D) The CfD Counterparty shall, within twenty (20) Business Days after receipt of the Milestone Requirement Notice, give a Milestone Assessment Response Notice to the Generator.

(E) The Milestone Assessment Response Notice shall specify whether the CfD Counterparty considers that:

(i) the Generator has or has not complied with and fulfilled the Milestone Requirement; or

(ii) it has not been provided with sufficient Supporting Information to determine whether the Generator has complied with and fulfilled the Milestone Requirement and, if so, may request, on one occasion only, details of the additional Supporting Information which the CfD Counterparty requires to determine whether the Generator has complied with and fulfilled the Milestone Requirement (the "**Requested Milestone Supporting Information**").

(F) If the CfD Counterparty states in the Milestone Assessment Response Notice that the Generator has not provided the CfD Counterparty with sufficient Supporting Information to determine whether the Generator has complied with and fulfilled the Milestone Requirement:

(i) the Generator shall provide the Requested Milestone Supporting Information as soon as reasonably practicable, and in any event within twenty (20) Business Days after receipt of the Milestone Assessment Response Notice, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably) together with a Directors' Certificate in relation to the Requested Milestone Supporting Information; and

(ii) upon receipt of the Requested Milestone Supporting Information and related Directors' Certificate, the CfD Counterparty shall as soon as reasonably practicable, and in any event within twenty (20) Business Days after receipt of such Requested Milestone Supporting Information and related Directors' Certificate, give a Further Milestone Assessment Response Notice to the Generator.

(G) Nothing in this Clause 9 shall require the CfD Counterparty to specify in any Milestone Assessment Response Notice or Further Milestone Assessment Response Notice that the CfD Counterparty accepts that the Milestone Requirement has been complied with and fulfilled unless the CfD Counterparty is satisfied of the same.

9.2 **Waiver of Milestone Requirement**

(A) The CfD Counterparty may agree by notice in writing to the Generator to waive the Milestone Requirement.

(B) Clauses 72 (*No Waiver*) and 73 (*Consents*) shall apply to any waiver given by the CfD Counterparty pursuant to Clause 9.2(A).

9.3 **Effectiveness of a Milestone Requirement Notice**

If the Generator gives a Milestone Requirement Notice to the CfD Counterparty and such notice is ineffective, this shall not, subject to Part 17 (*Termination*), preclude the Generator from giving a further Milestone Requirement Notice to the CfD Counterparty no later than the Milestone Delivery Date, and this Part 5 shall apply, with the necessary modifications, to any such further Milestone Requirement Notice(s).

9.4 **Disputes in relation to Milestone Requirement**

If the Generator does not agree with a CfD Counterparty determination with respect to fulfilment of the Milestone Requirement, the Generator may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

Part 6
Payment Calculations

10. METERED OUTPUT

10.1 Metered Output calculation

The CfD Counterparty shall calculate the Metered Output in respect of each Settlement Unit.

10.2 Estimates of Loss Adjusted Metered Output

(A) If the CfD Counterparty has not received notification from a BSC Company or a BSC Agent of the Loss Adjusted Metered Output in respect of a Reactor for any Settlement Unit (an "**Estimated Output Settlement Unit**") within a Billing Period (an "**Estimated Output Billing Period**") on or prior to the Metered Output Cut-Off Time, the Loss Adjusted Metered Output in respect of that Reactor for the Estimated Output Settlement Unit, as set out in the Billing Statement relating to such Estimated Output Billing Period (an "**Estimated Output Billing Statement**"), shall be calculated by the CfD Counterparty in accordance with Clause 10.2(B).

(B) The estimated Loss Adjusted Metered Output in respect of the relevant Reactor(s) for each Estimated Output Settlement Unit comprised within an Estimated Output Billing Period (the "**Estimated Metered Output**") shall be calculated by the CfD Counterparty as being the Loss Adjusted Metered Output in respect of that (or those) Reactor(s) in the most recent Settlement Unit prior to the Estimated Output Settlement Unit for which the CfD Counterparty has received notification of the Loss Adjusted Metered Output in respect of that (or those) Reactor(s) from a BSC Company or a BSC Agent.

10.3 Reconciliations of Estimated Metered Output

If a BSC Company or a BSC Agent subsequently notifies the CfD Counterparty of the Loss Adjusted Metered Output in respect of a Reactor for an Estimated Output Settlement Unit:

(A) the CfD Counterparty shall recalculate the Metered Output for such Settlement Unit using such Loss Adjusted Metered Output; and

(B) if the calculation performed by the CfD Counterparty pursuant to Clause 10.3(A) results in a different Metered Output from that calculated by the CfD Counterparty in relation to the Estimated Output Settlement Unit and reflected in the relevant Estimated Output Billing Statement, then:

(i) the recalculated Metered Output shall be used by the CfD Counterparty to recalculate:

(a) the Difference Amount for the relevant Estimated Output Settlement Unit; and

(b) the Aggregate Difference Amount for the Estimated Output Billing Period;

(ii) any adjustment to the Aggregate Difference Amount for the Estimated Output Billing Period shall be treated as and will constitute a Reconciliation Amount; and

(iii) such Reconciliation Amount shall be included as such in the Billing Statement which is next issued by the CfD Counterparty.

11. STRIKE PRICE ADJUSTMENTS: GENERAL PROVISIONS

11.1 Initial Strike Price

The Initial Strike Price is £89.50/MWh (expressed in Money of the Year for the Base Year).

11.2 Strike Price Adjustments: General

(A) The Strike Price shall be adjusted only in accordance with the express provisions of this Agreement.

(B) Each Strike Price Adjustment shall become effective on and from the start time of the first Settlement Unit on the relevant Strike Price Adjustment date.

11.3 Sizewell C Strike Price Adjustment

Notwithstanding the generality of this Clause 11, the Strike Price may be adjusted in accordance with Clause 14 (*Sizewell C Pricing Adjustment*).

12. BASELOAD MARKET REFERENCE PRICE

12.1 The CfD Counterparty shall, on the first Business Day of a Calculation Season:

(A) use reasonable endeavours to identify any Replicated Trades in relation to the Baseload Price Sources utilised in the calculation of the Baseload Market Reference Price in relation to such Calculation Season; and

(B) subject to Clause 12.3, calculate the Baseload Market Reference Price for each Settlement Unit of such Calculation Season.

12.2 The "**Baseload Market Reference Price**" shall be expressed in £/MWh and shall, in respect of each Settlement Unit, be calculated in accordance with the following formula:

$$\textit{Baseload Market Reference Price} = \sum_{i=1}^{d}\left(\frac{\sum_{j=1}^{e}\left(BP_{i,j}\cdot BQ_{i,j}\right)}{\sum_{j=1}^{e}\left(BQ_{i,j}\right)}\right)\cdot\frac{1}{N_d}$$

where:

d is the number of Trading Days in the Reference Price Sample Period;

e is the number of Baseload Price Sources or, where the Fallback Baseload Price applies, the number of prices in respect of the relevant Trading Day which are utilised in the calculation of the Fallback Baseload Price in relation to such Settlement Unit pursuant to paragraph 4 of Part C (*Fallback Baseload Price Methodology*) of Annex 3 (*BMRP*);

$BP_{i,j}$ is, for each Baseload Price Source (j), the Baseload Forward Season Trading Day Price calculated in respect of Trading Day (i), in the Reference Price Sample Period or, where the Fallback Baseload Price applies, each price (j), in Trading Day (i), which is utilised in the calculation of the Fallback Baseload Price in relation to such Settlement Unit pursuant to paragraph 4 of Part C (*Fallback Baseload Price Methodology*) of Annex 3 (*BMRP*);

$BQ_{i,j}$ is, for each Baseload Price Source (j), subject to Clause 12.3, the quantity of energy (expressed in MWh) traded through the Baseload Forward Season Contracts considered in determining $BP_{i,j}$ for Trading Day (i), in the Reference Price Sample Period or, where the Fallback Baseload Price applies, five (5) MWh for each price which is utilised in the calculation of the Fallback Baseload Price in relation to such Settlement Unit pursuant to paragraph 4 of Part C (*Fallback Baseload Price Methodology*) of Annex 3 (*BMRP*); and

N_d is the number of Trading Days in the Reference Price Sample Period for which the total quantity of energy (expressed in MWh) traded on the Baseload Forward Season Indices, $\sum_{j=1}^{e}(BQ_{i,j})$, is greater than zero (0) or, where the Fallback Baseload Price applies, in respect of which any sourced arm's length broker quotes have been utilised in the calculation of the Fallback Baseload Price in relation to such Settlement Unit pursuant to paragraph 4 of Part C (*Fallback Baseload Price Methodology*) of Annex 3 (*BMRP*).

12.3 Where any Baseload Forward Season Contract has been identified by the CfD Counterparty as having been reported in more than one (1) Baseload Price Source (a "**Replicated Trade**"):

(A) $BQ_{i,j}$ for each Baseload Price Source shall be calculated, solely for the purposes of this Clause 12.3, with all Replicated Trades having been excluded from each Baseload Price Source in which they appear (the "**Volume Comparison Metric**"); and

(B) for the purposes of performing the calculation in Clause 12.2 and the calculation of any Baseload Forward Season Trading Day Price used therein, each Replicated Trade shall be included only in one (1) Baseload Price Source, such Baseload Price Source to be the Baseload Price Source in which such Replicated Trade is reported which has the highest Volume Comparison Metric.

12.4 This Clause 12 and the definitions used herein may be amended, supplemented or replaced in accordance with Annex 3 (*BMRP*).

Part 7
Strike Price Adjustments: Specific Adjustments

13. INDEXATION ADJUSTMENT

13.1 Indexation Adjustment

The CfD Counterparty shall calculate an indexation Strike Price Adjustment in each calendar year of the Term (each such adjustment, an "**Indexation Adjustment**").

13.2 Effective date of Indexation Adjustment

Each Indexation Adjustment shall:

(A) become effective on the first day of the Summer Season in the calendar year in which the Indexation Adjustment is calculated (each such date, an "**Indexation Anniversary**"); and

(B) use the CPI for February of the relevant calendar year, save where the CPI for February is not published by the first day of the Summer Season in such calendar year, in which case the Reference CPI shall be used.

13.3 Calculation of Indexation Adjustment

Subject to Clause 13.5(J) (*Partial Indexation Reopener Adjustment*), the Indexation Adjustment shall be calculated by the CfD Counterparty in accordance with the following formula:

$$IA_t = (SP^{base} + ADJ_{t-1}^{base}) \times (\Pi_t - \Pi_{t-1})$$

where:

IA_t	is the Indexation Adjustment at time (t);
SP^{base}	is the Initial Strike Price;
ADJ_{t-1}^{base}	denotes the sum of the Strike Price Adjustments (other than (i) any adjustment pursuant to Clause 42 (*Balancing System Charge*) or Clause 43 (*TLM(CFD) Charges*), (ii) any previous Indexation Adjustments, and (iii) any previous Partial Indexation Reopener Adjustments) applicable immediately prior to the relevant Indexation Anniversary, expressed in Base Year Terms by Deflating and Restating as appropriate;
Π_t	is the Inflation Factor applicable to the month in which the relevant Settlement Unit (t) falls; and

Π_{t-1} is the Inflation Factor used at the previous Indexation Anniversary provided that, where no prior Indexation Anniversary has taken place, $_{t-1}$ shall be deemed to be one (1).

13.4 **Notification of Indexation Adjustment**

The CfD Counterparty shall notify the Generator of the Indexation Adjustment no later than five (5) Business Days after each Indexation Anniversary.

13.5 **Partial Indexation Reopener Adjustment**

(A) If the Generator, acting reasonably, at any time considers that a Partial Indexation Trigger Event will or is reasonably likely to occur, the Generator shall notify the CfD Counterparty, copied to the Secretary of State, of such fact and set out, in reasonable detail, its best estimate of the terms (or, if applicable, a range of terms) of the proposed refinancing, including:

(i) the post-refinancing capital structure, including the amount of Financial Indebtedness that it is proposed be refinanced;

(ii) any hedging or derivative transaction to be entered into by any member of the NNB HoldCo Group in connection with the refinancing;

(iii) the amount and proportion of the Financial Indebtedness under Clause 13.5(A)(i) that it is proposed will be fixed rate debt (and, in the determination of whether such Financial Indebtedness constitutes fixed rate debt, any hedging or derivative transaction proposed to be entered into by any member of the NNB HoldCo Group for the purpose of fixing the rate of that Financial Indebtedness shall be taken into account to the extent of the amount and for the period that the rate is forecast to be fixed);

(iv) the forecast debt service for the remainder of the Term in respect of the Financial Indebtedness under Clause 13.5(A)(i) (including calculations in respect of any fixed rate debt and/or any variable rate debt, as applicable) (and, in the determination of the forecast debt service, any hedging or derivative transaction proposed to be entered into by any member of the NNB HoldCo Group for the purpose of fixing the rate of that Financial Indebtedness shall be taken into account to the extent of the amount and for the period that the rate is forecast to be fixed);

(v) the effective date of the proposed refinancing;

(vi) the Generator's proposed Compensation Calculation Discount Rate;

(vii) the Generator's proposed Partial Indexation Trigger Event Effective Date (including, if the Reactor One Start Date has not already occurred, the Generator's estimate of the Reactor One Start Date);

(viii) the Generator's estimate of the Estimated Facility Generation for the remainder of the Term;

(ix) the Generator's forecast of the Inflation Factor at each Indexation Anniversary for the remainder of the Term;

(x) the Generator's forecast of CPI for the remainder of the Term; and

(xi) on the basis of the information provided under paragraphs (i) to (x) of Clause 13.5(A), the Generator's estimate of (a) the Partial Indexation Strike Price Fixed Portion; (b) the Partial Indexation Strike Price Indexed Portion; and (c) the Partial Indexation Strike Price Adjustment,

all prepared honestly and with due care and diligence (the "**Indicative Partial Indexation Notice**").

(B) If the CfD Counterparty receives an Indicative Partial Indexation Notice, it shall (in consultation with the Secretary of State) produce an estimate (or, where the Generator has not provided precise terms, an estimated range) of:

(i) the Partial Indexation Strike Price Adjustment;

(ii) the Partial Indexation Strike Price Fixed Portion; and

(iii) the Partial Indexation Strike Price Indexed Portion,

on the basis of the information provided to it in the Indicative Partial Indexation Notice should it elect to implement a Partial Indexation Strike Price Adjustment (an "**Indicative Partial Indexation Response Notice**"). The CfD Counterparty shall calculate such estimates in good faith, but they shall not be binding on the CfD Counterparty, and nor shall they indicate whether the CfD Counterparty (in consultation with the Secretary of State) will elect to implement a Partial Indexation Strike Price Adjustment or constitute a commitment so to do.

(C) Upon receipt of an Indicative Partial Indexation Response Notice, the Generator and the CfD Counterparty shall discuss the terms of the proposed refinancing with a view to refining the estimate or estimated range (as applicable) which is the subject of the Indicative Partial Indexation Response Notice. In this connection, the Generator may submit to the CfD Counterparty one or more updated Indicative Partial Indexation Notices and the CfD Counterparty may produce updated Indicative Partial Indexation Response Notices in response thereto.

(D) The CfD Counterparty (in consultation with the Secretary of State) may, at any time after it has received an Indicative Partial Indexation Notice or any updates thereto, inform the Generator that it has decided not to implement a Partial Indexation Strike Price Adjustment in connection with the refinancing set out in that Indicative Partial Indexation Notice or any such update.

(E) Following the conclusion of the discussions referred to in Clause 13.5(C), but subject to Clause 13.5(D), the Generator shall notify the CfD Counterparty, copied to the Secretary of State, of the final terms (or, if applicable, the range of final terms) of the proposed refinancing (such terms to include the matters set out in Clause 13.5(A)(i) to 13.5(A)(xi) inclusive) and shall append such terms to such notice (the "**Final Partial Indexation Notice**").

(F) If the CfD Counterparty receives a Final Partial Indexation Notice, it shall within twenty (20) Business Days (in consultation with the Secretary of State) elect whether or not to implement a Partial Indexation Strike Price Adjustment. The CfD Counterparty shall not be obliged to elect to implement any such Partial Indexation Strike Price Adjustment.

(G) If the CfD Counterparty elects to implement a Partial Indexation Strike Price Adjustment, the CfD Counterparty shall prepare and submit to the Generator a final proposal setting out the final terms (or, if applicable, the range of final terms) for:

(i) the Partial Indexation Strike Price Adjustment;

(ii) the Partial Indexation Strike Price Fixed Portion; and

(iii) the Partial Indexation Strike Price Indexed Portion,

which proposal shall be binding on the CfD Counterparty provided that there is no change to the applicable refinancing terms referred to in that proposal on which the refinancing takes place and provided further that the refinancing is concluded on those refinancing terms within thirty (30) Business Days or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (acting reasonably).

(H) If the CfD Counterparty elects to implement a Partial Indexation Strike Price Adjustment and submits to the Generator a final proposal in accordance with Clause 13.5(G), the then prevailing Strike Price shall be increased or decreased (as applicable) by an amount equal to the Partial Indexation Strike Price Adjustment with effect from the applicable Partial Indexation Trigger Event Effective Date.

(I) On and from the applicable Partial Indexation Trigger Event Effective Date, the Partial Indexation Strike Price Fixed Portion shall be held constant in Nominal terms for the remainder of the Term and consequently shall be excluded from the Indexation Adjustment in accordance with Clause 13.5(J).

(J) For the purposes of calculating the Indexation Adjustment under Clause 13.3 (*Calculation of Indexation Adjustment*), on and from the applicable Partial Indexation Trigger Event Effective Date:

(i) the Initial Strike Price (SP^{base}) (or, if there has previously been a Partial Indexation Strike Price Adjustment, the Partial Indexation Strike Price

Indexed Portion calculated in connection with that adjustment) shall be replaced with the applicable Partial Indexation Strike Price Indexed Portion, expressed in Real terms as at the Base Year (Deflated and Restated to the Base Year as applicable); and

(ii) the applicable Partial Indexation Strike Price Adjustment shall not be included for the purposes of calculating the sum of Strike Price Adjustments $\left(ADJ_{t-1}^{base}\right)$.

(K) If the CfD Counterparty elects to implement a Partial Indexation Strike Price Adjustment and submits to the Generator a final proposal in accordance with Clause 13.5(G), the Generator and the CfD Counterparty shall consider whether any additional amendments to this Agreement or the other Transaction Documents of a mechanical nature are required in consequence of such Partial Indexation Strike Price Adjustment. If the Parties agree or it is determined that such amendments are required, the Parties shall amend this Agreement in accordance with Clause 91 (*No Variation*).

(L) If the Generator and the CfD Counterparty are not able to agree a Partial Indexation Strike Price Adjustment or any related matter (including whether a Partial Indexation Trigger Event has occurred) either the Generator or the CfD Counterparty may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

(M) The implementation of a Partial Indexation Strike Price Adjustment shall be irreversible unless the Parties otherwise agree in writing.

14. SIZEWELL C PRICING ADJUSTMENT

14.1 Sizewell C Strike Price Adjustment

(A) If the Sizewell C Condition is satisfied on or before the Reactor One Start Date, there shall be no Strike Price Adjustment pursuant to this Clause 14.

(B) If the Sizewell C Condition is not satisfied on or before the Reactor One Start Date, the then applicable Strike Price shall be increased with effect from the Reactor One Start Date by £3/MWh (expressed in Money of the Year for the Base Year, and indexed at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the Reactor One Start Date), provided that if after the Reactor One Start Date the Sizewell C Condition is satisfied, the then applicable Strike Price (for the avoidance of doubt, as so increased) shall be reduced with effect from the date of satisfaction of the Sizewell C Condition by £3/MWh (expressed in Money of the Year for the Base Year, and indexed at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the date of satisfaction of the Sizewell C Condition).

14.2 **Evidence of Sizewell C Condition**

The Generator shall promptly notify the CfD Counterparty of the date of satisfaction of the Sizewell C Condition (and in any event within ten (10) Business Days after such date).

15. CONSTRUCTION GAIN SHARE ADJUSTMENT

15.1 **Preliminary Construction Costs Report**

(A) No earlier than six (6) months and no later than three (3) months before each of:

(i) the CGS Initial Reconciliation Date (if there is one); and

(ii) the CGS Final Reconciliation Date,

the Generator shall provide the CfD Counterparty with a written report satisfying the requirements of Clause 15.1(D).

(B) The Generator shall:

(i) ensure that the CfD Counterparty is notified in writing at least once in each period of twelve (12) months following the CGS Initial Reconciliation Date or, if there is or will be no CGS Initial Reconciliation Date, twenty-four (24) months after the Reactor One Start Date, as to the anticipated Payment Reconciliation Date;

(ii) notify the CfD Counterparty in writing as soon as reasonably practicable after the Generator becomes aware of any material change to the anticipated Payment Reconciliation Date since the last notice sent by the Generator pursuant to Clause 15.1(B)(i), such notice to include the revised anticipated Payment Reconciliation Date; and

(iii) notify the CfD Counterparty in writing as soon as reasonably practicable upon the occurrence of the Payment Reconciliation Date,

each such notice to be accompanied by Supporting Information in reasonable detail.

(C) If the Generator does not provide the CfD Counterparty with a written report satisfying the requirements of Clause 15.1(D) in respect of a Reconciliation Date, together with the Directors' Certificate and technical auditor's report referred to in Clause 15.1(E), within the relevant period referred to in Clause 15.1(A):

(i) the CfD Counterparty may obtain at the Generator's cost and expense an opinion from an independent firm of cost consultants as to the Revised Construction Costs and Revised Construction Payment Schedules (which opinion shall be final and binding on the Parties in the absence of manifest error and, in the event of a Dispute as to whether an error is manifest, that Dispute shall be referred to an Arbitral Tribunal for resolution in accordance with the Arbitration Procedure) and that opinion

of the Revised Construction Costs and Revised Construction Payment Schedules shall be used in the determination of:

(a) in respect of the CGS Initial Reconciliation Date (if there is one), the CGS Initial Revised Strike Price, using the process set out in Clause 15.4 (*Updating the Financial Model in respect of the CGS Initial Reconciliation Date*), and the consequential adjustment (if any) to the Strike Price in accordance with Clause 15.5 (*Adjustments in respect of the CGS Initial Reconciliation Date*); and

(b) in respect of the CGS Final Reconciliation Date, the CGS Final Revised Strike Price, using the process set out in Clause 15.6 (*Updating the Financial Model in respect of the CGS Final Reconciliation Date*), and the consequential adjustment (if any) to the Strike Price in accordance with Clause 15.7 (*Adjustments in respect of the CGS Final Reconciliation Date*),

and no Preliminary Construction Costs Report or Construction Costs Report shall be required for that purpose; and

(ii) the CfD Counterparty shall provide a copy of any cost consultants' final opinion obtained by it pursuant to Clause 15.1(C)(i) to the Generator as soon as reasonably practicable.

(D) Each Preliminary Construction Costs Report shall:

(i) be prepared at the cost and expense of the Generator;

(ii) be prepared using the most up-to-date data available to the Generator at the time of its preparation;

(iii) set out, in reasonable detail, the matters in Clause 15.1(G);

(iv) set out, in reasonable detail, evidence of the steps taken to ensure that the amount of any Construction Costs forecast to be incurred, paid or accrued by the Generator following the date of such Preliminary Construction Costs Report shall be limited to those Construction Costs that would be reasonably and properly incurred, paid or accrued by the Generator to meet the technical specifications and satisfy regulatory requirements without incurring excessive cost or expense;

(v) if the Preliminary Construction Costs Report, or any part thereof, is prepared by or with the assistance of one or more third parties, include details of those third party(ies) and copies of any reports (on which the CfD Counterparty shall be entitled to rely) prepared by such third party(ies) in relation to the Preliminary Construction Costs Report; and

(vi) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing.

(E) Each Preliminary Construction Costs Report shall be accompanied by:

(i) a Directors' Certificate in relation to the information contained in, or enclosed with, the relevant Preliminary Construction Costs Report; and

(ii) a technical auditor's report provided by an Auditor or a technical expert nominated by the CfD Counterparty (acting reasonably),

in each case prepared at the cost and expense of the Generator.

(F) If the Generator becomes aware before a Strike Price Adjustment is made pursuant to Clause 15.5 (*Adjustments in respect of the CGS Initial Reconciliation Date*) or Clause 15.7 (*Adjustments in respect of the CGS Final Reconciliation Date*), as the case may be, that the information contained in, or enclosed with:

(i) the Preliminary Construction Costs Report in respect of the CGS Initial Reconciliation Date was not in all material respects true, complete, accurate and not misleading by reference to the facts and circumstances existing as at the date of the Directors' Certificate referred to in Clause 15.1(E) in respect of such Preliminary Construction Costs Report; or

(ii) the Preliminary Construction Costs Report in respect of the CGS Final Reconciliation Date is no longer in all material respects true, complete, accurate and not misleading,

the Generator shall as soon as reasonably practicable:

(iii) notify the CfD Counterparty that this is the case; and

(iv) provide the CfD Counterparty with such updated, corrected and complete Information as is necessary (the "**Revised Construction Costs Information**"), together with a Directors' Certificate in relation to the Revised Construction Costs Information.

(G) The matters referred to in Clause 15.1(D)(iii) are:

(i) the aggregate amount of the Construction Costs to the date of the relevant Preliminary Construction Costs Report, expressed in sterling or, if any of the Construction Costs are incurred in a currency other than sterling, converted into sterling at the mid-market rate for the purchase of sterling with such other currency as at the date of payment of the relevant costs or, if any foreign exchange transaction has been undertaken by or for the Generator for the purpose of hedging those costs, at the applicable rate of exchange provided under that transaction, as notified by the Generator to the CfD Counterparty (the "**Actual Construction Costs**");

(ii) the aggregate amount of the Construction Costs reasonably forecast to be incurred, paid or accrued by the Generator, expressed in sterling or, if

any of the Construction Costs are reasonably forecast to be incurred, paid or accrued in a currency other than sterling, converted into sterling as at the date of the expected payment of those costs at the mid-market rate reasonably forecast by the Generator, for the purchase of sterling with such other currency as at the expected date of payment of the relevant costs or, if any foreign exchange transaction has been undertaken by or for the Generator for the purpose of hedging those costs, at the applicable rate of exchange provided under that transaction, provided that such Construction Costs shall be limited to those Construction Costs that would be reasonably and properly incurred, paid or accrued by the Generator to meet the technical specifications and satisfy regulatory requirements without incurring excessive cost or expense (together with the Actual Construction Costs, the "**Revised Construction Costs**");

(iii) a breakdown of the Revised Construction Costs incurred, paid or accrued (or, as the case may be, reasonably forecast to be incurred, paid or accrued) by the Generator, expressed in the currency in which they were incurred, paid or accrued (or, as the case may be, reasonably forecast to be incurred, paid or accrued) and, if such costs were incurred, paid or accrued (or, as the case may be, reasonably forecast to be incurred, paid or accrued), in a currency other than sterling, the rate of exchange used (or, as the case may be, proposed to be used) to convert those Revised Construction Costs into sterling as referred to in Clause 15.1(G)(i) and 15.1(G)(ii);

(iv) the actual Construction Payment Schedules of the Generator to the date of the relevant Preliminary Construction Costs Report (the "**Actual Construction Payment Schedules**");

(v) the estimated Construction Payment Schedules of the Generator for any period after the date of the relevant Preliminary Construction Costs Report or, in the case of Clause 15.1(C), after the date of the opinion of the independent cost consultants (together with the Actual Construction Payment Schedules, the "**Revised Construction Payment Schedules**"); and

(vi) the Generator's proposed Compensation Calculation Discount Rate.

(H) The Generator may, at any time prior to the provision of the Preliminary Construction Costs Report, provide the CfD Counterparty with Information setting out any of the matters in Clause 15.1(G) to assist the CfD Counterparty with its review of the Preliminary Construction Costs Report (when submitted). The CfD Counterparty shall be under no obligation to consider or take any action in response to such Information or in response to a Preliminary Construction Costs Report unless and until the Generator shall have provided the CfD Counterparty with all of the relevant information, and the Directors' Certificate and the technical auditor's report, referred to in Clauses 15.1(D) and 15.1(E) respectively.

(I) The CfD Counterparty may, by notice to the Generator during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a written report under Clause 15.1(A) and during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of any Revised Construction Costs Information, request the Generator to provide to the CfD Counterparty such Supporting Information in relation to that Preliminary Construction Costs Report or, as the case may be, the Revised Construction Costs Information (a "**Further Construction Costs Information Request**") as the CfD Counterparty reasonably requires for the purposes of determining whether or not it approves the matters which are the subject of the Preliminary Construction Costs Report.

(J) If the CfD Counterparty gives a Further Construction Costs Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Further Construction Costs Information Request.

(K) The CfD Counterparty may, by notice to the Generator during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Supporting Information delivered under Clause 15.1(J), request the Generator to provide to the CfD Counterparty such further Supporting Information in relation to that Preliminary Construction Costs Report (a "**Final Construction Costs Information Request**") as the CfD Counterparty reasonably requires for the purposes of determining whether or not it approves the matters which are the subject of the Preliminary Construction Costs Report.

(L) If the CfD Counterparty gives a Final Construction Costs Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the further Supporting Information provided in response to such Final Construction Costs Information Request.

(M) The CfD Counterparty shall, within thirty (30) Business Days after receipt of a Preliminary Construction Costs Report or, if it has given a Further Construction Costs Information Request to the Generator and not also given a Final Construction Costs Information Request to the Generator, within thirty (30) Business Days after receipt of the Supporting Information requested in the relevant Further Construction Costs Information Request or, if it has given a Final Construction Costs Information Request to the Generator, within thirty (30) Business Days after receipt of the further Supporting Information requested in the relevant Final Construction Costs Information Request, notify the Generator whether or not it approves the matters which are the subject of the Preliminary

Construction Costs Report, and, where the CfD Counterparty does not approve the matters which are the subject of that report, it shall give the Generator reasons in support.

(N) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Preliminary Construction Costs Report within the period specified in Clause 15.1(M), the matters which are the subject of the Preliminary Construction Costs Report shall be deemed not to be agreed.

15.2 **Disputes in relation to a Preliminary Construction Costs Report**

(A) If the Generator and the CfD Counterparty are not able to agree the matters which are the subject of a Preliminary Construction Costs Report or related matters (including Supporting Information) or any adjustment resulting from the application of this Clause 15, either the Generator or the CfD Counterparty may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

(B) Until the Generator and the CfD Counterparty agree the matters which are the subject of a Preliminary Construction Costs Report in respect of a Reconciliation Date or the Dispute in respect of it has been determined in accordance with the Expert Determination Procedure or the Arbitration Procedure, as the case may be, there shall be no Construction Costs Report in respect of that Reconciliation Date.

15.3 **Construction Costs Report**

Upon:

(A) the CfD Counterparty notifying the Generator that it approves the matters which are the subject of a Preliminary Construction Costs Report;

(B) the CfD Counterparty and the Generator agreeing the matters which are the subject of a Preliminary Construction Costs Report (and any amendments to that Preliminary Construction Costs Report being made in accordance with that agreement); or

(C) any Dispute (other than merely as to whether the Generator has submitted all the information required for a Preliminary Construction Costs Report) with respect to the matters which are the subject of a Preliminary Construction Costs Report being resolved or determined as provided in Clause 15.2 (*Disputes in relation to a Preliminary Construction Costs Report*) (and any amendments to the Preliminary Construction Costs Report being made in accordance with that resolution or determination),

the Preliminary Construction Costs Report (once delivered and as amended, if applicable) shall become the "**Construction Costs Report**" in respect of the CGS Initial Reconciliation Date or, as the case may be, the CGS Final Reconciliation Date.

15.4 **Updating the Financial Model in respect of the CGS Initial Reconciliation Date**

If there is a CGS Initial Reconciliation Date then, on the CGS Initial Reconciliation Adjustment Date, the Generator shall (or the independent cost consultants appointed pursuant to Clause 15.1(C) (*Preliminary Construction Costs Report*) shall, with such assistance from the Generator as the independent cost consultants may reasonably require and which the Generator shall provide as soon as reasonably practicable):

(A) update in accordance with the Model User Guide (on a cash and accrual basis) the CGS Pre-Gainshare Financial Model with the Revised Construction Costs and Revised Construction Payment Schedules, as set out in the Construction Costs Report prepared in respect of the CGS Initial Reconciliation Date or as determined pursuant to Clause 15.1(C) (*Preliminary Construction Costs Report*), as the case may be; and

(B) re-run the CGS Pre-Gainshare Financial Model (updated in accordance with Clause 15.4(A)) in accordance with the methodology set out in the Model User Guide to determine a revised Strike Price, expressed in Money of the Year for the Base Year, which, when modelled to be in effect from the Agreement Date (and in combination with the Revised Construction Payment Schedules as set out in the relevant Construction Costs Report or as determined pursuant to Clause 15.1(C) (*Preliminary Construction Costs Report*), as the case may be), results in a post-tax Nominal Project internal rate of return that is equal to the Nominal Project IRR (the "**CGS Initial Revised Strike Price**").

15.5 **Adjustments in respect of the CGS Initial Reconciliation Date**

(A) Subject to Clause 15.5(B), if there is a CGS Initial Reconciliation Date then, with effect from the CGS Initial Reconciliation Adjustment Date, the then applicable Strike Price, expressed in Nominal Terms, shall be reduced by an amount equal to the CGS IRD Difference Amount, indexed at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the CGS Initial Reconciliation Adjustment Date, and the revised Strike Price shall apply on and from the CGS Initial Reconciliation Adjustment Date.

(B) If the CGS Initial Revised Strike Price is equal to or greater than the CGS Pre-Gainshare Strike Price, the CGS IRD Difference Amount shall be zero (0), and there will be no adjustment to the then applicable Strike Price in respect of the CGS Initial Reconciliation Adjustment Date.

15.6 **Updating the Financial Model in respect of the CGS Final Reconciliation Date**

On the CGS Final Reconciliation Adjustment Date, the Generator shall (or the independent cost consultants appointed pursuant to Clause 15.1(C) (*Preliminary Construction Costs Report*) shall, with such assistance from the Generator as the

independent cost consultants may reasonably require and which the Generator shall provide as soon as reasonably practicable):

(A) update in accordance with the Model User Guide (on a cash and accrual basis) the CGS Pre-Gainshare Financial Model with the Revised Construction Costs and Revised Construction Payment Schedules, as set out in the Construction Costs Report prepared in respect of the CGS Final Reconciliation Date or as determined pursuant to Clause 15.1(C) (*Preliminary Construction Costs Report*), as the case may be; and

(B) re-run the CGS Pre-Gainshare Financial Model (updated in accordance with Clause 15.6(A)) in accordance with the methodology set out in the Model User Guide to determine a revised strike price, expressed in Money of the Year for the Base Year, which, when modelled to be in effect from the Agreement Date (and in combination with the Revised Construction Payment Schedules as set out in the relevant Construction Costs Report or as determined pursuant to Clause 15.1(C) (*Preliminary Construction Costs Report*), as the case may be), results in a post-tax Nominal Project internal rate of return that is equal to the Nominal Project IRR (the "**CGS Final Revised Strike Price**").

15.7 **Adjustments in respect of the CGS Final Reconciliation Date**

(A) If the CGS Final Revised Strike Price is less than the CGS Pre-Gainshare Strike Price, the then applicable Strike Price, expressed in Nominal Terms, shall be increased from the CGS Final Reconciliation Adjustment Date by an amount equal to the CGS IRD Difference Amount, indexed at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the CGS Final Reconciliation Adjustment Date, then reduced by an amount equal to the CGS Final Difference Amount, indexed at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the CGS Final Reconciliation Adjustment Date, and the revised Strike Price shall apply on and from the CGS Final Reconciliation Adjustment Date.

(B) If the CGS Final Revised Strike Price is equal to or greater than the CGS Pre-Gainshare Strike Price, the then applicable Strike Price shall be increased from the CGS Final Reconciliation Adjustment Date by an amount equal to the CGS IRD Difference Amount, indexed at the Inflation Factor applicable at the Indexation Anniversary falling on or immediately preceding the CGS Final Reconciliation Adjustment Date but for this purpose references to CPI_t or CPI_t^{new} (as applicable) in the definition of Inflation Factor shall be to the Reference CPI.

15.8 **Interim payments before the CGS Final Reconciliation Date**

At any time after the Reactor One Start Date and before the CGS Final Reconciliation Date (both dates exclusive) the Generator may, in its discretion and on each occasion upon not less than ten (10) Business Days' prior written notice to the CfD Counterparty, elect to make payments to the CfD Counterparty in an amount equal to the whole or part of any savings identified by the Generator in respect of the Construction Costs (each, an "**Interim Construction Payment**").

15.9 **CGS Compensation Amount**

(A) On the CGS Final Reconciliation Adjustment Date, the CfD Counterparty shall calculate, and as soon as reasonably practicable thereafter notify the Generator of, the CGS Compensation Amount.

(B) If the CGS Compensation Amount is positive, the Generator shall pay and the CfD Counterparty may, in its discretion, by notice to the Generator elect to receive the CGS Compensation Amount by way of a Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment. If the CGS Compensation Amount is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting CGS Compensation Amount by the Projected Net Generation of the Facility or, as the case may be, the affected Reactor, for the remainder of the Term as Discounted to Present Value as at the CGS Final Reconciliation Date using the Compensation Calculation Discount Rate. If the CGS Compensation Amount is to be paid by way of a Series of Payments and/or a single lump sum payment, the payment amount shall be Discounted to Present Value as at the CGS Final Reconciliation Date using the Compensation Calculation Discount Rate.

(C) If the aggregate amount of the Future Value CGS Nominal Compensation Amount is negative, the CfD Counterparty shall pay the Generator such amount by way of a Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment as the CfD Counterparty may, in its discretion, notify to the Generator. If the Future Value CGS Nominal Compensation Amount is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting Future Value CGS Nominal Compensation Amount by the Projected Net Generation of the Facility or, as the case may be, the affected Reactor, for the remainder of the Term as Discounted to Present Value as at the CGS Final Reconciliation Date using the Compensation Calculation Discount Rate. If the Future Value CGS Nominal Compensation Amount is to be paid by way of a Series of Payments and/or a single lump sum payment, the payment amount shall be Discounted to Present Value as at the CGS Final Reconciliation Date using the Compensation Calculation Discount Rate.

(D) If the aggregate amount of the Future Value CGS Nominal Compensation Amount is positive but the CGS Compensation Amount is negative, the CfD Counterparty shall not be required to make any payment in respect of such amount to the Generator.

(E) The CfD Counterparty shall not be obliged to repay or pay any separate amount in respect of any Interim Construction Payment to the Generator, irrespective of whether savings in respect of the Construction Costs were in fact realised by the Generator.

16. OPEX REOPENER ADJUSTMENT

16.1 Preliminary Opex Reports

(A) Unless otherwise agreed in writing by the Parties, no earlier than eighteen (18) months and no later than three (3) months before each of:

(i) the First Opex Reopener Date; and

(ii) the Second Opex Reopener Date,

the Generator shall provide the CfD Counterparty with a written report satisfying the requirements of Clause 16.1(D).

(B) If the Generator does not provide the CfD Counterparty with a written report satisfying the requirements of Clause 16.1(D) in respect of an Opex Reopener Date within the relevant period specified in Clause 16.1(A) and the CfD Counterparty has given at least twenty (20) Business Days' prior notice to the Generator during which time the Generator has still not provided the Preliminary Opex Report (provided that, for the avoidance of doubt, the Generator shall not be considered to have failed to provide a Preliminary Opex Report purely because the CfD Counterparty considers that the Preliminary Opex Report provided does not provide sufficient detail or Supporting Information), the CfD Counterparty may obtain at the Generator's cost and expense an opinion from one or more independent firms with relevant expertise as to the Base Eligible Opex Costs, the Non-Relevant Opex Costs, the Applicable NTPLI Costs, the Forecast HPC Specific Eligible Opex Costs, the Capital Receipts, the Average Benchmark Costs, the Benchmark Costs Comparator, the Forecast Comparable Eligible Opex Costs, the Permitted FAP Change Contributions (subject to further adjustment for the updated Waste Transfer Price once determined in accordance with the relevant Waste Transfer Contract(s)), the Generator Balancing System Charge, the Generator TLM(CFD) Charge and the Compensation Calculation Discount Rate for each Contract Year during the relevant Opex Reopener Period (together, the "**Relevant Opex Costs**") (which opinion shall be final and binding on the Parties in the absence of manifest error) and that opinion of the Relevant Opex Costs shall be used in the determination of the Opex Adjustment Amount, the Opex Balancing System Adjustment Amount or the Opex TLM(CFD) Adjustment Amount (as applicable) and the consequential Strike Price Adjustment or single lump sum payment or Series of Payments (as applicable in accordance with Clause 16.5 (*Eligible Opex Costs adjustment*)) and no Preliminary Opex Report or Opex Report shall be required for that purpose in respect of such Opex Reopener Date (and references in this Part 7 and related definitions to Preliminary Opex Reports or Opex Reports shall be construed so as to include any such opinion).

(C) The CfD Counterparty shall provide a copy of any final opinion obtained by it pursuant to Clause 16.1(B) to the Generator as soon as reasonably practicable.

(D) Each Preliminary Opex Report shall:

(i) be prepared at the cost and expense of the Generator;

(ii) be prepared using the most up-to-date data available to the Generator at the time of its preparation;

(iii) set out the Base Eligible Opex Costs;

(iv) set out, in reasonable detail, the Permitted FAP Change Contributions (subject to further adjustment for the updated Waste Transfer Price once determined in accordance with the relevant Waste Transfer Contract(s));

(v) set out, in reasonable detail, the Capital Receipts;

(vi) set out, in reasonable detail, the Individual Eligible Opex Costs and the Excluded Opex Costs actually incurred to date;

(vii) set out, in reasonable detail, the Compensation Calculation Discount Rate proposed by the Generator for each Contract Year during the relevant Opex Reopener Period;

(viii) set out, in reasonable detail, all Individual Eligible Opex Costs forecast to be incurred by the Generator, in accordance with the Reasonable and Prudent Standard in the relevant Opex Reopener Period, for this purpose:

(a) applying the Lifecycle Replacement Assumptions; and

(b) having regard to, among other things, the Individual Eligible Opex Costs actually incurred by the Generator during the then most recent one hundred and twenty (120) months,

(those forecast Individual Eligible Opex Costs being the "**Forecast Individual Eligible Opex Costs**");

(ix) set out, in reasonable detail, the Generator Balancing System Charge;

(x) set out, in reasonable detail, the Generator TLM(CFD) Charge;

(xi) set out, in reasonable detail, any assumptions made when calculating the Forecast Individual Eligible Opex Costs (including as to profile) and for this purpose any capital expenditure which relates to an asset with a useful life beyond the Term shall include only that proportion that is equal to the proportion of the useful life of the relevant asset that falls within the Term;

(xii) set out, in reasonable detail, the Actual CPI Index Value, Projected CPI Index Value or Model CPI Index Value (as applicable) in respect of each of the Forecast Individual Eligible Opex Costs;

(xiii) set out, in reasonable detail, all Excluded Opex Costs forecast to be incurred by the Generator in accordance with the Reasonable and Prudent Standard in relation to the relevant Opex Reopener Period;

(xiv) at the Generator's discretion, include information referred to in Clause 16.3 (*HPC Comparator Group*) in relation to those Forecast Individual Eligible Opex Costs which are considered by the Generator to be Comparable Eligible Opex Costs;

(xv) set out, in reasonable detail, for each Contract Year during the relevant Opex Reopener Period, the individual costs and the aggregate amount of the HPC Specific Eligible Opex Costs forecast to be incurred by the Generator in the relevant Opex Reopener Period in accordance with the Reasonable and Prudent Standard, having regard to, among other things, the relevant Individual Eligible Opex Costs actually incurred by the Generator over the then most recent one hundred and twenty (120) months (the aggregate amount being the "**Forecast HPC Specific Eligible Opex Costs**");

(xvi) set out, in reasonable detail, the Opex Adjustment Amount based on the Compensation Calculation Discount Rate proposed by the Generator for the relevant Contract Year during the Opex Reopener Period pursuant to Clause 16.1(D)(vii);

(xvii) set out, in reasonable detail, the Opex Balancing System Adjustment Amount;

(xviii) set out, in reasonable detail, the Opex TLM(CFD) Adjustment Amount;

(xix) set out, in reasonable detail, the Applicable NTPLI Costs;

(xx) set out, in reasonable detail, the Generator's estimate of Projected Net Generation for the remainder of the Term and the calculation of the revised Strike Price that the Generator proposes should apply with effect from the relevant Opex Reopener Date (based on the Generator's proposed Projected Net Generation and Compensation Calculation Discount Rate) to give effect to the Opex Adjustment Amount should the CfD Counterparty choose to give effect to the Opex Adjustment Amount by way of a Strike Price Adjustment;

(xxi) if the Preliminary Opex Report, or any part thereof, is prepared by or with the assistance of one or more third parties, include details of those third party(ies) and copies of any final reports (on which the CfD Counterparty shall be entitled to rely) prepared by such third party(ies) in relation to the Preliminary Opex Report; and

(xxii) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing.

(E) Each Preliminary Opex Report shall be accompanied by:

(i) a Directors' Certificate in relation to the information contained in, or enclosed with, the relevant Preliminary Opex Report; and

(ii) a technical auditor's report provided by an Auditor or a technical expert nominated by the CfD Counterparty (acting reasonably),

in each case prepared at the cost and expense of the Generator.

(F) If the Generator becomes aware before a Strike Price Adjustment, a Series of Payments or a single lump sum payment is or, as the case may be, are made or commenced pursuant to Clause 16.5 (*Eligible Opex Costs adjustment*) that the information contained in, or enclosed with, a Preliminary Opex Report is not, or ceases to be, in all material respects true, complete and accurate or is, or becomes, misleading in a material respect, the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised Opex Information**"), together with a Directors' Certificate in relation to the Revised Opex Information.

(G) The Generator may, at any time prior to the provision of the Preliminary Opex Report, provide the CfD Counterparty with Information setting out any of the matters in Clause 16.1(D) to assist the CfD Counterparty with its review of the Preliminary Opex Report (when submitted). The CfD Counterparty shall be under no obligation to consider or take any action in response to such Information or in response to a Preliminary Opex Report unless and until the Generator shall have provided the CfD Counterparty with all of the relevant information, and the Directors' Certificate and technical auditor's report, referred to in Clauses 16.1(D) and 16.1(E) respectively.

(H) The CfD Counterparty may, by notice to the Generator during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a written report satisfying the requirements of Clause 16.1(D) under Clause 16.1(A) and during the thirty (30) Business Day period after receipt of any Revised Opex Information, request the Generator to provide the CfD Counterparty with such Supporting Information (a "**Further Opex Costs Information Request**") as the CfD Counterparty reasonably requires for the purposes of determining whether or not it approves the matters which are the subject of the Preliminary Opex Report.

(I) If the CfD Counterparty gives a Further Opex Costs Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Further Opex Costs Information Request.

(J) The CfD Counterparty may, by notice to the Generator during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Supporting Information delivered under Clause 16.1(I) and during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of any Revised Opex Information, request the Generator to provide to the CfD Counterparty such further Supporting Information in relation to that Preliminary Opex Report or, as the case may be, the Revised Opex Information (a "**Final Opex Costs Information Request**") as the CfD Counterparty reasonably requires for the purposes of determining whether or not it approves the matters which are the subject of the Preliminary Opex Report.

(K) If the CfD Counterparty gives a Final Opex Costs Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the further Supporting Information provided in response to such Final Opex Costs Information Request.

(L) The CfD Counterparty shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Preliminary Opex Report or, if it has given a Further Opex Costs Information Request to the Generator and not also given a Final Opex Costs Information Request to the Generator, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Supporting Information requested in the relevant Further Opex Costs Information Request, or, if it has given a Final Opex Costs Information Request to the Generator, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Final Opex Costs Information Request, notify the Generator whether or not it approves that Preliminary Opex Report, and, where the CfD Counterparty does not approve that report, it shall give the Generator reasons in support.

(M) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of Preliminary Opex Report within the period specified in Clause 16.1(L), the matters which are the subject of the Preliminary Opex Report shall be deemed not to be agreed.

16.2 **Disputes in relation to an Opex reopener**

(A) If the Generator and the CfD Counterparty are not able to agree a Preliminary Opex Report or related matters (including Supporting Information), either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Expert in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should

instead be resolved by an Arbitral Tribunal, refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

(B) The Parties agree to the following terms of reference for an Expert appointed pursuant to Clause 16.2(A). The Expert shall determine any dispute relating to the relevant Preliminary Opex Report and any related matters, based on the information available to him and in accordance with the requirements of this Agreement. In accordance with Clause 64.5(B)(ii) (*Expert Determination Procedure*), this shall include the ability for the Expert to ascertain (in his opinion and as necessary) the accuracy and reasonableness of any Supporting Information or other information (whether historical, current or forecast) submitted to him by either Party or otherwise available to him (including any information submitted pursuant to Clause 16.3 (*HPC Comparator Group*) and any other comparisons and associated justifications, financial information, information relating to the generation output of the Facility and calculations), including:

(i) the question of whether costs which are considered by a Party to be Eligible Opex Costs are, in fact, Eligible Opex Costs; and

(ii) the question of whether costs which are considered by a Party to be Comparable Eligible Opex Costs are, in fact, Comparable Eligible Opex Costs,

it being understood that these are the costs that will be the subject of the relevant provisions of this Part 7.

(C) Either Party may include, as part of a First Submission made to the Expert pursuant to Clause 64.6(B) (*Expert Determination Procedure*), any information considered by that Party to be relevant in the context of the Preliminary Opex Report in question, including any information in relation to the costs of Appropriate HPC Comparator Group Operators. If a Party's submission to the Expert specifies an Appropriate HPC Comparator Group Operator and relates to Comparable Eligible Opex Costs, that Party shall also submit to the Expert the relevant individual HPC Comparator Individual Benchmark Costs together with the individual costs comprised in such HPC Comparator Individual Benchmark Costs and, if the Party does not do so, the Expert may, pursuant to Clauses 64.5(B)(ii)(c) and 64.5(D) (*Expert Determination Procedure*), require it to do so. If, within a reasonable period following any such requirement having been notified by the Expert, such HPC Comparator Individual Benchmark Costs are still not submitted to the Expert, the Expert shall be entitled to:

(i) determine that the relevant costs are not Comparable Eligible Opex Costs; and/or

(ii) make amendments to the costs in question, including amendments to the relevant Party's assessment and calculation thereof,

in each case as the Expert considers appropriate under the circumstances.

(D) Until the Generator and the CfD Counterparty agree the matters which are the subject of a Preliminary Opex Report in respect of an Opex Reopener Date or the Dispute has been determined in accordance with the Expert Determination Procedure or the Arbitration Procedure, as the case may be, there shall be no Opex Report in respect of that Opex Reopener Date.

16.3 **HPC Comparator Group**

(A) (i) The Generator may, in its discretion, provide information included as part of a Preliminary Opex Report submitted to the CfD Counterparty pursuant to Clause 16.1(D)(xiv) (*Preliminary Opex Reports*), or to the Expert as part of a dispute process pursuant to Clause 16.2 (*Disputes in relation to an Opex reopener*); and/or

(ii) the CfD Counterparty may, in its discretion, provide information to the Expert as part of a dispute process pursuant to Clause 16.2 (*Disputes in relation to an Opex reopener*),

in each case as "**Opex Submitting Party**" and as detailed in Clause 16.3(B).

(B) The information referred to in Clause 16.3(A) may include:

(i) reasonable detail of any appropriate HPC Comparator Group Operator which incurs costs comparable with the Eligible Opex Costs (the "**Appropriate HPC Comparator Group Operator**");

(ii) reasonable details of the costs which are considered by the Opex Submitting Party to be the total Comparable Eligible Opex Costs forecast to be incurred by the Generator in each Contract Year during the relevant Opex Reopener Period in accordance with the Reasonable and Prudent Standard, having regard to, among other things, the relevant Individual Eligible Opex Costs actually incurred by the Generator over the then most recent one hundred and twenty (120) months (the "**Forecast Comparable Eligible Opex Costs**"), together with the individual costs;

(iii) reasonable detail of the individual Appropriate HPC Comparator Comparable Costs forecast in accordance with the Reasonable and Prudent Standard and considered by the Opex Submitting Party to be incurred in each Contract Year during the relevant Opex Reopener Period by an Appropriate HPC Comparator Group Operator (each, an "**HPC Comparator Individual Benchmark Cost**"), where such HPC Comparator Individual Benchmark Cost shall:

(a) have regard to, among other things, the historical actual costs incurred by each such operator over the then most recent one hundred and twenty (120) months; and

(b) be adjusted, where appropriate, to take account of:

(1) the efficiencies of scale or synergies (if any) or the lack thereof from which the relevant Appropriate HPC Comparator Group Operator(s) benefit(s) or suffer(s) and from which the Project does not benefit or which the Project enjoys by virtue of:

(A) the difference in the number of reactors at the relevant nuclear power station(s) operated by such Appropriate HPC Comparator Group Operator(s) compared with the number of Reactors; and

(B) the nuclear reactor(s) operated by the relevant Appropriate HPC Comparator Group Operator(s) being one of a fleet of nuclear reactors owned, operated or controlled by a member of the same Group as such Appropriate HPC Comparator Group Operator(s) or which share technology, information technology, knowledge, procurement facilities or other services;

(2) the generating capacity of the nuclear power stations and/or nuclear reactors in the HPC Comparator Group operated by Appropriate HPC Comparator Group Operator(s) compared with the Facility;

(3) any failure to operate such nuclear power stations in accordance with all applicable laws and regulations and good industry practice;

(4) the different regulatory, commercial, fiscal and legal regimes applicable to each Appropriate HPC Comparator Group Operator compared with the regimes applicable to the Project, the Facility, the Site or the Generator; and

(5) any differences in the underlying cost bases, or the financial or accounting treatment, of an HPC Comparator Individual Benchmark Cost compared with the relevant individual Forecast Comparable Eligible Opex Cost;

(iv) if any of the individual Appropriate HPC Comparator Comparable Costs is materially different from the relevant individual costs of the Forecast Comparable Eligible Opex Costs, an explanation of such difference by the Opex Submitting Party;

(v) reasonable detail of the Opex Submitting Party's calculation of each Benchmark Costs Comparator and the Average Benchmark Costs; and

(vi) reasonable evidence of the steps taken to ensure that any computation carried out by the Opex Submitting Party is thorough, detailed and rigorous.

(C) Information provided to the Expert by the Generator pursuant to Clause 16.3(A)(i) shall also be provided to the CfD Counterparty. Information provided to the Expert by the CfD Counterparty pursuant to Clause 16.3(A)(ii) shall only be provided to the Generator to the extent that it does not constitute commercially sensitive information relating to other generators ("**Sensitive Competitor Information**"). Where information has not been provided to the Generator because it constitutes Sensitive Competitor Information, it will instead be provided to the Generator's external professional adviser(s) where one or more is so designated by the Generator. The Generator will only designate an external professional adviser where that adviser has signed a non-disclosure agreement that is in a form agreed by the Parties (acting reasonably) and which prohibits the adviser from disclosing Sensitive Competitor Information to any other person, save as required by applicable legal or regulatory requirements.

16.4 **Opex Report**

Upon:

(A) the CfD Counterparty notifying the Generator that it approves the matters which are the subject of a Preliminary Opex Report;

(B) the CfD Counterparty and the Generator agreeing the matters which are the subject of a Preliminary Opex Report (and any amendments to that Preliminary Opex Report being made in accordance with that agreement); or

(C) any Dispute (other than merely as to whether the Generator has submitted all the information required for a Preliminary Opex Report) with respect to the matters which are the subject of a Preliminary Opex Report being resolved or determined as provided in Clause 16.2 (*Disputes in relation to an Opex reopener*) (and any amendments to the Preliminary Opex Report being made in accordance with that resolution or determination),

the Preliminary Opex Report (once delivered and as amended, if applicable) shall become the "**Opex Report**" in respect of the First Opex Reopener Date or, as the case may be, the Second Opex Reopener Date.

16.5 **Eligible Opex Costs adjustment**

(A) Subject to Clause 1.11 (*Payment methods and Trigger Events*), if:

(i) the Opex Adjustment Amount, the Opex Balancing System Adjustment Amount or the Opex TLM(CFD) Adjustment Amount is negative, the Generator shall pay such amount to the CfD Counterparty by way of a reduction in the Strike Price;

(ii) the Opex Adjustment Amount is positive, the CfD Counterparty shall pay such amount to the Generator, which the CfD Counterparty may, in its discretion, elect to pay by way of an increase in the Strike Price and/or a Series of Payments and/or a single lump sum payment; and

(iii) the Opex Balancing System Adjustment Amount or the Opex TLM(CFD) Adjustment Amount is positive, the CfD Counterparty shall pay such amount to the Generator by way of an increase in the Strike Price.

(B) If:

(i) the CfD Counterparty elects for the Opex Adjustment Amount to be paid by the CfD Counterparty or the Opex Balancing System Adjustment Amount or the Opex TLM(CFD) Adjustment Amount is to be paid by the CfD Counterparty; or

(ii) the Opex Adjustment Amount, the Opex Balancing System Adjustment Amount or the Opex TLM(CFD) Adjustment Amount is to be received by the CfD Counterparty,

in each case by way of a Strike Price Adjustment, the revised Strike Price shall apply on and from the later of the relevant Opex Reopener Date and the relevant Opex Report Effective Date, provided that if Clause 16.1(B) (*Preliminary Opex Reports*) applies, the revised Strike Price shall apply on and from the later of the relevant Opex Reopener Date and the date (the "**Opex Reopener Fallback Date**") which is twenty (20) Business Days after receipt by the CfD Counterparty of the opinion referred to in that Clause.

(C) If the relevant Opex Report Effective Date or the relevant Opex Reopener Fallback Date, as the case may be, occurs after the relevant Opex Reopener Date, there shall be a Compensation Amount payable as between the Generator and the CfD Counterparty in respect of the period from and including such Opex Reopener Date to, but excluding, such Opex Report Effective Date or such Opex Reopener Fallback Date, as the case may be.

(D) The CfD Counterparty may, in its discretion, elect to pay or receive any Compensation Amount computed under Clause 16.5(C) by way of a further Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment.

(E) If an Opex Adjustment Amount or Compensation Amount payable under this Clause 16.5 is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Projected Net Generation for the remainder of the Term as Discounted to Present Value as at the relevant Opex Reopener Date using the Compensation Calculation Discount Rate, which, if applicable, shall be the same Compensation Calculation Discount Rate as used under element *A* of the definition of "Opex Adjustment Amount" in Clause 1.1 (*Definitions*).

17. TAX REOPENER ADJUSTMENT

17.1 Interpretation

For the purposes of this Clause 17, including in interpreting the definitions of any capitalised terms which are used in this Clause 17:

(A) a person ("**X**") shall be treated as "**connected**" with another person ("**Y**") where:

(i) either X or Y directly or indirectly participates in the management, control or capital of the other; or

(ii) the same person or persons (including, for the avoidance of doubt, any Competent Authority) directly or indirectly participates in the management, control or capital of each of X and Y,

as such terms are defined by sections 157, 159, 160, 161 and 162 of the TIOPA 2010; and

(B) the term "**accounting period**" means a corporation tax accounting period of a member of the NNB HoldCo Group and shall be construed in accordance with Chapter 2 of Part 2 of the Corporation Tax Act 2009.

17.2 Tax Reopener Report

(A) The Generator shall provide the CfD Counterparty with a written report satisfying the requirements of Clause 17.2(B) in respect of each accounting period within eleven (11) months after the end of each such accounting period, or (if later) within forty-five (45) Business Days after the latest date on which the relevant corporation tax return for that accounting period may be submitted to the relevant tax authority without incurring a fine or penalty in respect of the same.

(B) Each Tax Reopener Report shall:

(i) be prepared at the cost and expense of the Generator;

(ii) set out in respect of the accounting period to which it relates a description of any Tax Reopener Qualifying Events which have occurred and any events which would be Tax Reopener Qualifying Events but for their falling within the definition of Tax Reopener Non-Qualifying Events, including an analysis of the basis for concluding that the relevant arrangement constitutes a Tax Reopener Qualifying Event or a Tax Reopener Non-Qualifying Event, as applicable;

(iii) be accompanied by:

(a) the corporation tax return of each member of the NNB HoldCo Group in respect of each accounting period to which the Tax Reopener Report relates in the form in which it has been submitted to the relevant tax authority;

(b) the corporation tax returns of each Non-NNB HoldCo Company from whom losses or other reliefs are being claimed by any member of the NNB HoldCo Group; and

(c) in respect of any Loss Surrenders to any member of the NNB HoldCo Group from a Non-NNB HoldCo Company, a statement of the nature and amount of all losses and reliefs surrendered, including an itemised report setting out any financing costs within the surrendering Non-NNB HoldCo Company for the relevant accounting period and any charges or expenses shown in the statutory accounts of the surrendering Non-NNB HoldCo Company (whether for the acquisition of goods or services) which are payable to persons with which such surrendering company is connected;

(iv) specify the amount of the Tax Reopener Adjustment on the assumption that each relevant corporation tax return as submitted to the relevant tax authority is agreed with that authority;

(v) set out the Generator's proposed Compensation Calculation Discount Rate; and

(vi) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing.

(C) Each Tax Reopener Report shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the relevant Tax Reopener Report.

(D) If the Generator becomes aware that the information contained in, or enclosed with, a Tax Reopener Report is not, or ceases to be, in all material respects true, complete and accurate or is, or becomes, misleading in a material respect, the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised Tax Reopener Information**"), together with a Directors' Certificate in relation to the Revised Tax Reopener Information.

(E) Subject to Clause 17.3 (*Disputes in relation to a Tax Reopener Report*), the CfD Counterparty shall be under no obligation to consider or take any action in response to a Tax Reopener Report unless and until the Generator shall have provided the CfD Counterparty with all of the information, and the Directors' Certificate, referred to in Clauses 17.2(B) and 17.2(C) respectively.

(F) The CfD Counterparty may, on one occasion only, by notice to the Generator within ninety (90) Business Days after receipt of a Tax Reopener Report or Revised Tax Reopener Information, require the Generator to provide such further Supporting Information in relation to that Tax Reopener Report or, as the case

may be, the Revised Tax Reopener Information as is reasonably necessary to enable the CfD Counterparty to verify the Tax Reopener Adjustment amount included in the Tax Reopener Report or any information in the Revised Tax Reopener Information (a "**Tax Reopener Information Request**").

(G) If the CfD Counterparty gives a Tax Reopener Information Request to the Generator, the Generator shall, within ninety (90) Business Days after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Tax Reopener Information Request.

(H) The CfD Counterparty shall, within ninety (90) Business Days after receipt of a Tax Reopener Report or, if it has given a Tax Reopener Information Request to the Generator, within ninety (90) Business Days after receipt of the further Supporting Information requested in the relevant Tax Reopener Information Request, notify the Generator as to whether it approves or does not approve the matters which are the subject of the Tax Reopener Report.

(I) In the event that CfD Counterparty does not agree, or is deemed not to have agreed, the matters which are the subject of the Tax Reopener Report, the CfD Counterparty shall provide the Generator with notice of such amendments or comments as would be required by the CfD Counterparty to be reflected in the Tax Reopener Report in order for the CfD Counterparty to approve it.

(J) The Generator shall, within ninety (90) Business Days after receipt of notice of any amendments or comments which are required by the CfD Counterparty in accordance with Clause 17.2(I), prepare and deliver a revised Tax Reopener Report which incorporates any amendments which may reasonably be required by the CfD Counterparty and properly reflects any reasonable comments which it has received from the CfD Counterparty.

(K) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Tax Reopener Report within the period specified in Clause 17.2(H) or within thirty (30) Business Days of receipt of the revised Tax Reopener Report pursuant to Clause 17.2(J), the CfD Counterparty will be deemed not to have agreed a Tax Reopener Report.

17.3 **Disputes in relation to a Tax Reopener Report**

(A) If the Generator and the CfD Counterparty dispute whether the Generator has submitted all the information required for a Tax Reopener Report or are not able to agree the matters which are the subject of a Tax Reopener Report or any adjustments or payments resulting from the provisions of this Clause 17, either the Generator or the CfD Counterparty may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure. Any Expert to be appointed to determine an Expert Dispute arising pursuant to this Clause 17 shall be selected from among leading tax counsel of at least ten (10) years' call at the English bar.

(B) Until the Generator and the CfD Counterparty agree the matters which are the subject of a Tax Reopener Report in respect of any accounting period or the Dispute has been determined in accordance with the Expert Determination Procedure there shall be no Tax Reopener Report in respect of that accounting period for the purposes of Clause 17.5 (*Tax Reopener Adjustment*).

17.4 **Updating of Tax Reopener Report**

(A) The Generator shall provide the CfD Counterparty with an updated Tax Reopener Report in respect of any accounting period within thirty (30) Business Days after:

(i) any relevant corporation tax returns being amended and resubmitted to HMRC (if changes which have been made to the tax returns are relevant to any Tax Reopener Qualifying Event); or

(ii) a closure notice in respect of any such accounting period being issued by HMRC; and/or

(iii) any relevant matter that is in dispute with HMRC being determined by a court or tribunal of competent authority.

(B) Any updated Tax Reopener Report shall:

(i) specify the changes which have been made to the tax returns to the extent they are relevant to any Tax Reopener Qualifying Event;

(ii) specify the final Tax Reopener Adjustment, and the extent to which that amount differs from the amount included in the previous Tax Reopener Report for that period; and

(iii) be prepared, delivered and approved in accordance with the provisions of Clause 17.2 (*Tax Reopener Report*) (save where provided to the contrary in this Clause 17.4).

(C) The provisions of Clause 17.3 (*Disputes in relation to a Tax Reopener Report*) shall apply in the event that the Generator and the CfD Counterparty are not able to agree any updated Tax Reopener Report.

(D) Pending agreement of the updated Tax Reopener Report by the Generator and the CfD Counterparty (or determination by an Expert as the case may be), any earlier Tax Reopener Report (as agreed between the Generator and the CfD Counterparty or determined by an Expert as the case may be) in respect of the relevant accounting period shall have effect for the purpose of this Clause 17 and any applicable Tax Reopener Adjustment shall be made notwithstanding that any corporation tax return to which it relates may not at that time have been finally determined.

17.5 **Tax Reopener Adjustment**

The Generator shall pay to the CfD Counterparty an amount equal to any Tax Reopener Adjustment set out in the Tax Reopener Report by way of a single lump sum payment, Future Valued from the date on which the relevant corporation tax return for the accounting period to which the Tax Reopener Report relates was submitted to the relevant tax authority (or should have been so submitted to avoid a fine or penalty being incurred) to the date of payment of the Tax Reopener Adjustment.

18. BUSINESS RATES ADJUSTMENT

18.1 **Generator to obtain a Rateable Value Assessment**

The Generator shall use its reasonable endeavours to agree with the Valuation Office Agency as soon as reasonably practicable a Rateable Value Assessment as at the Reactor One Start Date which is as low as is reasonably achievable in the circumstances, and for that purpose the Generator shall:

(A) provide the CfD Counterparty in a timely manner with:

(i) the opportunity to review and comment upon all proposals and submissions by or on behalf of the Generator to, and material correspondence by or on behalf of the Generator with, the Valuation Office Agency (together with any Supporting Information); and

(ii) copies of any reports (on which the CfD Counterparty shall be entitled to rely) prepared for the Generator by any third party(ies) in relation to the Rateable Value Assessment;

(B) take account of any reasoned comments made by the CfD Counterparty with respect to such proposals, submissions or correspondence (or if it does not intend to take such comments into account, give the CfD Counterparty a reasoned explanation as to why); and

(C) as soon as reasonably practicable, provide to the CfD Counterparty copies of any material and relevant correspondence or documents in connection with the Site or the Project received from the Valuation Office Agency related to the Rateable Value Assessment.

18.2 **Preliminary Business Rates Report**

(A) Within thirty (30) Business Days after receipt by the Generator of the final Rateable Value Assessment, the Generator shall provide the CfD Counterparty with a written report satisfying the requirements set out in Clause 18.2(D).

(B) If the Generator does not provide the CfD Counterparty with a written report satisfying the requirements of Clause 18.2(D) by the date referred to in Clause 18.2(A) (and, for the avoidance of doubt, the Generator shall not be considered to have failed to provide that report purely because the CfD Counterparty considers that the Preliminary Business Rates Report provided

does not provide sufficient Supporting Information) and following not less than ten (10) Business Days' notice from the CfD Counterparty identifying the failure, the Generator has not rectified that failure, the CfD Counterparty may obtain at the Generator's cost and expense:

(i) an opinion from an independent, nationally recognised firm of business rates advisers, having relevant experience, as to the anticipated Rateable Value Assessment as at the Reactor One Start Date and any foreseeable changes to the Rateable Value Assessment assessed on an equivalent basis to that described in Clause 18.2(D)(v)(f)(2); and

(ii) an opinion from an independent firm with relevant expertise as to the Compensation Calculation Discount Rate and (if applicable) the Projected CPI Index Value as at the Reactor One Start Date,

and these opinions shall be final and binding on the Parties in the absence of manifest error and shall be used in the determination of the consequential Business Rates Strike Price Adjustment and the revised Strike Price to the exclusion of the actual Rateable Value Assessment, and no Preliminary Business Rates Report or Business Rates Report shall be required for that purpose.

(C) The CfD Counterparty shall provide a copy of any final opinion obtained by it pursuant to Clause 18.2(B) to the Generator as soon as reasonably practicable.

(D) The Preliminary Business Rates Report shall:

(i) be prepared at the cost and expense of the Generator;

(ii) be prepared using the most up-to-date data available to the Generator at the time of its preparation;

(iii) include a list of all the HPC Properties;

(iv) include a copy of the Rateable Value Assessment and any accompanying correspondence or documents from the Valuation Office Agency;

(v) set out:

(a) the Rateable Value Assessment in respect of each of the HPC Properties expressed in the Money of the Year for the year in respect of which the Rateable Value Assessment is made;

(b) the rating year in respect of which the Rateable Value Assessment is made;

(c) the applicable uniform business rate multiplier (or equivalent) set by the Secretary of State in respect of the year in which the Reactor One Start Date falls;

(d) any rate relief that is applicable and which the Generator has claimed or proposes to claim;

(e) the annual amount of the Business Rates forecast to be payable in relation to the HPC Properties for each year from the Reactor One Start Date to the end of the Term using a flat profile in Real terms as set out in the Original Base Case Financial Model and, if such amounts are in Nominal Terms, Deflated and Restated to Real terms, and, if such amounts are in Real terms, Rebased, to the Reactor One Start Date (the "**Original Business Rates**");

(f) the annual amount of the Business Rates:

(1) actually payable in relation to the HPC Properties as at the Reactor One Start Date in the Money of the Year for the year in which the Reactor One Start Date falls and as if the HPC Properties were completed as at that date according to the Rateable Value Assessment; and

(2) forecast to be payable in relation to the HPC Properties for future years to the end of the Term on the basis of the Rateable Value Assessment multiplied by the uniform business multiplier applicable at the Reactor One Start Date, unless a mechanism for altering the amount of the applicable Business Rates for future years has been formally announced or published (in which case the forecast Business Rates determined in accordance with such mechanism shall be used instead for the relevant years), provided that if the Business Rates for future years are only specified or capable of being determined for part of the period to the end of the Term, the last known value of the Business Rates shall be used for each subsequent year to the end of the Term in respect of which the Business Rates are not specified or are not determinable, all such amounts to be set out in Real terms as at the Reactor One Start Date;

(the "**Revised Business Rates**");

(g) for each Contract Year, the Revised Business Rates less the Original Business Rates (for the avoidance of doubt, expressed as a negative amount if the result is negative) (each amount a "**Business Rates Difference**");

(h) each Business Rates Difference Discounted to Present Value as at the Reactor One Start Date using the Compensation Calculation Discount Rate proposed by the Generator for the relevant Contract Year pursuant to Clause 18.2(D)(v)(j)(1);

(i) the aggregate of the amounts set out under Clause 18.2(D)(v)(h) (the "**Aggregate Business Rates Difference**");

(j) for each Contract Year and in reasonable detail:

(1) the Generator's proposed Compensation Calculation Discount Rate; and

(2) for any forecast Business Rates, the underlying inflation assumptions, including the Projected CPI Index Value where applicable in respect of each such Business Rates;

(k) in reasonable detail:

(1) the consequential Business Rates Strike Price Adjustment that the Generator proposes should be made to reflect ninety-five per cent. (95%) of the Aggregate Business Rates Difference, based on the Compensation Calculation Discount Rate proposed by the Generator for each Contract Year under Clause 18.2(D)(v)(j)(1); and

(2) the revised Strike Price that the Generator proposes should apply to give effect to the adjustment determined under Clause 18.2(D)(v)(k)(1); and

(vi) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing.

(E) The Preliminary Business Rates Report shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Preliminary Business Rates Report.

(F) If the Generator becomes aware before a Strike Price Adjustment is made pursuant to Clause 18.5 (*Strike Price Adjustment*) that the information contained in, or enclosed with, the Preliminary Business Rates Report is not, or ceases to be, in all material respects true, complete and accurate or is, or becomes, misleading in a material respect, the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised Business Rates Information**"), together with a Directors' Certificate in relation to the Revised Business Rates Information.

(G) The CfD Counterparty shall be under no obligation to consider or take any action in response to the Preliminary Business Rates Report unless and until the Generator shall have provided the CfD Counterparty with all of the information,

and the Directors' Certificate, referred to in Clauses 18.2(D) and 18.2(E) respectively.

(H) The CfD Counterparty may, by notice to the Generator on one occasion within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Preliminary Business Rates Report and on one occasion within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of any Revised Business Rates Information, request the Generator to provide to the CfD Counterparty such Supporting Information in relation to the Preliminary Business Rates Report or, as the case may be, the Revised Business Rates Information (a "**Further Business Rates Information Request**") as the CfD Counterparty reasonably requires.

(I) If the CfD Counterparty gives a Further Business Rates Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Further Business Rates Information Request.

(J) The CfD Counterparty shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Preliminary Business Rates Report or, if it has given a Further Business Rates Information Request to the Generator, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Further Business Rates Information Request, notify the Generator whether or not it approves the matters which are the subject of the Preliminary Business Rates Report, and, where the CfD Counterparty does not approve the matters which are the subject of that report, it shall give the Generator reasons in support.

(K) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Preliminary Business Rates Report within the period specified in Clause 18.2(J), the CfD Counterparty will be deemed not to have agreed the matters which are the subject of the Preliminary Business Rates Report.

18.3 **Disputes in relation to the Preliminary Business Rates Report**

(A) If the Generator and the CfD Counterparty are not able to agree, or are deemed not to have agreed the matters which are the subject of a Preliminary Business Rates Report or related matters (including Supporting Information) or any adjustments or payments resulting from the provisions of this Clause 18, either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Generator

and the CfD Counterparty agree in writing that such Dispute should instead be determined by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

(B) Until the Generator and the CfD Counterparty agree the matters which are the subject of the Preliminary Business Rates Report or the Dispute has been determined in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no Business Rates Report.

18.4 **Business Rates Report**

Upon:

(A) the CfD Counterparty notifying the Generator that it approves the matters which are the subject of the Preliminary Business Rates Report;

(B) the CfD Counterparty and the Generator agreeing the matters which are the subject of the Preliminary Business Rates Report (and any amendments to the Preliminary Business Rates Report being made in accordance with that agreement); or

(C) any Dispute (other than merely as to whether the Generator has submitted all information required for a Preliminary Business Rates Report) with respect to the matters which are the subject of the Preliminary Business Rates Report being resolved or determined as provided in Clause 18.3 (*Disputes in relation to the Preliminary Business Rates Report*) (and any amendments to the Preliminary Business Rates Report being made in accordance with that resolution or determination),

the Preliminary Business Rates Report (once delivered and as amended, if applicable) shall become the "**Business Rates Report**".

18.5 **Strike Price Adjustment**

(A) If the Business Rates Strike Price Adjustment is negative, the Generator shall pay such amount to the CfD Counterparty by way of a reduction in the Strike Price.

(B) If the Business Rates Strike Price Adjustment is positive, the CfD Counterparty shall pay such amount to the Generator by way of an increase in the Strike Price.

(C) The revised Strike Price consequent upon the operation of this Clause 18 shall apply on and from the later of the Reactor One Start Date and the Business Rates Report Effective Date provided that if Clause 18.2(B) (*Preliminary Business Rates Report*) applies, the revised Strike Price shall apply on and from the later of the Reactor One Start Date and the date (the "**Business Rates Fallback Date**") which is twenty (20) Business Days after receipt by the CfD Counterparty of the later of the opinions referred to in that Clause.

(D) If the Business Rates Report Effective Date or the Business Rates Fallback Date, as the case may be, occurs after the Reactor One Start Date, there shall be a Compensation Amount payable as between the Generator and the CfD Counterparty in respect of the period from, and including, the Reactor One Start Date to, but excluding, the Business Rates Report Effective Date or the Business Rates Fallback Date.

(E) The CfD Counterparty may, in its discretion, elect to pay or receive any Compensation Amount computed under Clause 18.5(D) by way of a further Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment.

(F) If any Compensation Amount payable under this Clause 18.5 is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Projected Net Generation for the remainder of the Term as Discounted to Present Value as at the Reactor One Start Date using the Compensation Calculation Discount Rate.

(G) If any Compensation Amount payable under this Clause 18.5 is to be paid by way of a Series of Payments and/or a single lump sum payment, the amount shall be Discounted to Present Value as at the Reactor One Start Date using the Compensation Calculation Discount Rate.

18.6 **Appeal of Rateable Value Assessment**

(A) If an appeal by or on behalf of the Generator against the Rateable Value Assessment in respect of the HPC Properties or any of them results in a change in the rateable value in respect of such properties, the procedure set out in Clauses 18.2 (*Preliminary Business Rates Report*) to 18.5 (*Strike Price Adjustment*) (inclusive) shall be repeated using the revised Rateable Value Assessment and a further Strike Price Adjustment (including in respect of any overpayment) shall be determined.

(B) Notwithstanding Clause 18.6(A), the Generator shall not be under any obligation to appeal against the Rateable Value Assessment in respect of the HPC Properties or any of them.

19. DATA AND ORIGINAL BASE CASE FINANCIAL MODEL STRIKE PRICE ADJUSTMENT

(A) If any of the representations and warranties set out in Clause 50.1(K) (*Original Base Case Financial Model*) or Clause 50.1(L) (*Data Room Documentation*) is untrue, the Original Base Case Financial Model will, at the option of the CfD Counterparty, be re-run with the correct information in order to achieve the Nominal Project IRR in such manner as the CfD Counterparty shall reasonably determine.

(B) If, as a result of the re-run referred to in Clause 19(A), the revised Strike Price is lower than the Initial Strike Price, the Initial Strike Price will be reset *ab initio* to the revised Strike Price and the Generator shall repay with Default Interest any payments that may have been made by reason of the Initial Strike Price being

higher than the revised Strike Price and shall reimburse the CfD Counterparty for any costs and expenses of the CfD Counterparty in connection with such re-run.

(C) If, as a result of the re-run referred to in Clause 19(A), the revised Strike Price is higher than the Initial Strike Price, there shall be no adjustment to the Strike Price as a result but the Generator shall reimburse the CfD Counterparty for any costs and expenses of the CfD Counterparty in connection with such re-run.

Part 8
Financial Model, FDP Tracker Tool and Virtual Data Room

20. FINANCIAL MODEL

20.1 **Revision of the Financial Model**

(A) The Generator shall submit a revised draft of the Financial Model:

(i) no later than 31 March and 31 August in each year (beginning with 31 March 2017); and

(ii) if necessary to correct any issues of compatibility of the Financial Model with supporting hardware or software (including the relevant operating program) or to ensure that the Financial Model remains compliant with this Agreement.

(B) The Financial Model shall not be revised save as set out in this Clause 20 or as otherwise expressly provided for in this Agreement.

(C) Wherever it is required that the Financial Model be revised by the Generator pursuant to Clause 20.1(A), the Generator shall prepare a revised draft of the Financial Model (a "**Draft Revised Financial Model**") and provide a copy of the same to the CfD Counterparty, together with a covering paper identifying all of the assumptions, values, line items or rows which have been modified or any other changes that have been made and setting out the Generator's reasons for doing so, in each case in reasonable detail.

(D) Any Draft Revised Financial Model shall:

(i) be prepared at the cost and expense of the Generator;

(ii) be, to the extent reasonably possible, in substantially the same form as the Financial Model applicable immediately prior to the relevant revision;

(iii) be compatible with supporting hardware and software (including the operating program on which the Financial Model is based);

(iv) correct any errors identified in any previous version of the Financial Model;

(v) be compliant with this Agreement and its requirements;

(vi) be prepared using the most up-to-date data available to the Generator at the time of preparation of such Draft Revised Financial Model; and

(vii) in the case of each annual revision required no later than 31 March under Clause 20.1(A)(i), be accompanied by an Auditor's Certificate.

(E) Each Draft Revised Financial Model shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Draft Revised Financial Model and each of the Financial Model representations and warranties set out in Clause 20.4 (*Financial Model representations and warranties*).

(F) The CfD Counterparty may, by notice to the Generator on one occasion within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Draft Revised Financial Model, request the Generator to provide to the CfD Counterparty such Supporting Information in relation to that Draft Revised Financial Model (a "**Draft Financial Model Information Request**") as the CfD Counterparty reasonably requires.

(G) If the CfD Counterparty gives a Draft Financial Model Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Draft Financial Model Information Request.

(H) The CfD Counterparty shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Draft Revised Financial Model or, if it has given a Draft Financial Model Information Request to the Generator, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Draft Financial Model Information Request, notify the Generator whether or not it approves the Draft Revised Financial Model, and, where the CfD Counterparty does not approve that Draft Revised Financial Model, it shall give the Generator reasons in support.

20.2 **Disputes in relation to the Financial Model**

(A) If the CfD Counterparty does not provide a notice in accordance with Clause 20.1(H) (*Revision of the Financial Model*) or if the Generator and the CfD Counterparty are not able to agree a Draft Revised Financial Model or related matters including Supporting Information or any adjustments or payments resulting from the provisions of this Clause 20, either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Expert in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

(B) Until the Generator and the CfD Counterparty agree a Draft Revised Financial Model in respect of any period or the Dispute has been determined in accordance with the Expert Determination Procedure or the Arbitration Procedure, as the

case may be, there shall be no revised Financial Model in respect of that period and the version of the Financial Model applicable immediately prior to the modification shall apply for the purposes of this Agreement.

20.3 **Updating of the Financial Model**

Upon:

(A) the CfD Counterparty notifying the Generator that it approves a Draft Revised Financial Model;

(B) the CfD Counterparty and the Generator agreeing a Draft Revised Financial Model (and any amendments to that Draft Revised Financial Model being made in accordance with that agreement); or

(C) any Dispute (other than merely as to whether the Generator has submitted all information required for a Draft Revised Financial Model) with respect to a Draft Revised Financial Model being resolved or determined as provided in Clause 20.2 (*Disputes in relation to the Financial Model*) (and any amendments to the Draft Revised Financial Model being made in accordance with that resolution or determination),

the Draft Revised Financial Model (once delivered and as amended, if applicable) shall become the "**Financial Model**" for the purposes of this Agreement. For the avoidance of doubt, any revision of the Financial Model pursuant to this Clause 20 shall be without prejudice to the right of the CfD Counterparty to raise an enquiry, challenge, dispute or claim under this Agreement, the Secretary of State Investor Agreement or the Contracting Policy with respect to any underlying cost, value, assumption or other element of or in the Financial Model where this Agreement, the Secretary of State Investor Agreement or the Contracting Policy, as applicable, provides a right or process for the CfD Counterparty to challenge such underlying cost, value, assumption or other element.

20.4 **Financial Model representations and warranties**

The Generator represents and warrants to the CfD Counterparty that, as at the date the agreed form of the revised Financial Model is delivered to the CfD Counterparty, the following statements are true, accurate and not misleading:

(A) all factual information used to update the Financial Model is true and accurate in all material respects;

(B) the Financial Model was prepared:

(i) honestly and with due care and diligence on the basis of information, forecasts and assumptions believed by the Generator (having made all due and careful enquiries) to be reasonable; and

(ii) fairly represents the Generator's expectations in relation to the matters covered by such information; and

(C) so far as the Generator is aware, there is no information which would make the Financial Model, as updated, untrue or misleading to an extent which would materially adversely prejudice the interests of the CfD Counterparty.

20.5 **Custody of the Financial Model**

(A) Whenever the Financial Model is revised pursuant to this Clause 20, the Generator shall, as soon as reasonably practicable, (i) arrange for the revised Financial Model to be recorded electronically and (ii) deliver an electronic copy and a copy on an electronic storage device formatted ready for printing (in the case of a copy on an electronic storage device, to be delivered only in respect of an annual revision required no later than 31 March under Clause 20.1(A)(i) (*Revision of the Financial Model*)) of the revised Financial Model to the CfD Counterparty.

(B) Each of the Generator and the CfD Counterparty shall retain a copy of the Financial Model, as revised from time to time. In the event of any discrepancy between the Financial Model that is held by the CfD Counterparty and the copy held by the Generator, the copy held by the CfD Counterparty (in its original form as delivered to the CfD Counterparty) shall, in the absence of manifest error, prevail.

20.6 **Conflict involving the Financial Model**

(A) In the event of any discrepancy between the Financial Model and any provision of this Agreement, the provisions of this Agreement shall prevail.

(B) Any changes to the Financial Model not effected in accordance with this Agreement shall be of no effect for the purposes of this Agreement.

21. FDP TRACKER TOOL

21.1 **Revision of the FDP Tracker Tool**

(A) Until the provision of the Preliminary Opex Report in respect of the Second Opex Reopener Date, the Generator shall prepare in accordance with the instructions for the FDP Tracker Tool, and deliver to the CfD Counterparty, no later than thirty (30) Business Days after the then latest DTM Costs have been agreed, verified or determined, a revised FDP Tracker Tool updated with the Actual Selected DTM Costs and showing the resultant revised contributions to the FAP for the remaining operational life of the Facility and, separately, for each Opex Reopener Period (a "**Draft Revised FDP Tracker Tool**") together with a separate report setting out, in reasonable detail, the Generator's calculation and determination of the Actual Selected DTM Costs.

(B) Any Draft Revised FDP Tracker Tool shall:

(i) be prepared at the cost and expense of the Generator;

(ii) be, to the extent reasonably possible, in substantially the same form as the FDP Tracker Tool applicable immediately prior to the relevant revision;

(iii) be compatible with supporting hardware and software (including the operating program on which the FDP Tracker Tool is based);

(iv) correct any errors identified in any previous version of the FDP Tracker Tool;

(v) be compliant with this Agreement and its requirements; and

(vi) be prepared using the most up-to-date data with respect to the Actual Selected DTM Costs, First Criticality and RPI available to the Generator at the time of preparation of such Draft Revised FDP Tracker Tool.

(C) Each Draft Revised FDP Tracker Tool shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Draft Revised FDP Tracker Tool and each of the FDP Tracker Tool representations and warranties set out in Clause 21.4 (*FDP Tracker Tool representations and warranties*).

(D) The Generator shall deliver an Auditor's Certificate in respect of the then latest Draft Revised FDP Tracker Tool to the CfD Counterparty at the same time as the Auditor's Certificate referred to in Clause 20.1(D)(vii) (*Revision of the Financial Model*).

(E) The CfD Counterparty may, by notice to the Generator on one occasion within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of an Auditor's Certificate in relation to the then latest FDP Tracker Tool, request the Generator to provide to the CfD Counterparty such Supporting Information in relation to that Draft Revised FDP Tracker Tool and the calculation of the Actual Selected DTM Costs referred to in Clause 21.1(A) (a "**Draft FDP Tracker Tool Information Request**") as the CfD Counterparty reasonably requires.

(F) If the CfD Counterparty gives a Draft FDP Tracker Tool Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Draft FDP Tracker Tool Information Request.

(G) The CfD Counterparty shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Draft Revised FDP Tracker Tool or, if it has given a Draft FDP Tracker Tool Information Request to the Generator, within thirty (30) Business Days, or such other period, if any, as is

agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Draft FDP Tracker Tool Information Request, notify the Generator whether or not it approves the Draft Revised FDP Tracker Tool and, where the CfD Counterparty does not approve that Draft Revised FDP Tracker Tool, it shall give the Generator reasons in support.

21.2 **Disputes in relation to the FDP Tracker Tool**

(A) If the CfD Counterparty does not provide a notice in accordance with Clause 21.1(G) (*Revision of the FDP Tracker Tool*) or if the Generator and the CfD Counterparty are not able to agree a Draft Revised FDP Tracker Tool or related matters including the calculation of the Actual Selected DTM Costs, Supporting Information or any adjustments or payments resulting from the provisions of this Clause 21, either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Expert in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

(B) Until the Generator and the CfD Counterparty agree a Draft Revised FDP Tracker Tool in respect of any period or the Dispute has been determined in accordance with the Expert Determination Procedure or the Arbitration Procedure, as the case may be, there shall be no revised FDP Tracker Tool in respect of that period and the version of the FDP Tracker Tool applicable immediately prior to the modification shall apply for the purposes of this Agreement.

21.3 **Updating of the FDP Tracker Tool**

Upon:

(A) the CfD Counterparty notifying the Generator that it approves a Draft Revised FDP Tracker Tool;

(B) the CfD Counterparty and the Generator agreeing a Draft Revised FDP Tracker Tool (and any amendments to that Draft Revised FDP Tracker Tool being made in accordance with that agreement); or

(C) any Dispute (other than merely as to whether the Generator has submitted all information required for a Draft Revised FDP Tracker Tool) with respect to the matters which are the subject of a Draft Revised FDP Tracker Tool being resolved or determined as provided in Clause 21.2 (*Disputes in relation to the FDP Tracker Tool*) (and any amendments to that Draft Revised FDP Tracker Tool being made in accordance with that resolution or determination),

the Draft Revised FDP Tracker Tool (once delivered and as amended, if applicable) shall become the "**FDP Tracker Tool**" for the purposes of this Agreement.

21.4 **FDP Tracker Tool representations and warranties**

The Generator represents and warrants to the CfD Counterparty that, as at the date the agreed form of the revised FDP Tracker Tool is delivered to the CfD Counterparty, the following statements are true, accurate and not misleading:

(A) all factual information used to update the FDP Tracker Tool is true and accurate in all material respects; and

(B) the FDP Tracker Tool:

(i) was prepared honestly and with due care and diligence on the basis of information, forecasts and assumptions believed by the Generator (having made all due and careful enquiries) to be reasonable; and

(ii) fairly represents the Generator's expectations in relation to the matters covered by such information in the context of the intended purpose of the FDP Tracker Tool.

21.5 **Custody of the FDP Tracker Tool**

(A) Whenever the FDP Tracker Tool is revised pursuant to this Clause 21, the Generator shall, as soon as reasonably practicable, (i) arrange for the revised FDP Tracker Tool to be recorded electronically and (ii) deliver an electronic copy and a copy on an electronic storage device formatted ready for printing of the revised FDP Tracker Tool to the CfD Counterparty.

(B) Each of the Generator and the CfD Counterparty shall retain a copy of the FDP Tracker Tool, as revised from time to time. In the event of any discrepancy between the copy of the FDP Tracker Tool held by the CfD Counterparty and the copy held by the Generator, the copy held by the CfD Counterparty (in its original form as delivered to the CfD Counterparty) shall, in the absence of manifest error, prevail.

21.6 **Conflict involving the FDP Tracker Tool**

(A) In the event of any discrepancy between the FDP Tracker Tool and any provision of this Agreement, the provisions of this Agreement shall prevail.

(B) Any changes to the FDP Tracker Tool not effected in accordance with this Agreement shall be of no effect for the purposes of this Agreement.

21.7 **Migration**

(A) The Parties shall consider not less frequently than annually whether the FDP Tracker Tool, the Financial Model and the Original Base Case Financial Model should be saved, stored, backed-up or otherwise preserved using an alternative electronic storage medium to the form of storage medium from that in which the electronic copy of each of them was originally provided by the Generator pursuant to Schedule 1 (*Conditions Precedent*) or, as the case may be, to the then most

recent form of storage medium utilised therefor and, if so, shall make the necessary arrangements to back up each of them and effect the transfer to such alternative form of storage medium.

(B) In determining whether or not to utilise an alternative form of storage medium, the Parties shall have regard to the need to preserve, use and refer to the FDP Tracker Tool, the Financial Model and the Original Base Case Financial Model during the Term.

22. VIRTUAL DATA ROOM

(A) The Generator shall, at its own cost and expense, establish, maintain and administer in accordance with the protocol delivered or to be delivered to the CfD Counterparty pursuant to paragraph 14 of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*) (as amended from time to time by written agreement of the Parties, acting reasonably), a virtual data room or equivalent storage facility throughout the Term for the purpose of making available to the CfD Counterparty and its Representatives at all times throughout such period such information and documents that the Generator is required to make available to the CfD Counterparty and/or its Representatives through such virtual data room or equivalent storage facility under and in accordance with this Agreement including the Data Room Documentation and the documents referred to at paragraphs 14, 15(A)(ix) and 15(A)(x) of Part A (*Initial Conditions Precedent*) of Schedule 1 (*Conditions Precedent*).

(B) The Generator shall ensure that throughout the Term the CfD Counterparty and its respective Representatives shall have unrestricted access to the virtual data room or equivalent storage facility established, maintained and administered pursuant to Clause 22(A) (and for this purpose and without prejudice to the generality of the foregoing, the Generator shall promptly provide users with any required user ID, password and other log-in details).

(C) Upon reasonable request of the CfD Counterparty and at the Generator's own cost and expense, the Generator shall allow the CfD Counterparty's external professional advisers (acting on a legally privileged basis and/or with a duty of confidentiality to the Generator, to the Generator's reasonable satisfaction) to inspect hard copies of the information and documents referred to in Clause 22(A) at the Generator's offices or other location chosen by the Generator (acting reasonably).

(D) If the Generator shall make available to the CfD Counterparty any information or document whether through a virtual data room or equivalent storage facility or otherwise howsoever, the act of making that information or document available shall neither be construed as an agreement, acceptance or approval by the CfD Counterparty of such information or document or of its terms or of any liabilities, costs or expenses disclosed thereby nor as prohibiting or restricting the right of the CfD Counterparty to make further enquiry as to, or to challenge, the same.

Part 9
Billing and Payment

23. BILLING STATEMENTS

23.1 Delivery of Billing Statement

(A) The CfD Counterparty shall:

(i) in relation to any period from and including the Agreement Date to, but excluding, the date on which the Reactor One Start Date Notice is given where amounts are payable under this Agreement; and

(ii) in relation to each Billing Period from and including the date on which the Reactor One Start Date Notice is given,

deliver a billing statement to the Generator (each, a "**Billing Statement**").

(B) Each Billing Statement issued after the date on which the Reactor One Start Date Notice is given shall be delivered to the Generator within seven (7) Business Days after the end of the relevant Billing Period.

(C) If not previously the subject of a Billing Statement, the first Billing Statement in relation to a Billing Period on or after the date on which the Reactor One Start Date Notice is given shall cover the Billing Periods falling within the period from and including the Agreement Date to, but excluding, the date on which the Reactor One Start Date Notice is given.

23.2 Contents of Billing Statement

Each Billing Statement shall set out or identify:

Identification information

(A) the Billing Period or other period to which the Billing Statement relates;

(B) the name of the Generator (or a unique identifier attributed to the Generator by the CfD Counterparty);

(C) the details of the Facility or the Reactor(s) (or a unique identifier attributed to the Facility or the Reactor(s) by the CfD Counterparty);

Aggregate Difference Amount calculation

(D) in respect of each Billing Statement issued on or after the date on which the Reactor One Start Date Notice is given:

(i) the Metered Output (or, if relevant, the Estimated Metered Output) in respect of each Reactor and in aggregate in respect of each Settlement Unit falling in the relevant Billing Period;

(ii) the Baseload Market Reference Price in respect of each Settlement Unit falling in the relevant Billing Period;

(iii) the Strike Price applicable to each Settlement Unit falling in the relevant Billing Period;

(iv) the Difference for each of the Settlement Units falling in the relevant Billing Period;

(v) the Difference Amount for each of the Settlement Units falling in the relevant Billing Period; and

(vi) the sum of the Difference Amounts for the Settlement Units falling in the relevant Billing Period (the "**Aggregate Difference Amount**");

Additional components

(E) any Reconciliation Amounts;

(F) any Compensation Amounts;

(G) any Compensatory Interest Amount; and

Net Payable Amount

(H) the Net Payable Amount in respect of the relevant Billing Period or other period to which the Billing Statement relates.

23.3 **Calculation of Reconciliation Amounts**

The "**Reconciliation Amounts**" shall, in respect of each Billing Period from and including the date on which the Reactor One Start Date Notice is given, comprise any revisions to the Net Payable Amount in respect of any preceding Billing Period (or any other prior period in respect of which a Billing Statement was issued) which are required to reflect:

(A) any Settlement Runs;

(B) the resolution of any Metering Dispute;

(C) the operation of Clause 10.3 (*Reconciliations of Estimated Metered Output*); and

(D) the correction of any error agreed or determined with respect to other amounts comprising Reconciliation Amounts in any previous Billing Statement.

23.4 **Calculation of Compensation Amounts**

The "**Compensation Amounts**" shall, in respect of each Billing Period (or such other period prior to the date on which the Reactor One Start Date Notice is given in respect of which a Billing Statement is issued) comprise any amounts to be included in the Net Payable Amount or any revisions to the Net Payable Amount in respect of any preceding

Billing Period (or any other prior period in respect of which a Billing Statement was issued) which are required with respect to any of the following compensation or adjustment payments provided that such compensation or adjustment payment has not been compensated through a Strike Price Adjustment or further Strike Price Adjustment:

(A) any Indexation Adjustment;

(B) any Sizewell C Adjustment;

(C) any CGS Compensation Amount;

(D) any Opex Reopener Adjustment;

(E) any Tax Reopener Adjustment;

(F) any Business Rates Strike Price Adjustment;

(G) any Data and Original Base Case Financial Model Adjustment;

(H) any QCiL Compensation (including any QCiL Strike Price Adjustment);

(I) any compensation payable by the CfD Counterparty or the Generator in accordance with Part 11 (*Generation Tax*);

(J) any Curtailment Adjustment;

(K) any Nuclear Third Party Liability Insurance Adjustment;

(L) any TNUoS Charges Strike Price Adjustment;

(M) any Balancing System Charge Strike Price Adjustment;

(N) any TLM(CFD) Strike Price Adjustment;

(O) any other compensation or adjustment payments (other than any Reconciliation Amount) under this Agreement;

(P) any amount recoverable from the Generator by the CfD Counterparty pursuant to Clause 56.1(A)(ii)(b) (*Suspension for breach*); and

(Q) the correction of any error agreed or determined with respect to other amounts comprising Compensation Amounts in any previous Billing Statement or any delay in issuing any previous Billing Statement.

Save where otherwise specified in this Agreement and subject to Clause 1.11 (*Payment methods and Trigger Events*), the CfD Counterparty may, in its discretion, elect to pay any Compensation Amounts by way of a further Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment.

23.5 **Calculation of Compensatory Interest Amount**

The "**Compensatory Interest Amount**" shall, in respect of a Billing Period, comprise interest due and payable in relation to each Reconciliation Amount and Compensation Amount reflected in the Billing Statement for the relevant Billing Period (a "**Reconciliation Billing Period**"), calculated on the basis that interest on each Reconciliation Amount and Compensation Amount shall have accrued and shall continue to accrue on such amount at the Compensatory Interest Rate for the period from (and including):

(A) the Billing Period to which a Settlement Run relates in respect of any Reconciliation Amount resulting from a Settlement Run;

(B) the Billing Period to which a Metering Dispute relates in respect of any Reconciliation Amount resulting from the resolution of a Metering Dispute;

(C) the Estimated Output Billing Period to which an adjustment to the Metered Output relates pursuant to Clause 10.3 (*Reconciliations of Estimated Metered Output*);

(D) the relevant Indexation Anniversary in respect of any Indexation Adjustment;

(E) the QCiL Calculation Base Date in respect of any Reconciliation Amount to reflect any QCiL Compensation (including any QCiL Strike Price Adjustments);

(F) the relevant QCiL Calculation Base Date in respect of any Compensation Amount on account of QCiL Compensation;

(G) the effective date of the relevant adjustment in respect of any Compensation Amount resulting from a GT Strike Price Adjustment (or, if relevant, the effective date of the relevant compensation in respect of any Compensation Amount resulting from any compensation (other than a GT Strike Price Adjustment) payable pursuant to Part 11 (*Generation Tax*));

(H) the date on which the relevant Preliminary Quarterly QC Report is delivered to the CfD Counterparty in respect of any Compensation Amount resulting from a Qualifying Curtailment;

(I) the relevant Indexation Anniversary in respect of any Compensation Amount resulting from a Balancing System Charge Strike Price Adjustment;

(J) the relevant Indexation Anniversary in respect of any Compensation Amount resulting from a TLM(CFD) Strike Price Adjustment;

(K) the effective date of the relevant adjustment in respect of any other Compensation Amount; and

(L) the Billing Period to which any adjustment to correct any error in any previous Billing Statement relates in respect of any Reconciliation Amount or Compensation Amount to correct such an error (or, if such Reconciliation Amount or Compensation Amount to correct such error was included in a Billing Statement

issued prior to the date on which the Reactor One Start Date Notice is given, the date of the prior Billing Statement in which such error was included),

to (but excluding) the date of the relevant Reconciliation Billing Period (the "**Compensatory Interest Amount Calculation Period**"). For this purpose: (i) interest shall accrue on such amounts from day to day and shall be calculated on the basis of the actual number of days elapsed and a year of three hundred and sixty-five (365) days; and (ii) the "**Compensatory Interest Rate**" shall be the prevailing Base Rate on each day during the relevant Compensatory Interest Amount Calculation Period.

The CfD Counterparty, in its discretion and subject to Clause 1.11 (*Payment methods and Trigger Events*), may elect to pay any Compensatory Interest Amounts by way of a further Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment.

23.6 **Calculation of Net Payable Amount**

The "**Net Payable Amount**" shall, in respect of each Billing Period (or such other period prior to the date on which the Reactor One Start Date Notice is given), be an amount expressed in pounds calculated in accordance with the following formula:

Net Payable Amount = ADA + RA + CA + CIA

where:

ADA is the Aggregate Difference Amount in respect of such Billing Period which, in respect of any period before the date specified in the relevant Start Date CP Fulfilment Notice as the date on which the final Start Date Condition Precedent in respect of Reactor One had been satisfied, shall be zero (0). If the Aggregate Difference Amount is payable by the CfD Counterparty, such amount shall be expressed as a positive number and if the Aggregate Difference Amount is payable by the Generator, it shall be expressed as a negative number;

RA is any Reconciliation Amount in respect of such Billing Period (or such other period to which the Billing Statement relates). If the Reconciliation Amount is payable by the CfD Counterparty, such amount shall be expressed as a positive number and if the Reconciliation Amount is payable by the Generator, it shall be expressed as a negative number;

CA is any Compensation Amount in respect of such Billing Period (or such other period to which the Billing Statement relates). If the Compensation Amount is payable by the CfD Counterparty, such amount shall be expressed as a positive number and if the Compensation Amount is payable by the Generator, it shall be expressed as a negative number; and

CIA is any Compensatory Interest Amount in respect of such Billing Period which, (other than in the case of a QCiL Adjusted Revenues Payment for a QCiL Start Date Delay) in respect of any period before the date specified in the relevant Start Date CP Fulfilment Notice as the date on

which the final Start Date Condition Precedent in respect of Reactor One had been satisfied, shall be zero (0). If the Compensatory Interest Amount is payable by the CfD Counterparty, such amount shall be expressed as a positive number and if the Compensatory Interest Amount is payable by the Generator, it shall be expressed as a negative number,

and if the Net Payable Amount is:

(A) positive, it shall represent an amount payable by the CfD Counterparty to the Generator; or

(B) negative, it shall represent an amount payable by the Generator to the CfD Counterparty.

24. SETTLEMENT

24.1 Payment from the Generator

Subject to Clause 1.10 (*Payments prior to Reactor One Start Date*), if the Net Payable Amount is a negative number, before the end of the tenth (10th) Business Day after the delivery of the relevant Billing Statement the Generator shall pay to the CfD Counterparty the absolute value of the Net Payable Amount by direct bank transfer or equivalent transfer of immediately available funds into the account notified to the Generator pursuant to Clause 28(A) (*Payment Accounts*).

24.2 Payment from CfD Counterparty

If the Net Payable Amount is a positive number, within twenty-eight (28) calendar days after the end of the Billing Period or other period to which the Billing Statement relates, the CfD Counterparty shall pay to the Generator the Net Payable Amount by direct bank transfer or equivalent transfer of immediately available funds into the account notified to the CfD Counterparty pursuant to Clause 28(B) (*Payment Accounts*).

24.3 Billing Statement disputes

(A) Clauses 24.1 (*Payment from the Generator*) and 24.2 (*Payment from CfD Counterparty*) shall apply notwithstanding any Dispute with respect to any Billing Statement and, if either of the Parties wishes to dispute any amount shown in a Billing Statement, it shall give a Billing Statement Dispute Notice to the other Party.

(B) A Billing Statement Dispute Notice shall:

(i) specify the Billing Statement(s) to which the Dispute relates;

(ii) specify the name of the Generator (or the unique identifier attributed to the Generator by the CfD Counterparty);

(iii) specify the name of the Facility or the Reactor(s) (or the unique identifier attributed to the Facility or the Reactor(s) by the CfD Counterparty);

(iv) specify the items in the Billing Statement(s) to which the Dispute relates;

(v) specify the amount in dispute and the apportionment of such amount in relation to the relevant items in the Billing Statement(s);

(vi) include details of any other Dispute relating to a Billing Statement which the referring Party considers should be consolidated with or joined to the Dispute;

(vii) specify the position the referring Party considers is correct and the referring Party's reasons for that position;

(viii) include copies of any Supporting Information on which the referring Party intends to rely; and

(ix) include any other Information that the referring Party deems relevant in relation to the Dispute.

(C) The making of a payment pursuant to Clause 24.1 (*Payment from the Generator*) or Clause 24.2 (*Payment from CfD Counterparty*) shall not prevent a Party from raising a Dispute pursuant to this Clause 24.3.

(D) If a Dispute or part of a Dispute pursuant to Clause 24.3(A) relates to the calculation of the Loss Adjusted Metered Output in respect of one or both Reactor(s) or the Facility in respect of a Settlement Unit (that dispute or part thereof, a "**Metering Dispute**"):

(i) such Metering Dispute shall be treated as a Trading Dispute pursuant to the BSC and shall be resolved in accordance with the provisions set out therein (to the exclusion of the Dispute Resolution Procedure);

(ii) the Parties shall continue to comply with their obligations under this Agreement notwithstanding such Metering Dispute;

(iii) the final determination of the Metering Dispute in accordance with Clause 24.3(D)(i) shall be binding on the Parties; and

(iv) neither Party shall dispute or attempt to dispute a final determination made in accordance with Clause 24.3(D)(i).

(E) Any Metering Dispute must be brought by the Generator or (if permitted to do so) the CfD Counterparty within the limitation period set out in the BSC with respect to Trading Disputes.

(F) The Generator shall inform the CfD Counterparty as soon as reasonably practicable (and, in respect of Clause 24.3(D)(i), within five (5) Business Days) after the Generator:

(i) commences or becomes engaged in any Trading Dispute; or

(ii) becomes aware of any fact, matter or circumstance which will or is reasonably likely to give rise to a Trading Dispute,

where (in either case) the resolution of such Trading Dispute will or may affect the calculation of the Loss Adjusted Metered Output in respect of one or both Reactor(s) or the Facility for the purposes of this Agreement.

24.4 **Final year of Term**

The Parties shall make such arrangements as are necessary or desirable to give effect to any payment calculations and settlement obligations in relation to the final year of the Term where this is not otherwise expressly provided for by this Agreement.

25. DEFAULT INTEREST

(A) Subject to Clauses 25(C) and 25(D), if either Party fails to pay any sum payable by it pursuant to this Agreement (including any amounts payable under an Arbitral Award or Expert determination) on the due date for payment, Default Interest shall accrue on that sum for the period from, and including, the due date for payment to, but excluding, the date of actual payment of that sum (after as well as before award, determination or judgment).

(B) The right to receive Default Interest pursuant to this Agreement (and as calculated in accordance with this Clause 25) is not exclusive of any rights and remedies provided by law in respect of the failure to pay the relevant sum on the due date or at all, provided that the Late Payment of Commercial Debts (Interest) Act 1998 shall not apply in respect of any unpaid sum due pursuant to this Agreement.

(C) Default Interest shall be payable by the CfD Counterparty only in circumstances in which the CfD Counterparty is in breach of Clause 78.1(B), Clause 78.1(C) or Clause 78.1(D) (*CfD Counterparty payment undertakings*), but not otherwise.

(D) No Default Interest shall be payable by the CfD Counterparty to the Generator in relation to a Reconciliation Amount or Compensation Amount in respect of the period during which a Compensatory Interest Amount has accrued and been calculated pursuant to Clause 23.5 (*Calculation of Compensatory Interest Amount*), except that Default Interest shall accrue in respect of any Compensatory Interest Amount (and the Reconciliation Amount or Compensation Amount to which it relates) if and to the extent that such Compensatory Interest Amount has accrued and become due and payable and has not been paid but any such Default Interest shall only be payable by the CfD Counterparty in the circumstances set out in Clause 25(C).

26. SET-OFF

(A) The CfD Counterparty may set off any matured obligation due by the Generator to the CfD Counterparty pursuant to this Agreement against any matured obligation owed by the CfD Counterparty to the Generator.

(B) The Generator may set off any matured obligation due (which, for this purpose, shall include any amount due but not yet payable by reason of Clause 78.2 (*Limited recourse*)) by the CfD Counterparty to the Generator pursuant to this Agreement against any matured obligation owed by the Generator to the CfD Counterparty, provided that such right of set-off may not be exercised to the extent that such exercise would restrict or impede the recovery of any aid required in accordance with State Aid Rules.

27. DEDUCTIONS AND WITHHOLDINGS

Subject to Clause 26 (*Set-off*), all payments required to be made by the Generator pursuant to this Agreement shall be made in full, free and clear of any right of set-off and from any restriction, condition or deduction because of any counterclaim.

28. PAYMENT ACCOUNTS

Any payments to be made pursuant to or in connection with this Agreement to:

(A) the CfD Counterparty shall be made to such account in the United Kingdom as may be notified in writing to the Generator by the CfD Counterparty from time to time; or

(B) the Generator shall be made to such account in the United Kingdom as may be notified in writing to the CfD Counterparty by the Generator from time to time.

Part 10
Changes in Law

29. QUALIFYING CHANGE IN LAW: PROCEDURE

29.1 **Generator QCiL Initial Assessment Notice**

(A) If the Generator considers that a Qualifying Change in Law has been implemented, occurred or become effective or is shortly to be implemented, occur or become effective, it may give a Generator QCiL Initial Assessment Notice to the CfD Counterparty.

(B) A Generator QCiL Initial Assessment Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) include reasonable details of the relevant Qualifying Change in Law;

(iii) specify the QCiL Effective Date or the Expected QCiL Effective Date (as appropriate); and

(iv) specify why the Generator considers that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, including whether the Generator considers the Qualifying Change in Law to be a Discriminatory Change in Law, a Specific Change in Law, a Specific Tax Change in Law, an Other Change in Law or a Change in Regulatory Basis (and including Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of that conclusion).

(C) Any Generator QCiL Initial Assessment Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Generator QCiL Initial Assessment Notice.

(D) The CfD Counterparty shall be under no obligation to consider or take any action in response to a Generator QCiL Initial Assessment Notice unless and until the Generator shall have provided the CfD Counterparty with all of the Supporting Information, and the Directors' Certificate, in respect of such Generator QCiL Initial Assessment Notice, referred to in Clauses 29.1(B) and 29.1(C) respectively.

(E) The CfD Counterparty shall, within thirty (30) Business Days after receipt of the Generator QCiL Initial Assessment Notice, notify the Generator whether or not it approves the matters which are the subject of the Generator QCiL Initial Assessment Notice, and, where the CfD Counterparty does not approve the matters which are the subject of that notice, it shall give the Generator reasons in support.

(F) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Generator QCiL Initial Assessment Notice within the period specified in Clause 29.1(E), the matters which are the subject

of the Generator QCiL Initial Assessment Notice shall be deemed not to be agreed.

(G) If the Generator and the CfD Counterparty are not able to agree the matters which are the subject of a Generator QCiL Initial Assessment Notice, either the Generator or the CfD Counterparty may refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure. The Expert shall determine the Expert Dispute within thirty (30) Business Days (or such other period as is reasonably agreed among the Generator, the CfD Counterparty and the Expert) of the Expert Appointment Date and the Expert and each Party shall use reasonable endeavours to provide submissions and information to the Expert on a timely basis to assist the Expert in determining the Expert Dispute within the relevant period.

29.2 **Generator QCiL Notice**

(A) The Generator may give a Generator QCiL Notice to the CfD Counterparty at any time on or after the date when the Generator gives a Generator QCiL Initial Assessment Notice to the CfD Counterparty, unless it has been agreed or determined that the relevant Notified Change in Law will not constitute a Qualifying Change in Law.

(B) A Generator QCiL Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) specify that the Qualifying Change in Law has been agreed or determined, or that agreement or determination in respect of the Qualifying Change in Law is pending;

(iii) specify whether (using the most up-to-date data available to the Generator at the time of its preparation) the Generator considers that the Qualifying Change in Law will give rise to or result in:

(a) QCiL Operating Costs and/or QCiL Operating Savings and, if so, include the Generator's estimate (prepared honestly and with due care and diligence) of (1) such amounts (in either Real or Nominal Terms); (2) the anticipated profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable); (3) the risk-based contingency (if any) applied to such costs; and (4) for any forecast cost and/or saving, the underlying inflation assumptions including the Projected CPI Index Value where applicable in respect of each such cost or saving;

(b) QCiL Capital Costs and/or QCiL Capital Savings and, if so, include the Generator's estimate (prepared honestly and with due care and diligence) of (1) such amounts (in either Real or Nominal Terms); (2) the anticipated profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable); (3) the risk-based contingency (if any) applied to such costs; and

(4) for any forecast cost and/or saving, the underlying inflation assumptions including the Projected CPI Index Value where applicable in respect of each such cost or saving;

(c) an Adjusted Output Period and, if so, the Generator's estimate of and calculations in respect of the adjustment to the Estimated Facility Generation, and any QCiL Start Date Delay (all prepared honestly and with due care and diligence);

(d) a QCiL Opex Payment, QCiL Capex Payment and/or QCiL Adjusted Revenues Payment and, if so, the Generator's estimate (prepared honestly and with due care and diligence) of (1) such payments (as applicable); and (2) the net amount of such payments and, if applicable, the Actual Financing Costs Discount Rate, the Compensation Calculation Discount Rate and the Financing Costs Discount Rate, all as proposed by the Generator pursuant to Clause 29.2(B)(v) (and, in the case of a QCiL Opex Payment or QCiL Capex Payment, this estimate shall take account of any costs or savings already incurred or made at the time that the Generator submits the Generator QCiL Notice, as set out in Clauses 29.2(B)(iv)(a) and 29.2(B)(iv)(b)); and/or

(e) a Change in Regulatory Basis Payment and, if so: (1) the Generator's estimate (prepared honestly and with due care and diligence) of the out-of-pocket costs that will be incurred to implement the sacrifice required for risk reduction or the risk reduction option in respect of the Facility following the Change in Regulatory Basis (in either Real or Nominal Terms); (2) the Generator's estimate (prepared honestly and with due care and diligence) of the out-of-pocket costs that would have been incurred to implement a sacrifice or option required to reduce the same risk in respect of the Facility immediately prior to the Change in Regulatory Basis (assuming all other things remained the same) (in Nominal Terms); (3) for any forecast cost saving, the underlying inflation assumptions including the Projected CPI Index Value where applicable in respect of each of the costs set out in sub-paragraphs (1) and (2); and (4) the resulting estimate (prepared honestly and with due care and diligence) of the amount of the Change in Regulatory Basis Payment and, if applicable, the Actual Financing Costs Discount Rate the Compensation Calculation Discount Rate and the Financing Costs Discount Rate, all as proposed by the Generator pursuant to Clause 29.2(B)(v) (and this estimate shall take account of any Change in Regulatory Basis Costs already incurred at the time that the Generator submits the Generator QCiL Notice, as set out in Clause 29.2(B)(iv)(c));

(iv) if the Generator has incurred any QCiL Costs and/or Change in Regulatory Basis Costs and/or made any QCiL Savings prior to submitting its notice pursuant to Clause 29.2(A), specify whether (using

the most up-to-date data available to the Generator at the time of its preparation) the Generator has incurred:

(a) QCiL Operating Costs and/or QCiL Operating Savings and, if so, include:

(1) the Generator's calculation (prepared honestly and with due care and diligence) of (x) such amounts (in Nominal Terms); and (y) the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable); and

(2) such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing (including details of the scope of work undertaken, assumptions made, and the tendering process undertaken in connection with the work);

(b) QCiL Capital Costs and/or QCiL Capital Savings and, if so, include:

(1) the Generator's calculation (prepared honestly and with due care and diligence) of (x) such amounts (in Nominal Terms); and (y) the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable); and

(2) such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing (including details of the scope of work undertaken, assumptions made, and the tendering process undertaken in connection with the work);

(c) any Change in Regulatory Basis Costs and, if so, include:

(1) the Generator's calculation (prepared honestly and with due care and diligence) of (x) the out-of-pocket costs that have been incurred to implement the sacrifice required for risk reduction or the risk reduction option in respect of the Facility following the Change in Regulatory Basis and (y) the Actual CPI Index Value in respect of each such cost; and

(2) such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing (including details of the scope of work undertaken, assumptions made, and the tendering process undertaken in connection with the work);

(v) if the Generator considers that QCiL Compensation will arise, specify the Generator's proposed Compensation Calculation Discount Rate, Financing Costs Discount Rate, and (if applicable) Actual Financing Costs Discount Rate;

(vi) specify the QCiL Material Costs Date or Expected QCiL Material Costs Date (as applicable);

(vii) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing; and

(viii) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with Clause 69 (*General Mitigation and Compensation*) and the Reasonable and Prudent Standard.

(C) Any Generator QCiL Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Generator QCiL Notice.

(D) If the Generator becomes aware before a Strike Price Adjustment, a Series of Payments or a single lump sum payment is or, as the case may be, are made or commenced pursuant to Clause 30 (*Qualifying Change in Law: Compensation*) that the information contained in, or enclosed with, the Generator QCiL Notice is not, or ceases to be, in all material respects true, complete and accurate or is, or becomes, misleading in a material respect, the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised Generator QCiL Information**"), together with a Directors' Certificate in relation to the Revised Generator QCiL Information.

(E) The Generator may, at any time prior to the provision of the Generator QCiL Notice, provide the CfD Counterparty with Information setting out any of the matters in Clause 29.2(B) to assist the CfD Counterparty with its review of the Generator QCiL Notice (when submitted). The CfD Counterparty shall be under no obligation to consider or take any action in response to such Information or in response to a Generator QCiL Notice unless and until the Generator shall have provided the CfD Counterparty with all of the Supporting Information, and the Directors' Certificate, in respect of such Generator QCiL Notice, referred to in Clauses 29.2(B) and 29.2(C).

(F) The CfD Counterparty may, by notice to the Generator during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Generator QCiL Notice and during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty

and the Generator (each acting reasonably), after receipt of any Revised Generator QCiL Information, request the Generator to provide the CfD Counterparty such Supporting Information in relation to that Generator QCiL Notice or, as the case may be, the Revised Generator QCiL Information (a "**Further Generator QCiL Notice Information Request**") as the CfD Counterparty reasonably requires.

(G) If the CfD Counterparty gives a Further Generator QCiL Notice Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Further Generator QCiL Notice Information Request.

(H) The CfD Counterparty may, by notice to the Generator during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Supporting Information delivered under Clause 29.2(G) and during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of any Revised Generator QCiL Information, request the Generator to provide to the CfD Counterparty such further Supporting Information in relation to that Generator QCiL Notice or, as the case may be, the Revised Generator QCiL Information (a "**Final Generator QCiL Notice Information Request**") as the CfD Counterparty reasonably requires for the purposes of determining whether or not it approves the matters which are the subject of the Generator QCiL Notice.

(I) If the CfD Counterparty gives a Final Generator QCiL Notice Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the further Supporting Information provided in response to such Final Generator QCiL Notice Information Request.

(J) The CfD Counterparty shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Generator QCiL Notice or, if it has given a Further Generator QCiL Notice Information Request to the Generator and not also given a Final Generator QCiL Notice Information Request to the Generator, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Further Generator QCiL Notice Information Request or, if it has given a Final Generator QCiL Notice Information Request to the Generator, within thirty (30) Business Days after receipt of the further Supporting Information requested in the relevant Final Generator QCiL Notice Information Request, notify the Generator whether or not it approves the matters which are the subject of the Generator QCiL Notice, and, where the CfD Counterparty does not approve the

matters which are the subject of that notice, it shall give the Generator reasons in support.

(K) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Generator QCiL Notice within the relevant period specified in Clause 29.2(J), the matters which are the subject of the Generator QCiL Notice shall be deemed not to be agreed.

29.3 **CfD Counterparty QCiL Notice**

(A) If the CfD Counterparty considers that a Qualifying Change in Law has been implemented, occurred or become effective (or is shortly to be implemented, to occur or to become effective) which is reasonably likely to result in QCiL Net Savings, it may give a CfD Counterparty QCiL Notice to the Generator.

(B) A CfD Counterparty QCiL Notice shall:

(i) be prepared at the cost and expense of the CfD Counterparty;

(ii) include reasonable details of the relevant Qualifying Change in Law;

(iii) specify the QCiL Effective Date or the Expected QCiL Effective Date (as appropriate) and (to the extent that it is able to do so) the QCiL Material Costs Date or the Expected QCiL Material Costs Date (as appropriate);

(iv) specify why the CfD Counterparty considers that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, including whether the CfD Counterparty considers the Qualifying Change in Law to be a Discriminatory Change in Law, a Specific Change in Law, a Specific Tax Change in Law, an Other Change in Law or a Change in Regulatory Basis; and

(v) if the CfD Counterparty considers it reasonably practicable to do so, specify whether the CfD Counterparty considers that the Notified Change in Law will give rise to or result in QCiL Compensation and, if so, which paragraphs under the definition of QCiL Compensation the CfD Counterparty considers applicable and a good faith estimate of such amounts.

29.4 **Generator QCiL Response Notice**

(A) If the CfD Counterparty gives a CfD Counterparty QCiL Notice to the Generator, the Generator shall as soon as reasonably practicable, and in any event within thirty (30) Business Days after receipt of such CfD Counterparty QCiL Notice, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), give a Generator QCiL Response Notice to the CfD Counterparty.

(B) A Generator QCiL Response Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) specify whether the Generator considers that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law (and, if the Generator does not consider that the Notified Change in Law constitutes, or will constitute, a Qualifying Change in Law, the Generator shall include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of that conclusion);

(iii) include either:

(a) a statement that the Generator agrees with the QCiL Effective Date or the Expected QCiL Effective Date specified in the CfD Counterparty QCiL Notice; or

(b) if the Generator does not agree with the QCiL Effective Date or the Expected QCiL Effective Date specified in the CfD Counterparty QCiL Notice, an alternative QCiL Effective Date or Expected QCiL Effective Date;

(iv) include:

(a) if the CfD Counterparty has specified a QCiL Material Costs Date or Expected QCiL Material Costs Date either:

(1) a statement that the Generator agrees with the proposed QCiL Material Costs Date or the Expected QCiL Material Costs Date specified in the CfD Counterparty QCiL Notice; or

(2) if the Generator does not agree with the QCiL Material Costs Date or the Expected QCiL Material Costs Date specified in the CfD Counterparty QCiL Notice, an alternative QCiL Material Costs Date or Expected QCiL Effective Date; or

(b) if the CfD Counterparty has not specified a QCiL Material Costs Date, the Expected QCiL Material Costs Date or QCiL Material Costs Date (as applicable);

(v) specify whether (using the most up-to-date data available to the Generator at the time of its preparation) the Generator considers that the Notified Change in Law will give rise to or result in:

(a) QCiL Operating Costs and/or QCiL Operating Savings and, if so, include the Generator's estimate (prepared honestly and with due care and diligence) of (1) such amounts (in either Real or Nominal Terms); (2) the anticipated profile of the incurrence of,

or the making or receipt of, such costs or savings (as applicable); (3) the risk-based contingency (if any) applied to such costs; and (4) for any forecast cost and/or saving, the underlying inflation assumptions, including the Projected CPI Index Value where applicable, in respect of each such cost or saving;

(b) QCiL Capital Costs and/or QCiL Capital Savings and, if so, include the Generator's estimate (prepared honestly and with due care and diligence) of (1) such amounts (in either Real or Nominal Terms); (2) the anticipated profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable); (3) the risk-based contingency (if any) applied to such costs; and (4) for any forecast cost and/or saving, the underlying inflation assumptions, including the Projected CPI Index Value where applicable, in respect of each such cost or saving;

(c) an Adjusted Output Period and, if so, the Generator's estimate of and calculations in respect of the adjustment to the Estimated Facility Generation, and any QCiL Start Date Delay (all prepared honestly and with due care and diligence);

(d) a QCiL Opex Payment, QCiL Capex Payment and/or QCiL Adjusted Revenues Payment and, if so, the Generator's estimate (prepared honestly and with due care and diligence) of (1) such payments (as applicable); and (2) the net amount of such payments and the Compensation Calculation Discount Rate and the Financing Costs Discount Rate and, if applicable, the Actual Financing Costs Discount Rate, all as proposed by the Generator pursuant to Clause 29.4(B)(vii) (and, in the case of a QCiL Opex Payment or QCiL Capex Payment, this estimate shall take account of any costs or savings already incurred or made at the time that the Generator submits the Generator QCiL Response Notice, as set out in Clauses 29.4(B)(vi)(a) and 29.4(B)(vi)(b)); and/or

(e) a Change in Regulatory Basis Payment and, if so: (1) the Generator's estimate (prepared honestly and with due care and diligence) of the out-of-pocket costs that will be incurred to implement the sacrifice required for risk reduction or the risk reduction option in respect of the Facility following the Change in Regulatory Basis (in either Real or Nominal Terms); (2) the Generator's estimate (prepared honestly and with due care and diligence) of the out-of-pocket costs that would have been incurred to implement a sacrifice or option required to reduce the same risk in respect of the Facility immediately prior to the Change in Regulatory Basis (assuming all other things remained the same) (in either Real or Nominal Terms); (3) for any forecast cost, the underlying inflation assumptions including the Projected CPI Index Value where applicable in respect of each cost set out in sub-paragraphs (1) and (2); and (4) the resulting estimate

(prepared honestly and with due care and diligence) of the amount of the Change in Regulatory Basis Payment and, the Compensation Calculation Discount Rate and the Financing Costs Discount Rate and, if applicable, the Actual Financing Costs Discount Rate, all as proposed by the Generator pursuant to Clause 29.4(B)(vii) (and this estimate shall take account of any Change in Regulatory Basis Costs already incurred at the time that the Generator submits the Generator QCiL Response Notice, as set out in Clause 29.4(B)(vi)(c));

(vi) if the Generator has incurred any QCiL Costs and/or Change in Regulatory Basis Costs and/or made any QCiL Savings prior to submitting its notice pursuant to Clause 29.4(A), specify whether (using the most up-to-date data available to the Generator at the time of its preparation) the Generator has incurred:

(a) QCiL Operating Costs and/or QCiL Operating Savings and, if so, include:

(1) the Generator's calculation (prepared honestly and with due care and diligence) of (x) such amounts (in Nominal Terms); and (y) the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable); and

(2) such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing (including details of the scope of work undertaken, assumptions made, and the tendering process undertaken in connection with the work);

(b) QCiL Capital Costs and/or QCiL Capital Savings and, if so, include:

(1) the Generator's calculation (prepared honestly and with due care and diligence) of (x) such amounts (in Nominal Terms); and (y) the profile of the incurrence of, or the making or receipt of, such costs or savings (as applicable); and

(2) such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing (including details of the scope of work undertaken, assumptions made, and the tendering process undertaken in connection with the work);

(c) any Change in Regulatory Basis Costs and, if so, include:

(1) the Generator's calculation (prepared honestly and with due care and diligence) of (x) the out-of-pocket costs that

have been incurred to implement the sacrifice required for risk reduction or the risk reduction option in respect of the Facility following the Change in Regulatory Basis; and (y) the Actual CPI Index Value in respect of each such cost; and

(2) such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing (including details of the scope of work undertaken, assumptions made, and the tendering process undertaken in connection with the work);

(vii) if the Generator considers that QCiL Compensation will arise, specify the Generator's proposed Compensation Calculation Discount Rate and Financing Costs Discount Rate and (if applicable) Actual Financing Costs Discount Rate;

(viii) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing; and

(ix) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with Clause 69 (*General Mitigation and Compensation*) and the Reasonable and Prudent Standard.

(C) If the Generator, in a Generator QCiL Response Notice or Revised Generator QCiL Information, indicates that it does not consider that the Notified Change in Law constitutes or will constitute a Qualifying Change in Law, it shall nonetheless provide the QCiL Response Information or, as the case may be, the Revised Generator QCiL Response Information, on the basis of an assumption that the Notified Change in Law constitutes or will constitute a Qualifying Change in Law.

(D) Any Generator QCiL Response Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Generator QCiL Response Notice.

(E) If the Generator becomes aware before a Strike Price Adjustment, a Series of Payments or a single lump sum payment is or, as the case may be, are made or commenced pursuant to Clause 30 (*Qualifying Change in Law: Compensation*) that the information contained in, or enclosed with, the Generator QCiL Response Notice is not, or ceases to be, in all material respects true, complete and accurate or is, or becomes, misleading in a material respect, the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised Generator QCiL Response Information**"), together with

a Directors' Certificate in relation to the Revised Generator QCiL Response Information.

(F) The CfD Counterparty may, by notice to the Generator during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Generator QCiL Response Notice and during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of any Revised Generator QCiL Response Information, request the Generator to provide the CfD Counterparty such Supporting Information in relation to that Generator QCiL Response Notice or, as the case may be, the Revised Generator QCiL Response Information (a "**Generator QCiL Response Notice Information Request**") as the CfD Counterparty reasonably requires.

(G) If the CfD Counterparty gives a Generator QCiL Response Notice Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Generator QCiL Response Notice Information Request.

(H) The CfD Counterparty may, by notice to the Generator during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Supporting Information delivered under Clause 29.4(G) and during the thirty (30) Business Day period, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of any Revised Generator QCiL Response Information, request the Generator to provide to the CfD Counterparty such further Supporting Information in relation to that Generator QCiL Response or, as the case may be, the Revised Generator QCiL Response Information (a "**Further Generator QCiL Response Notice Information Request**") as the CfD Counterparty reasonably requires for the purposes of determining whether or not it approves the matters which are the subject of the Generator QCiL Response Notice.

(I) If the CfD Counterparty gives a Further Generator QCiL Response Notice Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the further Supporting Information provided in response to such Further Generator QCiL Response Notice Information Request.

(J) The CfD Counterparty shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Generator QCiL Response Notice, or, if it has given a Generator QCiL Response Notice

Information Request to the Generator and not also given a Further Generator QCiL Response Notice Information Request, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after the receipt of the further Supporting Information requested in the relevant Generator QCiL Response Notice Information Request or, if it has given a Further Generator QCiL Response Notice Information Request to the Generator, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Further Generator QCiL Response Notice Information Request, notify the Generator whether or not it approves the matters which are the subject of the Generator QCiL Response Notice, and, where the CfD Counterparty does not approve the matters which are the subject of that notice, it shall give the Generator reasons in support.

(K) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Generator QCiL Response Notice within the relevant period specified in Clause 29.4(J) the matters which are the subject of the Generator QCiL Response Notice shall be deemed not to be agreed.

29.5 **Disputes in respect of a Qualifying Change in Law**

(A) Subject to Clause 29.1(G) (*Generator QCiL Initial Assessment Notice*), if the CfD Counterparty does not give a notice in accordance with Clause 29.2(J) (*Generator QCiL Notice*) or Clause 29.4(J) (*Generator QCiL Response Notice*), as applicable, or if the Generator and the CfD Counterparty are not able to agree any of the matters which are the subject of a Generator QCiL Notice or a Generator QCiL Response Notice (including in relation to any Supporting Information in connection with such notices) or any adjustments or payments resulting from the provisions of this Clause 29 or Clauses 30 (*Qualifying Change in Law: Compensation*) to 34 (*Qualifying Change in Law: General Provisions*) (inclusive), as the case may be, either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be determined by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

(B) Until the Generator and the CfD Counterparty agree the matters which are the subject of a Generator QCiL Notice or a Generator QCiL Response Notice, as the case may be, in respect of a Notified Change in Law or the Dispute has been determined in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no QCiL Compensation payable in respect of such Notified Change in Law.

30. QUALIFYING CHANGE IN LAW: COMPENSATION

30.1 QCiL Compensation

(A) Any and all QCiL Compensation shall be calculated in accordance with this Clause 30 and shall be payable in accordance with, and subject to, Clauses 31 (*Qualifying Change in Law: Materiality Thresholds*), 32 (*Qualifying Change in Law: Effective Date and Payment*), 33 (*Qualifying Change in Law: Cost Review*) and 34 (*Qualifying Change in Law: General Provisions*).

(B) If QCiL Compensation is payable, the CfD Counterparty may, save where expressly stated otherwise (and, for the avoidance of doubt, subject to Clause 1.11 (*Payment methods and Trigger Events*)), in its discretion make that payment or require that payment to be made by means of a Series of Payments and/or a single lump sum payment and/or a Strike Price Adjustment.

(C) In respect of a Series of Payments, the CfD Counterparty may (after consultation with the Generator) determine the frequency of such payments provided that (unless the Parties agree otherwise in writing, and in any event subject to Clause 78.2 (*Limited recourse*)) (i) the payments shall be made at intervals of one (1) year or less; and (ii) any final staged payment shall be made by the end of the Term.

(D) If a Qualifying Change in Law occurs with respect to one or both Reactors:

(i) which gives rise to or results in (1) QCiL Capital Costs; (2) QCiL Operating Costs; and/or (3) an Adjusted Output Period, where generation output from the Facility or the Reactors or either of them is reduced, or any combination of the foregoing; and

(ii) the amount of QCiL Compensation that would otherwise be payable in respect of the estimated QCiL Capital Costs, QCiL Operating Costs and/or the Adjusted Output Period is greater than the estimated aggregate amount of compensation that the CfD Counterparty (acting reasonably) considers would be payable as Final Investor Shutdown Payment(s) (in respect of the relevant event),

the CfD Counterparty shall have the right, but not the obligation, to terminate this Agreement upon notice to the Generator and, if it elects to do so, the amount payable in respect of the Qualifying Change in Law shall be (i) limited to that set out in the Secretary of State Investor Agreement (in respect of the relevant event), such payment shall be made in accordance with the Secretary of State Investor Agreement and no payment shall be payable by the CfD Counterparty under this Agreement in respect of such Qualifying Change in Law or such termination; and (ii) without prejudice to the obligation of the CfD Counterparty to make any Lender Shutdown Payment to the Financing Representative in accordance with the Secretary of State Investor Agreement.

30.2 **QCiL Capex Payment**

(A) A QCiL Capex Payment shall be calculated and payable if a Qualifying Change in Law (other than a Change in Regulatory Basis) occurs which gives rise to or results in QCiL Capital Costs and/or QCiL Capital Savings in respect of the Project.

(B) If the QCiL Capex Payment is positive, the CfD Counterparty shall pay such amount to the Generator, which the CfD Counterparty may, in its discretion, elect to pay by way of an increase in the Strike Price and/or a Series of Payments and/or a single lump sum payment.

(C) If the QCiL Capex Payment is negative, the Generator shall pay such amount to the CfD Counterparty, which the CfD Counterparty may, in its discretion, elect to receive by way of a reduction in the Strike Price and/or a Series of Payments and/or a single lump sum payment.

(D) If the QCiL Capex Payment is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation of the Facility or, as the case may be, the affected Reactor, for the remainder of the Term as Discounted to Present Value as at the QCiL Calculation Base Date using the Compensation Calculation Discount Rate, which, if applicable, shall be the same Compensation Calculation Discount Rate as used under paragraph (A)(ii)(a) of the definition of "QCiL Capex Payment" in Clause 1.1 (*Definitions*).

30.3 **QCiL Opex Payment**

(A) A QCiL Opex Payment shall be calculated and payable if a Qualifying Change in Law (other than a Change in Regulatory Basis) occurs which gives rise to or results in QCiL Operating Costs and/or QCiL Operating Savings in respect of the Project.

(B) If the QCiL Opex Payment is positive, the CfD Counterparty shall pay such amount to the Generator, which the CfD Counterparty may, in its discretion, elect to pay by way of an increase in the Strike Price and/or a Series of Payments and/or a single lump sum payment.

(C) If the QCiL Opex Payment is negative, the Generator shall pay such amount to the CfD Counterparty, which the CfD Counterparty may, in its discretion, elect to receive by way of a reduction in the Strike Price and/or a Series of Payments and/or a single lump sum payment.

(D) If the QCiL Opex Payment is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation of the Facility or, as the case may be, the affected Reactor, for the remainder of the Term as Discounted to Present Value as at the QCiL Calculation Base Date using the Compensation Calculation Discount Rate, which, if applicable, shall be the same Compensation Calculation

Discount Rate as used under paragraph (A)(ii)(a) of the definition of "QCiL Opex Payment" in Clause 1.1 (*Definitions*).

30.4 **QCiL Adjusted Revenues Payment**

(A) A QCiL Adjusted Revenues Payment shall be calculated and payable if an Adjusted Output Period occurs.

(B) Subject to Clause 30.4(D), if the QCiL Adjusted Revenues Payment is positive, the CfD Counterparty shall pay such amount to the Generator, which the CfD Counterparty may, in its discretion, elect to pay by way of an increase in the Strike Price and/or a Series of Payments and/or a single lump sum payment.

(C) Subject to Clause 30.4(D), if the QCiL Adjusted Revenues Payment is negative, the Generator shall pay such amount to the CfD Counterparty, which the CfD Counterparty may, in its discretion, elect to receive by way of a reduction in the Strike Price and/or a Series of Payments and/or a single lump sum payment.

(D) A QCiL Adjusted Revenues Payment in relation to a QCiL Start Date Delay shall be calculated and payable by Daily Payments from the first day of the relevant Adjusted Output Period.

(E) If the QCiL Adjusted Revenues Payment is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation of the Facility or, as the case may be, the affected Reactor, for the remainder of the Term as Discounted to Present Value as at the QCiL Calculation Base Date, which, if applicable, shall be the same Compensation Calculation Discount Rate as used under paragraph (A) of the definition of "QCiL Adjusted Revenues Payment" in Clause 1.1 (*Definitions*).

(F) If the QCiL Adjusted Revenues Payment is to be paid by way of Daily Payments, those Daily Payments shall be calculated in accordance with the following formula:

$$Daily\ Payment = ARP \times \frac{R_d}{1 - \frac{1}{(1 + R_d)^N}} \times \frac{CPI_t}{CPI_q}$$

where:

ARP is the QCiL Adjusted Revenues Payment (lump sum);

R_d is the Daily Discount Rate;

N is the duration, in days, of the Adjusted Output Period as determined in accordance with Clause 33.1 (*Qualifying Change in Law: Cost Review*);

CPI_t denotes the CPI of the relevant calendar year used in calculating the Inflation Factor at the Indexation Anniversary immediately preceding the Billing Period (t); and

CPI_q denotes the CPI of the relevant calendar year used in calculating the Inflation Factor at the Indexation Anniversary immediately preceding the QCiL Calculation Base Date,

and, in each case, for the avoidance of doubt, taking into account any rebasing of the relevant index.

30.5 **Change in Regulatory Basis Payment**

(A) A Change in Regulatory Basis Payment shall be calculated and payable if a Change in Regulatory Basis occurs which gives rise to or results in out-of-pocket costs incurred or savings made by the Generator implementing a sacrifice required for risk reduction or a risk reduction option in relation to one or both Reactors before, on or after the Start Date of either Reactor.

(B) If the Change in Regulatory Basis Payment is positive, the CfD Counterparty shall pay such amount to the Generator, which the CfD Counterparty may, in its discretion, elect to pay by way of an increase in the Strike Price and/or a Series of Payments and/or a single lump sum payment.

(C) If the Change in Regulatory Basis Payment is negative, the Generator shall pay such amount to the CfD Counterparty, which the CfD Counterparty may, in its discretion, elect to receive by way of a reduction in the Strike Price and/or a Series of Payments and/or a single lump sum payment.

(D) If the Change in Regulatory Basis Payment is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation of the Facility or, as the case may be, the affected Reactor, for the remainder of the Term as Discounted to Present Value as at the QCiL Calculation Base Date using the Compensation Calculation Discount Rate, which, if applicable, shall be the same Compensation Calculation Discount Rate as used under paragraph (B)(i) of the definition of "Change in Regulatory Basis Payment" in Clause 1.1 (*Definitions*).

30.6 **Combinations of Qualifying Change in Law Compensation**

(A) Subject to Clause 30.6(B), if a Qualifying Change in Law occurs which gives rise to or results in more than one type of QCiL Compensation, all shall be payable as applicable.

(B) If a Qualifying Change in Law gives rise to a QCiL Capex Payment, QCiL Opex Payment, QCiL Adjusted Revenues Payment (other than in relation to a QCiL Start Date Delay which shall be calculated and payable by Daily Payments in accordance with Clause 30.4(D) (*QCiL Adjusted Revenues Payment*)) or a Change in Regulatory Basis Payment, or any combination of the foregoing, that

are payable on the same date, there shall be calculated a net amount in respect of all the foregoing and only the net amount of all such payments shall be payable.

31. QUALIFYING CHANGE IN LAW: MATERIALITY THRESHOLDS

(A) No compensation shall be payable under this Part 10:

(i) in respect of any individual Notified Change in Law if the QCiL Compensation calculated in accordance with this Part 10 is less than (subject as provided in Clause 31(B)) three million pounds (£3,000,000) in respect of such Notified Change in Law;

(ii) in the case of compensation payable to the Generator, unless and until the aggregate amount of all QCiL Compensation that would otherwise be payable to it in respect of all Notified Changes in Law (taking no account of any Notified Changes in Law referred to in Clause 31(A)(i) and net of any QCiL Compensation payable by the Generator to the CfD Counterparty) exceeds (subject as provided in Clause 31(B)) fifty million pounds (£50,000,000) provided that once the aggregate amount of all such QCiL Compensation that would otherwise be payable to the Generator has exceeded such sum, the full amount of such QCiL Compensation shall be payable and not only the amount of the excess; and

(iii) in the case of compensation payable to the CfD Counterparty, unless and until the aggregate amount of all QCiL Compensation that would otherwise be payable to it in respect of all Notified Changes in Law (taking no account of any Notified Changes in Law referred to in Clause 31(A)(i) and net of any QCiL Compensation payable by the CfD Counterparty to the Generator) exceeds (subject as provided in Clause 31(B)) fifty million pounds (£50,000,000) provided that once the aggregate amount of all such QCiL Compensation that would otherwise be payable to the CfD Counterparty has exceeded such sum, the full amount of such QCiL Compensation shall be payable and not only the amount of the excess.

(B) The sums referred to in Clause 31(A) are expressed in Base Year Terms and will be indexed on the Agreement Date and each anniversary thereafter by reference to the Reference CPI.

(C) For the avoidance of doubt, any QCiL Costs that have been taken into account in calculating an Opex Adjustment Amount shall be disregarded and not taken into account for the purposes of determining whether the thresholds referred to in Clause 31(A) have been exceeded.

32. QUALIFYING CHANGE IN LAW: EFFECTIVE DATE AND PAYMENT

(A) All QCiL Compensation in respect of a Notified Change in Law shall be calculated as at and be effective from the QCiL Calculation Base Date. A QCiL Adjusted Revenues Payment in relation to a QCiL Start Date Delay shall be calculated and

payable by Daily Payments from the first day of the relevant Adjusted Output Period.

(B) Any QCiL Compensation validly effected as a Strike Price Adjustment shall be accounted for in the Billing Statement(s) for each Billing Period or other period on and with effect from the date which is the last to occur of:

(i) the QCiL Calculation Base Date;

(ii) in the case of a QCiL Opex Payment only, the Reactor One Start Date;

(iii) the date on which the amount of the QCiL Compensation is agreed or determined; and

(iv) the date on which the relevant aggregate threshold amount of all QCiL Compensation referred to in Clause 31(A)(ii) or 31(A)(iii) (*Qualifying Change in Law: Materiality Thresholds*) is exceeded.

(C) Any QCiL Compensation effected as a Series of Payments, and/or a single lump sum payment shall commence or be made within twenty (20) Business Days after the date which is the last to occur of:

(i) the QCiL Calculation Base Date;

(ii) the date on which the amount of the QCiL Compensation is agreed or determined; and

(iii) the date on which the relevant aggregate threshold amount of all QCiL Compensation referred to in Clause 31(A)(ii) or Clause 31(A)(iii) (*Qualifying Change in Law: Materiality Thresholds*) is exceeded.

(D) If the Generator and the CfD Counterparty are not able to agree any of the matters relating to QCiL Compensation (including matters relating to a cost review pursuant to Clause 33 (*Qualifying Change in Law: Cost Review*)) either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

33. QUALIFYING CHANGE IN LAW: COST REVIEW

33.1 The Parties acknowledge that the QCiL Compensation calculations in respect of:

(A) QCiL Capital Costs or QCiL Capital Savings;

(B) QCiL Operating Costs or QCiL Operating Savings;

(C) Change in Regulatory Basis Costs; and/or

(D) any Adjusted Output Period,

will be based on estimated QCiL Capital Costs or QCiL Capital Savings and/or QCiL Operating Costs or QCiL Operating Savings and/or Change in Regulatory Basis Costs and/or the estimated impact and duration of the Adjusted Output Period, including the Estimated Facility Generation and any QCiL Start Date Delay, as the case may be, save for amounts incurred prior to the CfD Counterparty giving a CfD Counterparty QCiL Notice to the Generator under Clause 29.3 (*CfD Counterparty QCiL Notice*) or the Generator giving a Generator QCiL Notice to the CfD Counterparty under Clause 29.2 (*Generator QCiL Notice*), as the case may be, which, subject to Clause 69 (*General Mitigation and Compensation*) will be based on actual costs incurred by the Generator and the actual duration of any Adjusted Output Period undertaken.

33.2 In each of the cases under Clause 33.1 (*Qualifying Change in Law: Cost Review*) either Party may give the other notice requiring a cost review exercise to be carried out in accordance with the following principles:

(A) the Generator shall provide the CfD Counterparty with:

(i) details of the estimated QCiL Capital Costs or QCiL Capital Savings and/or QCiL Operating Costs or QCiL Operating Savings and/or Change in Regulatory Basis Costs and/or the estimated impact and duration of the Adjusted Output Period including the Estimated Facility Generation and any QCiL Start Date Delay, as the case may be, including Supporting Information as is reasonably requested by the CfD Counterparty (and including the scope of work envisaged and the assumptions made) underlying the relevant estimate(s); and

(ii) a Directors' Certificate in relation to all such information provided;

(B) within twelve (12) months of the Generator incurring the relevant actual costs or, in the case of a recurring cost, within twelve (12) months of the Generator first incurring such costs (as notified by the Generator to the CfD Counterparty which it undertakes to do as soon as reasonably practicable after the costs have been incurred), the CfD Counterparty shall have the right to review the actual outturn costs against the information provided under Clause 33.2(A). The Generator shall provide the CfD Counterparty with all information as is reasonably requested regarding such actual costs, together with a Directors' Certificate in relation to all such information provided; and

(C) if the information as to the scope of work or the assumptions made for the work and underlying the relevant estimate(s) provided under Clause 33.2(A) (but not, for the avoidance of doubt, the estimates themselves) is false or misleading and the actual outturn costs relating to that false or misleading information are lower than the estimated costs for which compensation has already been paid, the Generator shall repay to the CfD Counterparty an amount equal to the difference between the QCiL Compensation paid and the actual outturn costs.

34. QUALIFYING CHANGE IN LAW: GENERAL PROVISIONS

34.1 Indemnity

The Generator shall promptly on demand from time to time indemnify the CfD Counterparty, and keep the CfD Counterparty fully and effectively indemnified, against any and all out-of-pocket costs reasonably and properly incurred by the CfD Counterparty (excluding, for the avoidance of doubt, any amounts of QCiL Compensation payable by the CfD Counterparty) and which would not have been incurred but for a Generator QCiL Notice having been given. The preceding sentence of this Clause 34.1 shall not apply in respect of any such costs resulting from the CfD Counterparty having disputed that a Qualifying Change in Law has occurred if a resolution or determination to the contrary is made pursuant to the Dispute Resolution Procedure.

34.2 Excluded Change in Law

Save as provided by Clause 35 (*Change in Applicable Law: Procedure*) or as otherwise expressly provided in this Agreement, there shall be no amendment to this Agreement, Strike Price Adjustment or other compensation in respect of or on account of any Excluded Change in Law.

34.3 Interaction with Generation Tax

(A) Any compensation paid or payable (whether by means of a Strike Price Adjustment or otherwise) under Part 11 (*Generation Tax*) shall be taken into account in calculating the amount of any compensation payable (in whatever form) under this Part 10 in respect of the same subject matter so as to avoid double recovery, and in no event shall compensation payable in respect of any matter which gives rise to a claim under this Part 10 in so far as it relates to any QCiL Tax Liability that is in respect of the same subject matter as a Generation Tax Liability exceed an amount equal to the greater of the QCiL Tax Liability and the Generation Tax Liability in question.

(B) If at any time there is a Qualifying Change in Law which could give rise to any extent to compensation under the provisions of both this Part 10 and Part 11 (*Generation Tax*), the Generator shall notify the CfD Counterparty of that fact and shall provide such Supporting Information to the CfD Counterparty as the CfD Counterparty may reasonably request in order to assess the interaction of the application of the provisions of this Part 10 and of Part 11 (*Generation Tax*) to the subject matter in question.

35. CHANGE IN APPLICABLE LAW: PROCEDURE

35.1 Requirement to undertake a CiAL Review

(A) The CfD Counterparty shall conduct a CiAL Review if:

(i) it determines that:

(a) any Change in Applicable Law: (1) has been implemented, has occurred or has become effective; or (2) is expected to be implemented, to occur or to become effective; and

(b) as a result of such Change in Applicable Law being implemented, occurring or becoming effective, one (1) or more of the Required CiL Amendment Objectives will cease to be met; or

(ii) the Generator has given the CfD Counterparty a CiAL Request Notice,

(each, a "**CiAL Review Trigger**").

(B) If the Generator considers that:

(i) any Change in Applicable Law: (a) has been implemented, has occurred or has become effective; or (b) is expected to be implemented, to occur or to become effective; and

(ii) as a result of such Change in Applicable Law being implemented, occurring or becoming effective, one (1) or more of the Required CiL Amendment Objectives will cease to be met,

the Generator may give a CiAL Request Notice to the CfD Counterparty.

(C) A CiAL Request Notice:

(i) shall be prepared at the cost and expense of the Generator;

(ii) shall specify why, and the date on which, the Generator considers that a Change in Applicable Law: (a) has been implemented, has occurred or has become effective; or (b) is expected to be implemented, occur or become effective;

(iii) shall specify why the Generator considers that the Change in Applicable Law results or will result in one (1) or more of the Required CiL Amendment Objectives ceasing to be met;

(iv) may set out the Generator's opinion of the Required CiL Amendment(s); and

(v) shall include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing.

35.2 **Notification of CiAL Review**

(A) If the CfD Counterparty is required to undertake a CiAL Review pursuant to Clause 35.1(A)(i) (*Requirement to undertake a CiAL Review*), the CfD Counterparty shall give a CiAL Review Notice to the Generator.

(B) A CiAL Review Notice shall specify:

(i) the CiAL Review Trigger which has occurred; and

(ii) a deadline by which the Generator must provide a CiAL Review Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the CiAL Review Notice is received by the Generator (the "**CiAL Review Response Deadline**").

(C) The Generator shall, as soon as reasonably practicable and not later than the CiAL Review Response Deadline, give a CiAL Review Response Notice to the CfD Counterparty.

(D) A CiAL Review Response Notice:

(i) shall include all of the Supporting Information which the Generator wishes the CfD Counterparty to take account of in undertaking the CiAL Review; and

(ii) may set out the Generator's opinion of the Required CiL Amendment(s).

(E) The CfD Counterparty may disregard any CiAL Review Response Notice received by the CfD Counterparty after the CiAL Review Response Deadline.

35.3 **Notification of outcome of CiAL Review**

(A) The CfD Counterparty shall give a CiAL Review Outcome Notice to the Generator as soon as reasonably practicable following the conclusion of a CiAL Review.

(B) A CiAL Review Outcome Notice shall:

(i) be prepared at the cost and expense of the CfD Counterparty;

(ii) set out the outcome of the CiAL Review and, if applicable, the Required CiL Amendments; and

(iii) specify the date from which such Required CiL Amendments are to take effect.

36. CHANGE IN APPLICABLE LAW: DISPUTE PROCESS

36.1 **Procedure for raising a Dispute**

(A) The Generator may (at its own cost and expense), within twenty (20) Business Days after receipt of a CiAL Review Outcome Notice, if it wishes to raise a Dispute in relation to the outcome of such CiAL Review (a "**CiAL Dispute**"), give a CiAL Dispute Notice to the CfD Counterparty.

(B) A CiAL Dispute Notice shall comply with the requirements of a Dispute Notice as specified in Clauses 62.3(A)(i) to 62.3(A)(vi) (*Outline of Dispute Resolution Procedure*) (inclusive).

36.2 **CiAL Dispute Response Notices**

(A) The CfD Counterparty shall give a CiAL Dispute Response Notice to the Generator within ten (10) Business Days after receipt of a CiAL Dispute Notice.

(B) A CiAL Dispute Response Notice shall:

(i) be prepared at the cost and expense of the CfD Counterparty;

(ii) include a proposal as to the identity, and terms of reference, of an Expert to determine the CiAL Dispute (the "**Proposed CiAL Expert**") and details of the relevant expertise that the CfD Counterparty considers qualifies him to determine such CiAL Dispute (being a person fulfilling the requirements of Clause 64.2 (*Expert Determination Procedure*) and having no conflict of interest which prevents him from determining the CiAL Dispute);

(iii) comply with the requirements of an Expert Determination Notice as specified in Clause 64.1 (*Expert Determination Procedure*); and

(iv) if applicable, comply with the requirements of a Consolidation Notice as specified in Clause 66.2 (*Consolidation of Connected Disputes*).

36.3 **Permitted bases of Dispute: CiAL Review**

The Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any CiAL Review if there is a manifest error or fraud in any determination by the CfD Counterparty as to:

(A) the outcome of the CiAL Review; or

(B) the Required CiL Amendments,

in each case contained within the CiAL Review Outcome Notice, and any CiAL Dispute Notice which is based upon grounds other than those specified in this Clause 36.3 shall be invalid and of no effect.

36.4 **Resolution of valid CiAL Disputes**

(A) If the relevant CiAL Dispute complies with Clause 36.3 (*Permitted bases of Dispute: CiAL Review*), such CiAL Dispute shall be finally resolved in accordance with Clause 36.4(B).

(B) If Clause 36.4(A) applies to any CiAL Dispute:

(i) Clause 63 (*Resolution by Senior Representatives*) shall not apply to such CiAL Dispute;

(ii) the Arbitration Procedure shall not apply to such CiAL Dispute;

(iii) the Generator agrees not to raise any objection to any consolidation of such CiAL Dispute in accordance with Clause 66 (*Consolidation of Connected Disputes*);

(iv) the Expert Determination Procedure shall apply to such CiAL Dispute on the basis that:

(a) if within ten (10) Business Days after receipt of a CiAL Dispute Response Notice the Generator has consented, or not objected in writing, to both the identity and the terms of reference of the Proposed CiAL Expert, the CfD Counterparty shall be deemed to have satisfied the requirements of, and have given an Expert Determination Notice pursuant to, Clause 64.1 (*Expert Determination Procedure*) and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed CiAL Expert;

(b) if the Generator has objected in writing to either the identity or the terms of reference of the Proposed CiAL Expert, the CfD Counterparty may within ten (10) Business Days thereafter, either:

(1) make an alternative proposal as to the identity and the terms of reference of an Expert to determine the CiAL Dispute; or

(2) (i) request the LCIA to nominate an Expert for the purposes of determining the CiAL Dispute in accordance with Clause 64.4 (*Expert Determination Procedure*); and (ii) following such nomination by the LCIA, the CfD Counterparty shall make an alternative proposal as to the terms of reference of such Expert to determine the CiAL Dispute,

and, in each case, Clauses 36.2(B)(i) (*CiAL Dispute Response Notices*), 36.4(B)(iv)(a) and this Clause 36.4(B)(iv)(b) shall apply, with the necessary modifications, to such proposed Expert as if he were a Proposed CiAL Expert. The identity and the terms of reference of the Proposed CiAL Expert shall be determined by the CfD Counterparty in its sole and absolute discretion (after having regard to any submissions presented by the Generator) and any such determination shall be final and binding on the Parties, provided that the terms of reference shall be sufficiently

broad to enable the Expert to determine the Proposed CiAL Dispute;

(c) if the CfD Counterparty and the Generator fail to agree the terms of appointment of the Expert within ten (10) Business Days after the CfD Counterparty and the Generator have agreed the identity and terms of reference of an Expert in accordance with Clause 36.4(B)(iv)(a) or 36.4(B)(iv)(b), as applicable, such matter shall be determined by the CfD Counterparty in its sole and absolute discretion (after having regard to any submissions presented by the Generator) and any such determination shall be final and binding on the Parties; and

(d) if the circumstances described in Clause 64.8 (*Expert Determination Procedure*) arise, Clauses 36.2(B)(i) (*CiAL Dispute Response Notices*), 36.4(B)(iv)(a) and 36.4(B)(iv)(b) shall apply, with the necessary modifications, to the appointment of a replacement Expert.

36.5 **Provisions applying pending resolution of a CiAL Dispute**

If there is a valid CiAL Dispute requiring resolution in accordance with the provisions of Clauses 36.4(A) (*Resolution of valid CiAL Disputes*) and 36.4(B) (*Resolution of valid CiAL Disputes*) then, pending resolution of such CiAL Dispute, there shall be no amendments or supplements to this Agreement as a result of the Change in Applicable Law.

37. CHANGE IN APPLICABLE LAW: GENERAL PROVISIONS

(A) The occurrence of a Change in Applicable Law that has the result of one (1) or more of the Required CiL Amendment Objectives ceasing to be met shall not:

(i) constitute a Payment Disruption Event for the purposes of this Agreement; or

(ii) provide either Party the right to suspend or terminate its obligations under this Agreement,

provided that this Clause 37(A) shall not preclude a Change in Applicable Law from constituting Force Majeure.

(B) Subject to the provisions of Clause 35 (*Change in Applicable Law: Procedure*), Clause 36 (*Change in Applicable Law: Dispute Process*) and this Clause 37, the Parties shall be relieved from liability, and deemed not to be in breach of this Agreement for any failure or delay in the performance under this Agreement if and to the extent such failure or delay is directly attributable to the occurrence and continuation of a Change in Applicable Law, provided that nothing in Clause 35 (*Change in Applicable Law: Procedure*), Clause 36 (*Change in Applicable Law: Dispute Process*) or this Clause 37 shall relieve a Party from any obligation to pay any sum due and payable to the other Party pursuant to this

Agreement (whether pursuant to an obligation to pay, indemnity or costs reimbursement provision or otherwise).

(C) Any costs and expenses, or risks, arising from a Change in Applicable Law which are not of a type provided for in this Agreement are not intended by the provisions of Clause 35 (*Change in Applicable Law: Procedure*), Clause 36 (*Change in Applicable Law: Dispute Process*) or this Clause 37 to be allocated to one Party; and any such costs and expenses, or risks, shall be borne by the affected Party.

Part 11
Generation Tax

38. GENERATION TAX: PROCEDURE

38.1 Generator GT Notice

(A) If the Generator considers that a Generation Tax Change in Law:

(i) has been implemented, occurred or become effective (or is shortly to be implemented, to occur or to become effective); and

(ii) will or, as the case may be, is likely to give rise to a Generation Tax Liability,

it may give a Generator GT Notice to the CfD Counterparty.

(B) A Generator GT Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) include reasonable details of the relevant Generation Tax Change in Law;

(iii) specify the applicable Generation Tax Effective Date or the expected Generation Tax Effective Date;

(iv) specify:

(a) why the Generator considers that the relevant Generation Tax Change in Law will or is likely to give rise to a Generation Tax Liability; and

(b) the amount of the Generation Tax Liability (or the Generator's honest and diligent estimate of such amount); and

(v) include such Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of the foregoing.

(C) Any Generator GT Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Generator GT Notice.

(D) If the Generator becomes aware before a GT Strike Price Adjustment is agreed or determined, or paid, commenced or effected pursuant to Clause 39.1 (*GT Strike Price Adjustment*) that the information contained in, or enclosed with, the Generator GT Notice is not, or ceases to be, in all material respects true, complete and accurate or is, or becomes, misleading in a material respect the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised Generator GT Information**"), together with a Directors' Certificate in relation to the Revised Generator GT Information.

(E) The CfD Counterparty shall be under no obligation to consider or take any action in response to a Generator GT Notice unless and until the Generator shall have provided the CfD Counterparty with all of the Supporting Information, and the Directors' Certificate referred to in Clauses 38.1(B) and 38.1(C) respectively.

(F) The CfD Counterparty may, by notice to the Generator on one occasion within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Generator GT Notice or any Revised Generator GT Information, request the Generator to provide such Supporting Information in relation to that Generator GT Notice or, as the case may be, the Revised Generator GT Information (a "**Further Generator GT Information Request**") as the CfD Counterparty reasonably requires.

(G) If the CfD Counterparty gives a Further Generator GT Information Request to the Generator, the Generator shall, within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver to the CfD Counterparty:

(i) such further Supporting Information; and

(ii) a Directors' Certificate in relation to the Supporting Information provided.

(H) The CfD Counterparty shall, within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Generator GT Notice or, if it has given a Further Generator GT Information Request to the Generator, within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Further Generator GT Information Request, notify the Generator whether or not it approves the matters which are the subject of Generator GT Notice, and, where the CfD Counterparty does not approve the matters which are the subject of that notice, it shall give the Generator reasons in support.

(I) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Generator GT Notice within the period specified in Clause 38.1(H), the CfD Counterparty will be deemed to have not agreed the matters which are the subject of that notice.

38.2 **Disputes in relation to Generation Tax Preliminary Matters**

(A) If the Generator and the CfD Counterparty are not able to agree the matters which are the subject of the Generation Tax Preliminary Matters or related matters (including Supporting Information), either the Generator or the CfD Counterparty

may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be determined by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

(B) Until the Generator and the CfD Counterparty agree the matters which are the subject of the Generation Tax Preliminary Matters in respect of a Generation Tax Change in Law or the Dispute has been determined in accordance with the Arbitration Procedure or the Expert Determination Procedure, as the case may be, there shall be no appointment of any Energy Consultant in respect of such Generation Tax Change in Law unless Clause 38.3 (*CfD Counterparty GT Notice*) applies.

38.3 **CfD Counterparty GT Notice**

(A) If the CfD Counterparty considers that a Generation Tax Change in Law has been implemented, occurred or become effective, it may give a CfD Counterparty GT Notice to the Generator.

(B) A CfD Counterparty GT Notice shall:

(i) be prepared at the cost and expense of the CfD Counterparty;

(ii) include reasonable details of the relevant Generation Tax Change in Law; and

(iii) specify the applicable Generation Tax Effective Date or expected Generation Tax Effective Date.

38.4 **Appointment of Energy Consultant**

(A) If:

(i) the CfD Counterparty gives a CfD Counterparty GT Notice to the Generator;

(ii) the CfD Counterparty and the Generator agree the Generation Tax Preliminary Matters; or

(iii) any Dispute (other than merely as to whether the Generator has submitted all information required for the Generation Tax Preliminary Matters) with respect to the Generation Tax Preliminary Matters is resolved or determined as provided in Clause 38.2(A) (*Disputes in relation to Generation Tax Preliminary Matters*) and, further to such resolution or determination, it is resolved or determined that a Generation Tax Change in Law has been implemented, occurred or become effective (or is shortly to be implemented, to occur or to become effective) and that the Generation Tax Effective Date has occurred or, as the case may be, will occur (the "**GT Dispute Determination**"),

the CfD Counterparty shall:

(a) in the case of Clause 38.4(A)(i), no later than ninety (90) days after the later of: (1) the date on which the CfD Counterparty gives the relevant CfD Counterparty GT Notice to the Generator, and (2) the relevant Generation Tax Effective Date; and

(b) in the case of Clause 38.4(A)(ii) or 38.4(A)(iii), no later than ninety (90) days after the later of: (1) the date on which the CfD Counterparty and the Generator agree the Generation Tax Preliminary Matters or, as the case may be, the GT Dispute Determination is made, and (2) the relevant Generation Tax Effective Date,

in each case, at its own cost and expense, appoint an Energy Consultant and instruct the Energy Consultant in accordance with this Clause 38.4(A) to prepare the Generation Tax Reports, provided that the CfD Counterparty shall not be required to appoint or instruct an Energy Consultant under this Clause 38.4(A) if the CfD Counterparty has already appointed and instructed (or proposes shortly to, and does in fact, appoint and instruct) an Energy Consultant to prepare a Generation Tax Report in respect of the relevant Generation Tax Change in Law pursuant to the terms of another FiT Contract for Difference, and provided further that in relation to any particular Generation Technology the CfD Counterparty shall not be required to appoint or instruct an Energy Consultant under this Clause 38.4(A) or pursuant to the terms of another FiT Contract for Difference in the circumstances set out in Clause 40.1 (*Reversal of GT Strike Price Adjustment*).

If the CfD Counterparty fails to appoint or instruct an Energy Consultant as required above, the Generator may apply to the President of the Institute of Chartered Accountants in England and Wales to appoint the Energy Consultant to perform this role and the CfD Counterparty shall pay or reimburse the Generator for the cost of applying to the President to make such appointment.

(B) Any Energy Consultant shall be instructed to determine:

(i) in respect of a Preliminary Generation Tax Report:

(a) the change(s) or estimated change(s) (if any) to each FiT Market Reference Price, expressed in £/MWh or in or by such other manner, method or formulation as the Energy Consultant shall see fit, for each relevant period by reason and to the extent of electricity generators who are not party to FiT Contracts for Difference passing through all or some of the Generation Tax Liability incurred by them (and, for this purpose, references to the Generator in the definition of Generation Tax Liability shall be construed as being references to those other electricity generators) to the wholesale price for electricity that is referable to the FiT Market Reference Prices;

(b) the consequential change(s) (if any) for each such period that will need to be made to the Strike Prices used in FiT Contracts for Difference for each particular Generation Technology and/or electricity generation project, as the Energy Consultant considers appropriate, to reflect the change(s) to each FiT Market Reference Price referred to in Clause 38.4(B)(i)(a); and

(c) if applicable, the date with effect from which each such consequential change is to be made, which may be on, before or after the Generation Tax Effective Date; and

(ii) in respect of a Final Generation Tax Report, the change(s) or estimated change(s) (if any) to any of the determinations made by the Energy Consultant in the relevant Preliminary Generation Tax Report.

(C) The Energy Consultant shall be instructed not to disclose commercially confidential information to any other person unless required by applicable law or by the rules of any applicable regulatory, governmental or supervisory organisation or such disclosure is to such an organisation.

(D) For the purposes of making its determination under Clause 38.4(B), the Energy Consultant shall be instructed to take into account the following:

(i) the FiT Market Reference Prices before and after the Generation Tax Change in Law (including such forward pricing of the relevant FiT Market Reference Prices as the Energy Consultant shall consider relevant and appropriate);

(ii) any such changes in the FiT Market Reference Prices that are due to any increase or decrease in the operating costs, expenses or revenues of electricity generators selling into the markets from which the FiT Market Reference Prices are derived which has been passed into those prices but which is not referable to the Generation Tax Change in Law, including:

(a) the cost of fuel and other consumables;

(b) the carbon price floor on non-oil fossil fuels introduced by amendment of Schedule 6 to the Finance Act 2000 by the Finance Act 2013 (or any successor to such carbon price floor);

(c) any other Tax; and

(d) labour costs, insurance costs, business rates, transmission and balancing services charges, exchange rate changes, costs of capital and inflation;

(iii) any change in the dispatch regime of electric generating facilities before and after the Generation Tax Change in Law;

(iv) any price controls, revenue restrictions, constraints or other limitations imposed by Law or a Competent Authority on electricity generators intended to prevent or limit the pass-through to the market price for electricity of the cost to generators of any Generation Tax Change in Law; and

(v) such other fact-based evidence as the Energy Consultant in its professional judgment, opinion and experience shall determine to be relevant,

and otherwise use its professional judgment, discretion and experience in making its determination under Clause 38.4(B).

(E) For the purposes of making a determination under Clause 38.4(B), the Energy Consultant shall be entitled to:

(i) request the Parties or either of them to provide such Supporting Information in relation to the relevant Generation Tax Report (a "**Generation Tax Information Request**") as the Energy Consultant reasonably requires, and, if the Energy Consultant gives a Generation Tax Information Request to one or both Parties, the Party(ies) shall, within ten (10) Business Days, or such other period as is specified by the Energy Consultant, after receipt of the request, prepare and deliver such Supporting Information to the Energy Consultant; and

(ii) take into account:

(a) any Supporting Information provided by one or both Parties in accordance with Clause 38.4(E)(i); and

(b) any financial modelling, data or other submissions provided by any interested party (including any Government Entity, UK Competent Authority, the CfD Settlement Services Provider or the Parties),

and the Generator and the CfD Counterparty consent to copies of any Generator GT Notice or CfD Counterparty GT Notice or any Arbitral Tribunal or Expert determination referred to in Clause 38.2(A) (*Disputes in relation to Generation Tax Preliminary Matters*) being made available to the Energy Consultant.

(F) The Energy Consultant shall be entitled to seek the views or procure the services of any third party expert or market participant it determines necessary or desirable in order to establish any inputs relevant to its determination under Clause 38.4(B).

(G) The determination of the Energy Consultant as to the matters set out in Clause 38.4(B) shall be final and binding on the Parties in the absence of manifest error or fraud.

38.5 **Generation Tax Reports**

(A) The terms of appointment of the Energy Consultant shall require it to produce:

(i) a Preliminary Generation Tax Report as soon as reasonably practicable and in any event within one hundred and eighty (180) days after the date of instruction of the Energy Consultant by the CfD Counterparty; and

(ii) a Final Generation Tax Report as soon as reasonably practicable and in any event within three hundred and sixty-five (365) days after the date on which the final Preliminary Generation Tax Report is delivered to the CfD Counterparty.

(B) Each Generation Tax Report shall be a document comprising at least:

(i) a summary of the report's contents;

(ii) the following statements:

(a) confirmation that the Energy Consultant is not an affiliate of either Party or any other party to a FiT Contract for Difference;

(b) confirmation that the Energy Consultant has acted in the capacity of an independent professional in preparing the Generation Tax Report; and

(c) any reasons that the Energy Consultant wishes to give for considering that it is independent of both Parties and any other party to a FiT Contract for Difference;

(iii) the determination of the Energy Consultant:

(a) in relation to the Preliminary Generation Tax Report, as to those matters set out in Clause 38.4(B)(i) (*Appointment of Energy Consultant*); and

(b) in relation to the Final Generation Tax Report, as to those matters set out in Clause 38.4(B)(ii) (*Appointment of Energy Consultant*);

(iv) a section setting out:

(a) in relation to the Preliminary Generation Tax Report, any assumptions made by the Energy Consultant in making its determination in respect of that report which the Energy Consultant intends to revisit in the Final Generation Tax Report; and

(b) in relation to the Final Generation Tax Report, any revisions made by the Energy Consultant to the assumptions (if any) referred to in Clause 38.5(B)(iv)(a);

(v) a section setting out the professional rules or standards which apply to the Energy Consultant (or to the key personnel who have prepared the Generation Tax Report);

(vi) a section setting out the curriculum vitae of the key personnel who have prepared the Generation Tax Report and/or any other details of the Energy Consultant's qualifications and experience which it wishes to provide; and

(vii) a statement of the limits of liability of the Energy Consultant with respect to the Generation Tax Report.

(C) The Energy Consultant shall be required to deliver each Generation Tax Report to the CfD Counterparty and consent to them being disclosed to all other parties to a FiT Contract for Difference. The CfD Counterparty shall send the Generator a copy of each Final Generation Tax Report (redacted as necessary to protect Information which, in the opinion of the CfD Counterparty (acting reasonably), is commercially confidential to the CfD Counterparty or any other party to a FiT Contract for Difference) as soon as reasonably practicable after receipt.

39. GENERATION TAX: COMPENSATION

39.1 GT Strike Price Adjustment

(A) Subject to Clause 39.1(B), promptly following receipt by the CfD Counterparty of a Generation Tax Report (which shall include any similar report of an Energy Consultant prepared under any other FiT Contract for Difference), there shall be a consequential Strike Price Adjustment (a "**GT Strike Price Adjustment**"). Any such GT Strike Price Adjustment shall:

(i) take effect from the date(s) and for the duration specified in such Generation Tax Report and shall be reflected in the calculation of the Difference, the Difference Amounts and the Aggregate Difference Amount in the Billing Statements for each relevant Billing Period (or, if necessary, shall be reflected as a Compensation Amount in respect of each relevant Billing Period); and

(ii) be effected subject to adjustment in accordance with the principles set out in Clauses 39.2(A) (*Compensation on account of Generation Tax Liability*) to 39.2(K) (*Compensation on account of Generation Tax Liability*) (inclusive) and after making allowance for any compensation already paid, commenced or effected or unpaid as a result of any delay in making such adjustment.

(B) The CfD Counterparty may elect (after consultation with the Generator) to effect any adjustment payable pursuant to Clause 39.1(A)(ii) as either a Series of Payments and/or a single lump sum payment or a further Strike Price Adjustment (in addition to the GT Strike Price Adjustment under Clause 39.1(A)(i)), in either case: (i) on a date or dates to be agreed by the Parties; and (ii) on the basis that

such compensation shall be equivalent to the amount that would otherwise have been paid if it had been effected as a GT Strike Price Adjustment.

39.2 **Compensation on account of Generation Tax Liability**

(A) The Generator's entitlement to retain compensation on account of its Generation Tax Liability in respect of any period shall be subject to the Generator having given a Generator GT Claim Notice to the CfD Counterparty.

(B) The Generator shall give the CfD Counterparty a Generator GT Claim Notice:

(i) where a Generation Tax first comes into effect, no earlier than twelve (12) months and no later than twenty-four (24) months after the Generation Tax Effective Date; and

(ii) thereafter, no less frequently than once in each subsequent period of twelve (12) months.

(C) If, for whatever reason, the Generator:

(i) does not give a Generator GT Claim Notice to the CfD Counterparty in respect of any twelve (12) month period by or within the time prescribed therefor in Clause 39.2(B) (or the associated Directors' Certificate in accordance with Clause 39.2(E)); or

(ii) does not provide Supporting Information requested by the CfD Counterparty in respect of that period in a Further Generator GT Claim Information Request in accordance with Clause 39.2(I),

the Generator shall not be entitled to retain compensation under this Part 11 in respect of that period.

(D) Each Generator GT Claim Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) set out:

(a) the Generation Tax Liability the Generator has incurred and/or paid (if any), and the computation thereof, in respect of the relevant period;

(b) the Generation Tax Liability of the Generator in respect of the relevant period that has otherwise been made good without cost to the Generator (if any); and

(c) the Metered Output in respect of each Settlement Unit in respect of the relevant period,

together with such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the above (including any tax returns or amended tax returns submitted to, and any material correspondence in relation thereto with, HMRC), redacted as necessary to protect Information which, in the opinion of the Generator (acting reasonably), is commercially confidential to the Generator and which does not relate to the Generation Tax Liability of the Generator in respect of the relevant period); and

(iii) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with its obligation to mitigate under Clause 69.2 (*Mitigation*).

(E) Each Generator GT Claim Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Generator GT Claim Notice.

(F) If the Generator becomes aware before a Series of Payments or a single lump sum payment or a further Strike Price Adjustment is or, as the case may be, are made or commenced pursuant to Clause 39.1(B) (*GT Strike Price Adjustment*) that the information contained in, or enclosed with, the Generator GT Claim Notice is not, or ceases to be, in all material respects true, complete and accurate or is, or becomes, misleading in a material respect the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised Generator GT Claim Information**"), together with a Directors' Certificate in relation to the Revised Generator GT Claim Information.

(G) The CfD Counterparty shall be under no obligation to consider or take any action in response to a Generator GT Claim Notice unless and until the Generator shall have provided the CfD Counterparty with all of the information, and the Directors' Certificate, referred to in Clauses 39.2(D) and 39.2(E) respectively.

(H) The CfD Counterparty may, by notice to the Generator on one occasion within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Generator GT Claim Notice or any Revised Generator GT Claim Information, request the Generator to provide such Supporting Information in relation to the Generator GT Claim Notice or, as the case may be, the Revised Generator GT Claim Information (a "**Further Generator GT Claim Information Request**") as the CfD Counterparty reasonably requires.

(I) If the CfD Counterparty gives a Further Generator GT Claim Information Request to the Generator, the Generator shall, within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and

deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate certifying that further Supporting Information provided in response to such Further Generator GT Claim Information Request.

(J) The CfD Counterparty shall, within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Generator GT Claim Notice or, if it has given a Further Generator GT Claim Information Request to the Generator, within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Further Generator GT Claim Information Request, notify the Generator whether or not it approves the matters which are the subject of the Generator GT Claim Notice, and, where the CfD Counterparty does not approve the matters which are the subject of that notice, it shall give the Generator reasons in support.

(K) The maximum amount of compensation to which the Generator is entitled on account of Generation Tax Liability in respect of any period shall be the lesser of:

(i) the amount that is the product of the Metered Output in respect of each Settlement Unit in the relevant period and the amount of the GT Strike Price Adjustment for such period; and

(ii) the Generation Tax Liability of the Generator in respect of the relevant period, as reduced by an amount equal to:

(a) the Generation Tax Liability in respect of such period that has otherwise been made good without cost to the Generator; and

(b) the Generation Tax Liability in respect of such period that would not have arisen or would have been reduced or eliminated but for a failure by the Generator to comply with any of its obligations under Clause 69.2 (*Mitigation*).

(L) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Generator GT Claim Notice within the period specified in Clause 39.2(J), the CfD Counterparty will be deemed not to have agreed the Generator GT Claim Notice.

39.3 **Disputes in relation to Generator GT Claim Notice**

If the Generator and the CfD Counterparty are not able to agree the matters which are the subject of the Generator GT Claim Notice or related matters (including Supporting Information), either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be determined by an Expert, refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

40. GENERATION TAX: GENERAL PROVISIONS

40.1 Reversal of GT Strike Price Adjustment

If a GT Strike Price Adjustment has been effected and thereafter the Generation Tax in respect of which the adjustment was made is terminated, repealed or withdrawn, then:

(A) the Strike Price will automatically be adjusted to the amount that it would have been but for that earlier adjustment, but without prejudice to the right of the Generator to retain compensation for any period prior to such termination, repeal or withdrawal in accordance with Clause 39.1 (*GT Strike Price Adjustment*); and

(B) if such Generation Tax is terminated, repealed or withdrawn with retrospective effect:

(i) the Strike Price will be automatically adjusted to take account of any relevant amount of compensation paid to the Generator which would not have been paid but for the provisions of this Part 11 and as to which the Generator has recovered that Generation Tax by reason of such termination, repeal or withdrawal (and, if necessary, reflected as a Compensation Amount in respect of each relevant Billing Period); or

(ii) if compensation under this Part 11 has been paid to the Generator by way of a Series of Payments and/or a single lump sum payment instead of by way of a GT Strike Price Adjustment, the Generator shall be automatically required to repay such amounts to the CfD Counterparty, within a reasonable period of time of the Generator recovering the Generation Tax by reason of such termination, repeal or withdrawal.

40.2 Interaction with Change in Law

Any compensation paid or payable (in whatever form) under Part 10 (*Changes in Law*) shall be taken into account in calculating the amount of any compensation payable (whether by means of a Strike Price Adjustment or otherwise) under this Part 11 in respect of the same subject matter so as to avoid double recovery, and in no event shall compensation payable in respect of any matter which gives rise to a claim under this Part 11 exceed an amount equal to the greater of the Generation Tax Liability and the QCiL Tax Liability in question.

Part 12
Transmission Charges

41. TNUoS CHARGES

41.1 **Preliminary TNUoS Charges Report**

(A) Within thirty (30) Business Days (or such other period as the Generator and the CfD Counterparty may agree in writing) after the Reactor One Start Date, the Generator shall provide the CfD Counterparty with a written report satisfying the requirements of Clause 41.1(C).

(B) If the Generator does not provide the CfD Counterparty with the Preliminary TNUoS Charges Report by the date referred to in Clause 41.1(A) and the CfD Counterparty has given at least ten (10) Business Days' prior notice to the Generator during which time the Generator has still not provided the Preliminary TNUoS Charges Report (and, for the avoidance of doubt, the Generator shall not be considered to have failed to provide a Preliminary TNUoS Charges Report purely because the CfD Counterparty considers that the Preliminary TNUoS Charges Report provided does not provide sufficient Supporting Information):

(i) the CfD Counterparty may obtain at the Generator's cost and expense:

(a) an opinion from an Energy Consultant as to the TNUoS Charges forecast in accordance with the Reasonable and Prudent Standard to be applicable to the Facility and/or the Reactors for each year from and including the year in which the Reactor One Start Date falls to and including the year in which the First Opex Reopener Date falls in the Money of the Year for the year in which the Reactor One Start Date falls; and

(b) an opinion from an independent firm with relevant expertise as to the Compensation Calculation Discount Rate for this purpose;

and these opinions shall be final and binding on the Parties in the absence of manifest error and shall be used in the determination of the consequential TNUoS Charges Strike Price Adjustment and the revised Strike Price to the exclusion of the actual TNUoS Charges, and no Preliminary TNUoS Charges Report or TNUoS Charges Report shall be required for that purpose; and

(ii) the CfD Counterparty shall provide a copy of any final opinion obtained by it pursuant to Clause 41.1(B)(i) to the Generator as soon as reasonably practicable.

(C) The Preliminary TNUoS Charges Report shall:

(i) be prepared at the cost and expense of the Generator;

(ii) be prepared using the most up-to-date data available to the Generator at the time of its preparation;

(iii) set out the TNUoS Charges applicable to the Facility and/or the Reactors as at the Agreement Date and as included in the Original Base Case Financial Model for each year from the Reactor One Start Date to the end of the Term expressed in pounds and, if such amounts are in Nominal Terms, Deflated and Restated to Real terms, and, if such amounts are in Real terms, Rebased, to the Reactor One Start Date (the "**Original TNUoS Charges**");

(iv) attach an extract from the TNUoS Tariff Statement for the year in which the Reactor One Start Date falls, showing the TNUoS Charges applicable to the Facility and/or the Reactors (expressed in pounds) for that year;

(v) set out the TNUoS Charges forecast in accordance with the Reasonable and Prudent Standard by the Generator to be applicable to the Facility and/or the Reactors for each subsequent year:

(a) to and including the year in which the First Opex Reopener Date falls, taking into account any changes to the TNUoS Charges applicable to the Facility and/or the Reactors which:

(1) have been officially published or announced; or

(2) the Generator reasonably considers are likely to be made in respect of any such years, justified by reference to historical trends affecting TNUoS Charges from the Agreement Date and the causes of those trends, including any such trends applicable to the zone in which the Facility is located; and

(b) from the year in which the First Opex Reopener Date falls to the end of the Term, on the assumption that the profile of TNUoS Charges will be held constant in Real terms for that period,

all expressed in pounds and in Real terms as at the Reactor One Start Date (the "**Revised TNUoS Charges**");

(vi) set out the Transmission Entry Capacity of the Facility and/or the Reactors as at the date of preparation of the Preliminary TNUoS Charges Report;

(vii) for each Contract Year set out the Revised TNUoS Charges less the Original TNUoS Charges (for the avoidance of doubt, expressed as a negative amount if the result is negative) (each such amount, a "**TNUoS Charges Difference**");

(viii) set out the amounts set out under Clause 41.1(C)(vii), each Discounted to Present Value as at the Reactor One Start Date using the

Compensation Calculation Discount Rate proposed by the Generator for the relevant Contract Year pursuant to Clause 41.1(C)(x)(a);

(ix) set out the aggregate of the amounts set out under Clause 41.1(C)(viii) (the "**Aggregate TNUoS Charges Difference**");

(x) set out in reasonable detail:

(a) for each Contract Year, the Generator's proposed Compensation Calculation Discount Rate; and

(b) for any forecast TNUoS Charges, the underlying inflation assumptions, including the Projected CPI Index Value where applicable in respect of each such TNUoS Charge;

(xi) set out in reasonable detail:

(a) the consequential TNUoS Charges Strike Price Adjustment that the Generator proposes should be made to reflect the Aggregate TNUoS Charges Difference; and

(b) the revised Strike Price that the Generator proposes should apply to give effect to the adjustment determined under Clause 41.1(C)(xi)(a);

(xii) if the Preliminary TNUoS Charges Report, or any part thereof, is prepared at the request of the Generator by or with the assistance of one or more third parties, include details of those third party(ies) and copies of any reports (on which the CfD Counterparty shall be entitled to rely) prepared by such third party(ies) in relation to the Preliminary TNUoS Charges Report; and

(xiii) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing.

(D) The Preliminary TNUoS Charges Report shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Preliminary TNUoS Charges Report.

(E) If the Generator becomes aware before a Strike Price Adjustment is made or commenced pursuant to Clause 41.4 (*TNUoS Charges adjustment*) that the information contained in, or enclosed with, the Preliminary TNUoS Charges Report is not, or ceases to be, in all material respects true, complete and accurate or is, or becomes, misleading in a material respect, the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised TNUoS Charges Information**"), together with a Directors' Certificate in relation to the Revised TNUoS Charges Information.

(F) The CfD Counterparty shall be under no obligation to consider or take any action in response to a Preliminary TNUoS Charges Report unless and until the Generator shall have provided the CfD Counterparty with all of the information, and the Directors' Certificate, referred to in Clauses 41.1(C) and 41.1(D) respectively.

(G) The CfD Counterparty may, by notice to the Generator on one occasion within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Preliminary TNUoS Charges Report and on one occasion within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of any Revised TNUoS Charges Information, request the Generator to provide to the CfD Counterparty such Supporting Information in relation to the Preliminary TNUoS Charges Report or, as the case may be, the Revised TNUoS Charges Information (a "**Further TNUoS Charges Information Request**") as the CfD Counterparty reasonably requires.

(H) If the CfD Counterparty gives a Further TNUoS Charges Information Request to the Generator, the Generator shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Further TNUoS Charges Information Request.

(I) The CfD Counterparty shall, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the Preliminary TNUoS Charges Report or, if it has given a Further TNUoS Charges Information Request to the Generator, within thirty (30) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Further TNUoS Charges Information Request, notify the Generator whether or not it approves the matters which are the subject of the Preliminary TNUoS Charges Report, and, where the CfD Counterparty does not approve the matters which are the subject of that report, it shall give the Generator reasons in support.

41.2 **Disputes in relation to a Preliminary TNUoS Charges Report**

(A) If the CfD Counterparty does not provide a notice in accordance with Clause 41.1(I) (*Preliminary TNUoS Charges Report*) or if the Generator and the CfD Counterparty are not able to agree the matters which are the subject of the

Preliminary TNUoS Charges Report or related matters (including Supporting Information), either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Expert in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure.

(B) Until the Generator and the CfD Counterparty agree the matters which are the subject of the Preliminary TNUoS Charges Report or the Dispute has been determined in accordance with the Expert Determination Procedure or Arbitration Procedure, as the case may be, there shall be no TNUoS Charges Report.

41.3 **TNUoS Charges Report**

Upon:

(A) the CfD Counterparty notifying the Generator that it approves the matters which are the subject of the Preliminary TNUoS Charges Report;

(B) the CfD Counterparty and the Generator agreeing the matters which are the subject of the Preliminary TNUoS Charges Report (and any amendments to the Preliminary TNUoS Charges Report being made in accordance with that agreement); or

(C) any Dispute (other than merely as to whether the Generator has submitted all information required for a Preliminary TNUoS Charges Report) with respect to the matters which are the subject of the Preliminary TNUoS Charges Report being resolved or determined as provided in Clause 41.2 (*Disputes in relation to a Preliminary TNUoS Charges Report*) (and any amendments to the Preliminary TNUoS Charges Report being made in accordance with that resolution or determination),

the Preliminary TNUoS Charges Report (once delivered and as amended, if applicable) shall become the "**TNUoS Charges Report**".

41.4 **TNUoS Charges adjustment**

(A) If the TNUoS Charges Strike Price Adjustment is negative, the Generator shall pay such amount to the CfD Counterparty by way of a reduction in the Strike Price.

(B) If the TNUoS Charges Strike Price Adjustment is positive, the CfD Counterparty shall pay such amount to the Generator by way of an increase in the Strike Price.

(C) The revised Strike Price consequent upon the operation of this Clause 41 shall apply on and from the later of the Reactor One Start Date and the TNUoS Charges Report Effective Date provided that if Clause 41.1(B) (*Preliminary TNUoS Charges Report*) applies, the revised Strike Price shall apply on and from the later of the Reactor One Start Date and the date (the "**TNUoS Charges**

Fallback Date") which is twenty (20) Business Days after receipt by the CfD Counterparty of the later of the opinions referred to in that Clause.

(D) If the TNUoS Charges Report Effective Date or the TNUoS Charges Fallback Date, as the case may be, occurs after the Reactor One Start Date, there shall be a Compensation Amount payable as between the Generator and the CfD Counterparty in respect of the period from, and including, the Reactor One Start Date to, but excluding, the TNUoS Charges Report Effective Date or the TNUoS Charges Fallback Date, as the case may be.

(E) The CfD Counterparty may, in its discretion, elect to pay or, as applicable, receive any Compensation Amount computed under Clause 41.4(D) by way of a further Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment.

(F) If any Compensation Amount payable under this Clause 41.4 is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Projected Net Generation for the remainder of the Term as Discounted to Present Value as at the Reactor One Start Date using the Compensation Calculation Discount Rate.

(G) If any Compensation Amount payable under this Clause 41.4 is to be paid by way of a Series of Payments and/or a single lump sum payment, the amount shall be Discounted to Present Value as at the Reactor One Start Date using the Compensation Calculation Discount Rate.

42. BALANCING SYSTEM CHARGE

42.1 Balancing System Charge Reports

Once each calendar year (a "**Balancing System Charge Report Year**"), the CfD Counterparty shall provide the Generator with a written report (a "**Balancing System Charge Report**"). Each Balancing System Charge Report shall:

(A) be prepared in the Strike Price Adjustment Calculation Period in the relevant Balancing System Charge Report Year;

(B) take no account of any inaccuracy in any previous Balancing System Charge Report;

(C) set out, in respect of the period from 1 February in the calendar year immediately preceding the relevant Balancing System Charge Report Year to 31 January in such Balancing System Charge Report Year (the "**Balancing System Charge Review Period**"), the Annual Balancing System Charges in that period, sourced from relevant data provided by the GB System Operator (in the case of BSUoS Charges) or a BSC Company (in the case of RCRC Credits) (the "**Actual Balancing System Charge**");

(D) set out the Balancing System Charge Difference for the relevant Balancing System Charge Review Period, which shall be calculated in accordance with the following formula:

$BSCD = ABC_i - (IBSC \times P_t)$

where:

BSCD is the Balancing System Charge Difference for the relevant Balancing System Charge Review Period;

P_t is the applicable Inflation Factor, but for this purpose references to CPI_t or CPI_t^{new} (as applicable) in the definition of Inflation Factor shall be to the CPI for January in the Balancing System Charge Report Year save where the CPI for January is not published by the first day of the Summer Season in such Balancing System Charge Report Year, in which case CPI_t or CPI_t^{new} (as applicable) shall be the Reference CPI and in each case, for the avoidance of doubt, taking into account any rebasing of the relevant index;

ABC_i is the Actual Balancing System Charge referable to such Balancing System Charge Review Period as set out in Clause 42.1(C); and

IBSC is the Initial Balancing System Charge; and

(E) set out the Strike Price Adjustment, namely the Balancing System Charge Strike Price Adjustment, that will apply with effect from the relevant Indexation Anniversary to give effect to the Balancing System Charge Difference calculated in the relevant Strike Price Adjustment Calculation Period, where such Strike Price Adjustment shall be calculated in accordance with the following formula:

$ADJ_i = BSCD_i - BSCD_{i-1}$

where $BSCD_{i-1} = 0$ if $i = 1$, and

where:

ADJ_i is the relevant Strike Price Adjustment, namely the Balancing System Charge Strike Price Adjustment;

$BSCD_i$ is the Balancing System Charge Difference as set out in that year's Balancing System Charge Report; and

i is a whole number integer, which refers to the year of the Balancing System Charge Report where:

$i = 1$ is the first Balancing System Charge Report Year; and

i > 1 is any subsequent year in which a Balancing System Charge Report is prepared.

42.2 **Balancing System Charge Strike Price Adjustment**

The Strike Price Adjustment, as set out in the relevant Balancing System Charge Report, shall apply on and from the relevant Indexation Anniversary (the "**Balancing System Charge Strike Price Adjustment**").

43. TLM(CFD) CHARGES

43.1 **TLM(CFD) Charges Reports**

Once each calendar year (a "**TLM(CFD) Charges Report Year**"), the CfD Counterparty shall provide the Generator with a written report (a "**TLM(CFD) Charges Report**"). Each TLM(CFD) Charges Report shall:

(A) be prepared in the Strike Price Adjustment Calculation Period in the relevant TLM(CFD) Charges Report Year;

(B) take no account of any inaccuracy in any previous TLM(CFD) Charges Report;

(C) set out, in respect of the period from 1 January in the calendar year immediately preceding the relevant TLM(CFD) Charges Report Year to 31 December in such calendar year (the "**TLM(CFD) Charges Review Period**"), the Annual TLM(CFD) Charge in that period, sourced from publicly available data published by a BSC Company (the "**Actual TLM(CFD) Charge**");

(D) set out the Initial TLM(CFD) Charge in respect of the TLM(CFD) Charges Review Period;

(E) set out the difference (expressed as a decimal) between:

(i) the Actual TLM(CFD) Charge; and

(ii) the Initial TLM(CFD) Charge,

such difference being converted into an amount expressed in £/MWh (the "**TLM(CFD) Charges Difference**") calculated in accordance with the following formula:

$$TCD = \left(SP - (IBSC \cdot \Pi_t) - BSCD\right) \cdot \left(\frac{TLM(CFD)_A - TLM(CFD)_I}{1 - TLM(CFD)_A}\right)$$

where:

TCD is the TLM(CFD) Charges Difference;

SP	is the then prevailing Strike Price;
IBSC	is the Initial Balancing System Charge;
Π_t	is the applicable Inflation Factor calculated in accordance with Clause 42.1(D) (*Balancing System Charge Reports*) in respect of the latest applicable Balancing System Charge Review Period;
BSCD	is the latest applicable Balancing System Charge Difference calculated in accordance with Clause 42.1(D) (*Balancing System Charge Reports*);
$TLM(CFD)_A$	is the Actual TLM(CFD) Charge for the applicable year (expressed as an absolute decimal) in respect of the TLM(CFD) Charges Review Period; and
$TLM(CFD)_I$	is the Initial TLM(CFD) Charge, in respect of the TLM(CFD) Charges Review Period; and

(F) set out the Strike Price Adjustment, namely the TLM(CFD) Strike Price Adjustment, that will apply with effect from the relevant Indexation Anniversary to give effect to the TLM(CFD) Charges Difference calculated in the relevant Strike Price Adjustment Calculation Period, where such Strike Price Adjustment shall be an amount equal to the difference between:

(i) the TLM(CFD) Charges Difference calculated in respect of that Indexation Anniversary; and

(ii) the TLM(CFD) Charges Difference calculated in respect of the immediately preceding Indexation Anniversary.

43.2 **TLM(CFD) Strike Price Adjustment**

The Strike Price Adjustment, as set out in the relevant TLM(CFD) Charges Report, shall apply on and from the relevant Indexation Anniversary (the "**TLM(CFD) Strike Price Adjustment**").

Part 13
Curtailment

44. QUALIFYING CURTAILMENT: PROCEDURE

44.1 Preliminary Quarterly QC Report

(A) If, in respect of any QC Period, the Generator considers, acting reasonably, that a Qualifying Curtailment has occurred, it may (and shall, if requested in writing by the CfD Counterparty, no later than ten (10) Business Days after the end of the QC Period where the CfD Counterparty considers, acting reasonably, that a Qualifying Curtailment has occurred) provide the CfD Counterparty with a written report satisfying the requirements of Clause 44.1(B) in respect of the relevant QC Period no later than the date falling twenty (20) Business Days after the end of such QC Period.

(B) A Preliminary Quarterly QC Report shall:

(i) be prepared at the cost and expense of the Generator;

(ii) be prepared using the most up-to-date data available to the Generator at the time of its preparation;

(iii) set out in respect of the relevant QC Period, and in respect of each and every Qualifying Curtailment in such QC Period, in reasonable detail:

(a) the circumstances which have given rise to the relevant Qualifying Curtailment;

(b) when the Generator considers that the relevant Qualifying Curtailment started and ended;

(c) the amount of electricity (in MWh) Curtailed in each Settlement Unit during which the relevant Qualifying Curtailment occurred;

(d) the Loss Adjusted Metered Output (in MWh) in each Settlement Unit during which the relevant Qualifying Curtailment occurred;

(e) the amount of electricity (in MWh) which the Generator can reasonably demonstrate that the Facility would, but for the relevant Qualifying Curtailment, have been able to generate and export during such Settlement Unit; and

(f) the amount of Relevant Sold Contracted Power (in MWh) for each Settlement Unit during which the relevant Qualifying Curtailment occurred;

(iv) set out in respect of the relevant QC Period, and in respect of each and every Qualifying Curtailment in such QC Period, a detailed cost analysis in respect of the relevant Qualifying Curtailment(s) including the amount

of QC Compensation and each and every element of QC Compensation; and

(v) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing.

(C) Any Preliminary Quarterly QC Report shall be accompanied by a Directors' Certificate in relation to the information contained in, enclosed with or appended to the Preliminary Quarterly QC Report.

(D) If the Generator becomes aware before a Series of Payments or a single lump sum payment is or, as the case may be, are commenced or made in respect of a QC Period pursuant to Clause 45 (*Qualifying Curtailment: Compensation*) that the information contained in, or enclosed with, the relevant Preliminary Quarterly QC Report is not, or ceases to be, in all material respects true, complete and accurate or is, or becomes, misleading in a material respect, the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised Quarterly QC Information**"), together with a Directors' Certificate in relation to the Revised Quarterly QC Information.

(E) The CfD Counterparty shall be under no obligation to consider or take any action in response to a Preliminary Quarterly QC Report unless and until the Generator shall have provided the CfD Counterparty with all of the relevant information, and the Directors' Certificate, referred to in Clauses 44.1(B) and 44.1(C) respectively.

(F) The CfD Counterparty may, by notice to the Generator on one occasion with respect to a particular Preliminary Quarterly QC Report within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a written report provided under Clause 44.1(A) and on one occasion with respect to a particular Preliminary Quarterly QC Report within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of any Revised Quarterly QC Information, request the Generator to provide the CfD Counterparty with such Supporting Information (a "**Further Quarterly QC Information Request**") as the CfD Counterparty reasonably requires for the purposes of determining whether or not it approves the matters which are the subject of the relevant Preliminary Quarterly QC Report.

(G) If the CfD Counterparty gives a Further Quarterly QC Information Request to the Generator, the Generator shall, within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Further Quarterly QC Information Request.

(H) The CfD Counterparty shall, within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Preliminary Quarterly QC Report or, if it has given a Further Quarterly QC Information Request to the Generator, within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the further Supporting Information requested in the relevant Further Quarterly QC Information Request, notify the Generator whether or not it approves the matters which are the subject of the relevant Preliminary Quarterly QC Report and, where the CfD Counterparty does not approve the matters which are the subject of that notice, it shall give the Generator reasons in support.

(I) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Preliminary Quarterly QC Report within the relevant period specified in Clause 44.1(H), the matters which are the subject of the Preliminary Quarterly QC Report shall be deemed not to be agreed.

44.2 **Failure to deliver a Preliminary Quarterly QC Report**

Without prejudice to Clause 44.3 (*Disputes in relation to a Preliminary Quarterly QC Report*), if, for whatever reason (other than Force Majeure), the Generator:

(A) does not provide the CfD Counterparty with a Preliminary Quarterly QC Report (complying with the requirements specified in Clause 44.1(B) (*Preliminary Quarterly QC Report*)) in respect of any QC Period by or within the time latest prescribed therefor in Clause 44.1(A) (*Preliminary Quarterly QC Report*) (or the associated Directors' Certificate in accordance with Clause 44.1(C) (*Preliminary Quarterly QC Report*)); or

(B) does not provide Supporting Information requested by the CfD Counterparty in respect of that QC Period in a Further Quarterly QC Information Request (or the associated Directors' Certificate) within the relevant period of time specified in Clause 44.1(G) (*Preliminary Quarterly QC Report*),

the Generator shall not be entitled to any compensation under this Part 13 in so far as it relates to that QC Period.

44.3 **Disputes in relation to a Preliminary Quarterly QC Report**

(A) If the Generator and the CfD Counterparty are not able to agree the matters which are the subject of a Preliminary Quarterly QC Report or related matters (including Supporting Information), either the Generator or the CfD Counterparty may refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute to an Arbitral Tribunal in accordance with the Arbitration Procedure.

(B) Until the Generator and the CfD Counterparty agree the matters which are the subject of the Preliminary Quarterly QC Report or the Dispute has been

determined in accordance with the Expert Determination Procedure or the Arbitration Procedure, as the case may be, there shall be no Quarterly QC Report in respect of the relevant QC Period.

(C) If a Dispute is referred to an Expert for determination in accordance with the Expert Determination Procedure, the Expert shall determine the Expert Dispute within thirty (30) Business Days (or such other period as is reasonably agreed among the Generator, the CfD Counterparty and the Expert) of the Expert Appointment Date and the Expert and each Party shall use reasonable endeavours to provide submissions and information to the Expert on a timely basis to assist the Expert determining the Expert Dispute within the relevant period.

44.4 **Quarterly QC Report**

Upon:

(A) the CfD Counterparty notifying the Generator that it approves the matters which are the subject of a Preliminary Quarterly QC Report;

(B) the CfD Counterparty and the Generator agreeing the matters which are the subject of a Preliminary Quarterly QC Report (and any amendments to that Preliminary Quarterly QC Report being made in accordance with that agreement); or

(C) any Dispute (other than merely as to whether the Generator has submitted all information required for a Preliminary Quarterly QC Report) with respect to the matters which are the subject of a Preliminary Quarterly QC Report being resolved or determined in accordance with the Expert Determination Procedure or the Arbitration Procedure, as the case may be (and any amendments to that Preliminary Quarterly QC Report being made in accordance with that resolution or determination),

such Preliminary Quarterly QC Report (once delivered and as amended, if applicable) shall become the "**Quarterly QC Report**" in respect of the relevant QC Period.

45. QUALIFYING CURTAILMENT: COMPENSATION

45.1 **Qualifying Curtailment adjustment**

(A) If, in respect of any QC Period in which there is a Qualifying Curtailment, the aggregate amount of QC Compensation as set out in or determined in accordance with the Quarterly QC Report is a positive number, the CfD Counterparty shall pay such QC Compensation to the Generator in accordance with Clause 45.1(D), adjusted as relevant to take into account any payments under Clause 45.1(C).

(B) If, in respect of any QC Period in which there is a Qualifying Curtailment, the aggregate amount of QC Compensation as set out in or determined in accordance with the Quarterly QC Report is a negative number, the Generator

shall pay such QC Compensation to the CfD Counterparty in accordance with Clause 45.1(D), adjusted as relevant to take into account any payments under Clause 45.1(C).

(C) To the extent that a Party does not reasonably dispute the amount of QC Compensation assessed in a Preliminary Quarterly QC Report, the relevant Party shall, in advance of the matters which are the subject of the Quarterly QC Report being approved, agreed or determined, pay the undisputed amount, in accordance with Clause 45.1(D) but no later than nine (9) months after the date on which the relevant Preliminary Quarterly QC Report is delivered to the CfD Counterparty (subject, in the case of the CfD Counterparty, to Clause 78 (*Limited Recourse Arrangements and Undertakings*)).

(D) Any payments under Clause 45.1(A), 45.1(B) or 45.1(C) shall be effected, at the discretion of the CfD Counterparty (after consultation with the Generator), as either a Series of Payments or a single lump sum payment Discounted to Present Value as at the mid-point of the relevant QC Period using the Compensation Calculation Discount Date, which shall be payable on, after or from, as the case may be, the date on which the relevant Preliminary Quarterly QC Report is delivered to the CfD Counterparty provided that all payments in respect of a Qualifying Curtailment shall be made no later than six (6) months after the matters which are the subject of the Quarterly QC Report are approved, agreed or determined.

46. QUALIFYING CURTAILMENT: GENERAL PROVISIONS

46.1 Ramp Down and Ramp Up

In respect of any Ramp Down Time and Ramp Up Time, the Generator shall use reasonable endeavours, acting in accordance with the Reasonable and Prudent Standard, to ramp the Facility down and up and, in the latter case, to resume generation from the Facility and the Reactors as soon as reasonably practicable.

46.2 Interaction with Change in Law

(A) Subject to Clause 46.2(B), if a claim under Part 10 (*Changes in Law*) could be brought in respect of a Curtailment, the Generator shall not be entitled to claim compensation for reduced output or other elements that fall to be compensated by QC Compensation in respect of a Curtailment under Part 10 (*Changes in Law*) and any claim for compensation for reduced output or such other elements in respect of a Curtailment shall be dealt with under this Part 13 to the exclusion of Part 10 (*Changes in Law*).

(B) If there is a Change in Applicable Law which results in this Part 13 not applying to any such claim as envisaged as at the Agreement Date, then this Clause 46.2 shall not exclude such claim for compensation for reduced output or such other elements that fall to be compensated by QC Compensation in respect of a Curtailment being made as a claim in respect of a Qualifying Change in Law to the extent that such Change in Applicable Law results in this Part 13 not applying

as envisaged at the Agreement Date and the conditions to the relevant Qualifying Change in Law are satisfied.

(C) Nothing in this Clause 46.2 shall prevent a claim under Part 10 (*Changes in Law*) to the extent it does not relate to compensation for reduced output in respect of a Curtailment.

46.3 **Costs**

The Generator shall promptly on demand from time to time indemnify the CfD Counterparty, and keep the CfD Counterparty fully and effectively indemnified, against any out-of-pocket costs properly incurred by the CfD Counterparty (excluding, for the avoidance of doubt, any amounts of QC Compensation payable by the CfD Counterparty) and which would not have been incurred but for a Preliminary Quarterly QC Report having been delivered to the CfD Counterparty by the Generator.

Part 14
Nuclear Third Party Liability Insurance

47. NUCLEAR THIRD PARTY LIABILITY INSURANCE: PROCEDURE

47.1 **CfD Counterparty Preliminary Insurance Decrease Notice**

(A) If the CfD Counterparty considers that a Relevant Insurance Decrease Event has occurred, the CfD Counterparty may give a CfD Counterparty Preliminary Insurance Decrease Notice to the Generator.

(B) A CfD Counterparty Preliminary Insurance Decrease Notice shall:

(i) be prepared at the cost and expense of the CfD Counterparty;

(ii) be prepared using the most up-to-date data available to the CfD Counterparty at the time of its preparation; and

(iii) set out, in reasonable detail, the circumstances which have given rise to the Change in Applicable Law and the Relevant Insurance Decrease Event.

47.2 **Generator Preliminary Insurance Decrease Response Notice**

(A) If the CfD Counterparty gives a CfD Counterparty Preliminary Insurance Decrease Notice to the Generator, the Generator shall as soon as reasonably practicable, and in any event within forty-five (45) Business Days after receipt of such CfD Counterparty Preliminary Insurance Decrease Notice, give a Generator Preliminary Insurance Decrease Response Notice to the CfD Counterparty.

(B) A Generator Preliminary Insurance Decrease Response Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) be prepared using the most up-to-date data available to the Generator at the time of its preparation;

(iii) specify whether the Generator considers that a Relevant Insurance Decrease Event has occurred (and, if the Generator does not consider that a Relevant Insurance Decrease Event has occurred, include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of that conclusion);

(iv) set out a detailed cost analysis in respect of the Relevant Insurance Decrease Event including:

(a) the amount referred to in Clause 48.2(B)(i) (*Decrease in third party nuclear liability insurance limits*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the date of the Relevant Insurance Decrease Event

and, if such amounts are expressed in Real terms, Rebased to the date of the Relevant Insurance Decrease Event;

(b) the amounts referred to in Clause 48.2(B)(ii) (*Decrease in third party nuclear liability insurance limits*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the date of the Relevant Insurance Decrease Event and, if such amounts are expressed in Real terms, Rebased to the date of the Relevant Insurance Decrease Event; and

(c) the Generator's proposed Compensation Calculation Discount Rate and Financing Costs Discount Rate,

for these purposes on the assumption that a Relevant Insurance Decrease Event has occurred, regardless of whether or not the Generator considers that to be the case;

(v) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing; and

(vi) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with the Insurance Mitigation Obligation.

(C) A Generator Preliminary Insurance Decrease Response Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Generator Preliminary Insurance Decrease Response Notice.

47.3 **Generator Preliminary Insurance Event Notice**

(A) If the Generator considers that a Qualifying Insurance Event has occurred, the Generator may give a written notice containing the information set out in Clause 47.3(B) to the CfD Counterparty.

(B) A Generator Preliminary Insurance Event Notice shall:

(i) be prepared at the cost and expense of the Generator;

(ii) be prepared using the most up-to-date data available to the Generator at the time of its preparation;

(iii) set out, in reasonable detail, the circumstances which have given rise to the relevant Qualifying Insurance Event, including:

(a) whether the Generator considers the Qualifying Insurance Event to be a Relevant Insurance Increase Event, a Relevant Insurance Decrease Event, an Insurance Withdrawal Event, an Insurance Failure Event, an Insurance Cost Increase Event, a Relevant

Insurance Scope Increase Event or an Approval Insurance Withdrawal Event, and why; and

(b) in the case of a Relevant Insurance Increase Event, Relevant Insurance Decrease Event or Relevant Insurance Scope Increase Event, the circumstances which have given rise to the relevant Change in Applicable Law;

(iv) set out, in reasonable detail, a detailed cost analysis in respect of the relevant Qualifying Insurance Event, including:

(a) if the Generator considers that a Relevant Insurance Increase Event has occurred:

(1) the amount referred to in Clause 48.1(B)(i) (*Increase in third party nuclear liability insurance limits*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date;

(2) the amounts referred to in Clause 48.1(B)(ii) (*Increase in third party nuclear liability insurance limits*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date;

(3) the Generator's proposed Compensation Calculation Discount Rate and Financing Costs Discount Rate; and

(4) if applicable, the spot rate of exchange for the purchase of euro with sterling used to convert the Required Insured Amount from euro to sterling for the purposes of Clause 48.1(A)(ii)(b) (*Increase in third party nuclear liability insurance limits*) (or if any foreign exchange transaction has been undertaken by or for the Generator for the purpose of hedging all or part of this amount, at the applicable rate of exchange provided under that transaction to the extent so hedged, as notified by the Generator to the CfD Counterparty);

(b) if the Generator considers that a Relevant Insurance Decrease Event has occurred:

(1) the amount referred to in Clause 48.2(B)(i) (*Decrease in third party nuclear liability insurance limits*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance

Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date;

(2) the amounts referred to in Clause 48.2(B)(ii) (*Decrease in third party nuclear liability insurance limits*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date;

(3) the Generator's proposed Compensation Calculation Discount Rate and Financing Costs Discount Rate; and

(4) if applicable, the spot rate of exchange for the purchase of euro with sterling used to convert the Required Insured Amount from euro to sterling for the purposes of Clause 48.2(A)(ii)(b) (*Decrease in third party nuclear liability insurance limits*) (or if any foreign exchange transaction has been undertaken by or for the Generator for the purpose of hedging all or part of this amount, at the applicable rate of exchange provided under that transaction to the extent so hedged, as notified by the Generator to the CfD Counterparty);

(c) if the Generator considers that an Insurance Withdrawal Event has occurred:

(1) the amount referred to in Clause 48.3(B)(i) (*Withdrawal by Her Majesty's Government of the United Kingdom of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date;

(2) the amounts referred to in Clause 48.3(B)(ii) (*Withdrawal by Her Majesty's Government of the United Kingdom of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date; and

(3) the Generator's proposed Compensation Calculation Discount Rate and Financing Costs Discount Rate;

(d) if the Generator considers that an Insurance Failure Event has occurred:

(1) the amount referred to in Clause 48.4(B)(i) (*Failure by Her Majesty's Government of the United Kingdom to make Insurance Arrangements with respect to third party nuclear liability insurance cover*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date;

(2) the amounts referred to in Clause 48.4(B)(ii) (*Failure by Her Majesty's Government of the United Kingdom to make Insurance Arrangements with respect to third party nuclear liability insurance cover*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date; and

(3) the Generator's proposed Compensation Calculation Discount Rate and Financing Costs Discount Rate;

(e) if the Generator considers that an Insurance Cost Increase Event has occurred:

(1) the Government Insurance Charges, the Relevant Commercial Insurance Market charges and the rate of increase in each;

(2) the Allowable Increase Rate and the Excess Government Insurance Charges and the computation of each;

(3) the amount referred to in Clause 48.5(B)(ii) (*Increase in cost of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date; and

(4) the Generator's proposed Compensation Calculation Discount Rate and Financing Costs Discount Rate;

(f) if the Generator considers that a Relevant Insurance Scope Increase Event has occurred:

(1) the amount referred to in Clause 48.6(B)(i) (*Increase in the categories of third party nuclear liability insurance cover*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date;

(2) the amounts referred to in Clause 48.6(B)(ii) (*Increase in the categories of third party nuclear liability insurance cover*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date; and

(3) the Generator's proposed Compensation Calculation Discount Rate and Financing Costs Discount Rate; or

(g) if the Generator considers that an Approval Insurance Withdrawal Event has occurred:

(1) the costs referred to in Clause 48.7(A)(iv) (*Withdrawal of approval by Her Majesty's Government of the United Kingdom to existing Insurance Arrangements previously approved under section 19 of the NIA 1965*);

(2) the amount referred to in Clause 48.7(B)(i) (*Withdrawal of approval by Her Majesty's Government of the United Kingdom to existing Insurance Arrangements previously approved under section 19 of the NIA 1965*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date;

(3) the amounts referred to in Clause 48.7(B)(ii) (*Withdrawal of approval by Her Majesty's Government of the United Kingdom to existing Insurance Arrangements previously approved under section 19 of the NIA 1965*) and, if such amounts are expressed in Nominal Terms, Deflated and Restated to Real terms as at the Qualifying Insurance Event Date and, if such amounts are expressed in Real terms, Rebased to the Qualifying Insurance Event Date; and

(4) the Generator's proposed Compensation Calculation Discount Rate and Financing Costs Discount Rate;

(v) set out, in reasonable detail, if applicable:

(a) the Actual Insurance Cash Collateralisation Cost;

(b) the Threshold Cash Collateralisation Cost; and

(c) any Available Alternative Insurance Arrangements that are available;

(vi) set out, in reasonable detail, any other compensation which the Generator (or its nominee) has received, or the Generator (or its nominee) would have received had the Generator complied in full with its obligations under Clauses 69 (*General Mitigation and Compensation*) and 70 (*No Double Recovery*), pursuant to this Agreement or otherwise in respect of the same events or circumstances for the purpose of avoiding double compensation when determining the amount payable by the CfD Counterparty under Clause 48 (*Nuclear Third Party Liability Insurance: Compensation*);

(vii) include such Supporting Information, in reasonable detail, as the Generator considers to be relevant to and supportive of the foregoing; and

(viii) include Supporting Information evidencing, in reasonable detail, the steps that the Generator has taken and/or proposes to take to comply with the Insurance Mitigation Obligation.

(C) A Generator Preliminary Insurance Event Notice shall be accompanied by a Directors' Certificate in relation to the information contained in, or enclosed with, the Generator Preliminary Insurance Event Notice.

(D) If the Generator becomes aware before a Strike Price Adjustment, a Series of Payments or a single lump sum payment is or, as the case may be, are made or commenced pursuant to Clause 48 (*Nuclear Third Party Liability Insurance: Compensation*) that the information contained in, or enclosed with, the Generator Preliminary Insurance Event Notice is not, or ceases to be, in all material respects true, complete, accurate and not misleading in a material respect, the Generator shall as soon as reasonably practicable:

(i) notify the CfD Counterparty that this is the case; and

(ii) provide the CfD Counterparty with the updated, corrected information (the "**Revised Generator Insurance Event Information**"), together with a Directors' Certificate in relation to the Revised Generator Insurance Event Information.

(E) The CfD Counterparty shall be under no obligation to consider or take any action in response to a Generator Preliminary Insurance Event Notice unless and until the Generator shall have provided the CfD Counterparty with all of the relevant information, and the Directors' Certificate, referred to in Clauses 47.3(B) and 47.3(C) respectively.

47.4 **Insurance Event Information Requests**

(A) The CfD Counterparty may by notice to the Generator:

(i) on one occasion within forty-five (45) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Generator Preliminary Insurance Event Notice;

(ii) on one occasion within forty-five (45) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Generator Preliminary Insurance Decrease Response Notice; and

(iii) on one occasion within forty-five (45) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of any Revised Generator Insurance Event Information,

request the Generator to provide to the CfD Counterparty such Supporting Information in relation to that Generator Preliminary Insurance Event Notice, Generator Preliminary Insurance Decrease Response Notice or Revised Generator Insurance Event Information, as the case may be (an "**Insurance Event Information Request**") as the CfD Counterparty reasonably requires.

(B) If the CfD Counterparty gives an Insurance Event Information Request to the Generator, the Generator shall, within forty-five (45) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty, together with a Directors' Certificate in relation to the Supporting Information provided in response to such Insurance Event Information Request.

(C) The CfD Counterparty shall within forty-five (45) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after the later of:

(i) receipt of:

(a) a Generator Preliminary Insurance Event Notice; or

(b) a Generator Preliminary Insurance Decrease Response Notice; and

(ii) if it has given an Insurance Event Information Request to the Generator, receipt of the further Supporting Information requested in such Insurance Event Information Request,

notify the Generator whether or not it approves the matters which are the subject of that Generator Preliminary Insurance Event Notice or Generator Preliminary

Insurance Decrease Response Notice, as the case may be, and, where the CfD Counterparty does not approve the matters which are the subject of that notice, it shall give the Generator reasons in support.

(D) If the CfD Counterparty does not notify the Generator whether or not it approves the matters which are the subject of the Generator Preliminary Insurance Event Notice or Generator Preliminary Insurance Decrease Response Notice, as the case may be, within the relevant period specified in Clause 47.4(C), the matters which are the subject of the Generator Preliminary Insurance Event Notice or Generator Preliminary Insurance Decrease Response Notice, as the case may be, shall be deemed not to be agreed.

47.5 **Disputes in relation to a Qualifying Insurance Event**

(A) If the Generator and the CfD Counterparty are not able to agree the matters which are the subject of a Generator Preliminary Insurance Event Notice or Generator Preliminary Insurance Decrease Response Notice or related matters (including Supporting Information), either the Generator or the CfD Counterparty may refer the Dispute to an Expert for determination in accordance with the Expert Determination Procedure or, if the Generator and the CfD Counterparty agree in writing that such Dispute should instead be resolved by an Arbitral Tribunal, refer the Dispute to an Arbitral Tribunal for resolution in accordance with the Arbitration Procedure.

(B) Until the Generator and the CfD Counterparty agree the matters which are the subject of a Generator Preliminary Insurance Event Notice or a Generator Preliminary Insurance Decrease Response Notice or the Dispute has been determined in accordance with the Expert Determination Procedure or the Arbitration Procedure, as the case may be, there shall be no Insurance Event Notice in respect of the relevant Qualifying Insurance Event.

47.6 **Insurance Event Notice**

Upon:

(A) the CfD Counterparty notifying the Generator that it approves the matters which are the subject of a Generator Preliminary Insurance Event Notice or a Generator Preliminary Insurance Decrease Response Notice;

(B) the CfD Counterparty and the Generator agreeing the matters which are the subject of a Generator Preliminary Insurance Event Notice or a Generator Preliminary Insurance Decrease Response Notice (and any amendments to the Generator Preliminary Insurance Event Notice or Generator Preliminary Insurance Decrease Response Notice being made in accordance with that agreement); or

(C) any Dispute (other than merely as to whether the Generator has submitted all information required for a Generator Preliminary Insurance Event Notice or Generator Preliminary Insurance Decrease Response Notice, as the case may be) with respect to the matters which are the subject of a Generator Preliminary

Insurance Event Notice or Generator Preliminary Insurance Decrease Response Notice being resolved or determined in accordance with the Expert Determination Procedure or, as the case may be, the Arbitration Procedure (and any amendments to the Generator Preliminary Insurance Event Notice or Generator Preliminary Insurance Decrease Response Notice being made in accordance with that resolution or determination),

the Generator Preliminary Insurance Event Notice or Generator Preliminary Insurance Decrease Response Notice (in each case, once delivered and as amended, if applicable) shall become the "**Insurance Event Notice**" in respect of the relevant Qualifying Insurance Event.

48. NUCLEAR THIRD PARTY LIABILITY INSURANCE: COMPENSATION

48.1 Increase in third party nuclear liability insurance limits

(A) Subject to Clause 49.3(A)(*Compensation*), if:

(i) the Generator is required to make Insurance Provision as licensee of the Site; and

(ii) by reason of a Change in Applicable Law:

(a) the amount in euro by reference to which the Required Insured Amount is determined is increased to more than the Relevant Insured Amount; or

(b) the Required Insured Amount is not, or, as the case may be, ceases to be, determined by reference to an amount in euro and is increased to an amount in sterling (or other monetary unit) that is more than the sterling equivalent of the Relevant Insured Amount on the day the Change in Applicable Law comes into effect, where the sterling equivalent of the Relevant Insured Amount is to be calculated using the spot rate of exchange for the purchase of euro with sterling in the London foreign exchange market as at close of business on that day (as published in the London Financial Times or, if not so published, as published in such other reputable newspaper or journal as the CfD Counterparty, acting reasonably, shall select),

(each, a "**Relevant Insurance Increase**"),

the CfD Counterparty will pay the Generator in accordance with Clause 48.1(D) the compensation amount calculated in accordance with Clause 48.1(B).

(B) Subject to Clauses 48.1(F), 49.3(A) and 49.3(B) (*Compensation*), the compensation amount will be an amount equal to the amount by which solely by reason of the Relevant Insurance Increase (and not, for the avoidance of doubt, by reason of any other change):

(i) the annual cost to the Generator as licensee of the Site of making Insurance Provision in the year immediately following the Relevant Insurance Increase, expressed in Real terms as at the Qualifying Insurance Event Date and capped at the Actual Insurance Cash Collateralisation Cost,

exceeds

(ii) the annual cost incurred by the Generator as licensee of the Site of making Insurance Provision in the year immediately prior to the date on which the Relevant Insurance Increase takes effect expressed in Real terms as at the Qualifying Insurance Event Date or, if greater, the applicable NTPLI Threshold (as indexed in accordance with and at the same time as the Indexation Adjustment),

as calculated for each remaining year of the Term, pro-rated for part years, and on the basis that the costs set out under this Clause 48.1(B) are held flat in Real terms for the remainder of the Term, as reasonably demonstrated by the Generator and set out in the Insurance Event Notice.

(C) The resulting amount for each remaining year of the Term (or part thereof) as calculated under Clause 48.1(B) shall be Discounted to Present Value as at the Qualifying Insurance Event Date using:

(i) if the compensation is to be paid by way of a Strike Price Adjustment, the Compensation Calculation Discount Rate; or

(ii) if the compensation is to be paid by way of a single lump sum payment or a Series of Payments, the Financing Costs Discount Rate.

(D) The CfD Counterparty may, in its discretion, elect to pay the compensation amount determined pursuant to Clause 48.1(B) by way of a Strike Price Adjustment and/or a Series of Payments and/or single lump sum payment. If the compensation is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation for the remainder of the Term as Discounted to Present Value as at the Qualifying Insurance Event Date using the Compensation Calculation Discount Rate.

(E) If, after a Relevant Insurance Increase or Relevant Insurance Decrease, there is, by reason of a Change in Applicable Law, an increase or, as the case may be, a further increase in:

(i) the amount in euro by reference to which the Required Insured Amount is determined; or

(ii) the sterling equivalent amount,

and the Generator is required to make Insurance Provision as licensee of the Site, the foregoing provisions of this Clause 48.1 shall be repeated as often as shall be required, with the necessary modifications.

(F) The Generator will not be entitled to compensation under Clause 48.1(B) in respect of any period after the Generator is no longer required to make Insurance Provision as licensee of the Site and, in any case, after the Term (or, if earlier, the day designated as an early termination date in respect of this Agreement in its entirety).

48.2 **Decrease in third party nuclear liability insurance limits**

(A) Subject to Clause 49.3(A) (*Compensation*), if:

(i) the Generator is, or ceases to be, required to make Insurance Provision as licensee of the Site; and

(ii) by reason of a Change in Applicable Law:

(a) the amount in euro by reference to which the Required Insured Amount is determined is decreased to less than the Relevant Insured Amount; or

(b) the Required Insured Amount is not, or, as the case may be, ceases to be, determined by reference to an amount in euro and is decreased to an amount in sterling (or other monetary unit) that is less than the sterling equivalent of the Relevant Insured Amount on the day the Change in Applicable Law comes into effect, where the sterling equivalent of the Relevant Insured Amount is to be calculated using the spot rate of exchange for the purchase of euro with sterling in the London foreign exchange market as at close of business on that day (as published in the London Financial Times or, if not so published, as published in such other reputable newspaper or journal as the CfD Counterparty, acting reasonably, shall select),

(each, subject as provided below in this Clause 48.2(A), a "**Relevant Insurance Decrease**"),

the Generator will pay the CfD Counterparty in accordance with Clause 48.2(D) the compensation amount calculated in accordance with Clause 48.2(B), provided that there shall be deemed not to be a Relevant Insurance Decrease if and for so long as the Required Insured Amount has not initially reached €1.2 billion in accordance with the terms of the Nuclear Installations Order.

(B) Subject to Clauses 48.2(F), 49.3(A) and 49.3(B) (*Compensation*), the compensation amount will be an amount equal to the amount by which solely by reason of the Relevant Insurance Decrease (and not, for the avoidance of doubt, by reason of any other change):

(i) the annual cost to the Generator as licensee of the Site of making Insurance Provision in the year immediately prior to the date on which the Relevant Insurance Decrease takes effect, expressed in Real terms as at the Qualifying Insurance Event Date and capped at the Threshold Cash Collateralisation Cost,

exceeds

(ii) the annual cost incurred by the Generator as licensee of the Site of making Insurance Provision in the year immediately following the Relevant Insurance Decrease expressed in Real terms as at the Qualifying Insurance Event Date or, if greater, the applicable NTPLI Threshold (as indexed in accordance with and at the same time as the Indexation Adjustment),

as calculated for each remaining year of the Term, pro-rated for part years, and on the basis that the costs set out under this Clause 48.2(B) are held flat in Real terms for the remainder of the Term, as reasonably demonstrated by the Generator and set out in the Insurance Event Notice.

(C) The resulting amount for each remaining year of the Term (or part thereof) as calculated under Clause 48.2(B) shall be Discounted to Present Value as at the Qualifying Insurance Event Date using the Compensation Calculation Discount Rate.

(D) The Generator shall pay the compensation amount determined pursuant to Clause 48.2(B) by way of a reduction in the Strike Price and such Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation for the remainder of the Term as Discounted to Present Value as at the Qualifying Insurance Event Date using the Compensation Calculation Discount Rate.

(E) If, after a Relevant Insurance Decrease or a Relevant Insurance Increase, there is, by reason of a Change in Applicable Law, a decrease or, as the case may be, a further decrease in:

(i) the amount in euro by reference to which the Required Insured Amount is determined; or

(ii) the sterling equivalent amount,

the foregoing provisions of this Clause 48.2 shall be repeated as often as shall be required, with the necessary modifications.

(F) The CfD Counterparty will not be entitled to compensation under Clause 48.2(B) in respect of any period after the Term (or, if earlier, the day designated as an early termination date in respect of this Agreement in its entirety).

48.3 **Withdrawal by Her Majesty's Government of the United Kingdom of Government Insurance Arrangements with respect to third party nuclear liability insurance cover**

(A) If:

(i) the Generator is required to make Insurance Provision as licensee of the Site;

(ii) Her Majesty's Government of the United Kingdom withdraws Government Insurance Arrangements made by it which were applicable in respect of the Generator as licensee of the Site (the "**Insurance Withdrawal**");

(iii) for a period which is the shortest in time of:

(a) twelve (12) consecutive months ending on the date of the Insurance Withdrawal (or, if earlier, the announcement by Her Majesty's Government of the United Kingdom of the Insurance Withdrawal);

(b) the period for which the relevant Government Insurance Arrangements have been in place; and

(c) the period since the Generator's last Insurance Arrangements renewal date,

the Generator as licensee of the Site had the benefit of such Government Insurance Arrangements and, during that period, did not make use of alternative Insurance Arrangements in respect of the matters which are the subject of those Government Insurance Arrangements (other than demonstrably in express contemplation of the Insurance Withdrawal), as reasonably demonstrated by the Generator;

(iv) the Insurance Withdrawal is not for reasons relating to compliance with any State aid approval decision or any annulment, invalidation, revocation, modification, suspension or replacement of any such State aid approval decision by the European Commission or other Competent Authority, Her Majesty's Government of the United Kingdom having used reasonable endeavours to secure and comply with any State aid approval decision in relation to the Insurance Arrangements (as distinct from this Agreement);

(v) the Insurance Withdrawal in so far as it affects the Generator as licensee of the Site is not for reasons arising out of or in connection with a breach or default by the Generator of any term of any insurance policy relating to the Insurance Provision or any Insurance Arrangements or any prior Insurance Provision or Insurance Arrangements; and

(vi) any Available Alternative Insurance Arrangements (which expression shall for this purpose include self-insurance by, and at a cost to, the Generator) are at a cost which results in an increase in the cost to the Generator of making Insurance Provision immediately following the Insurance Withdrawal compared with the cost to the Generator as licensee of the Site of making Insurance Provision immediately prior to the Insurance Withdrawal, for this purpose disregarding any element or amount of that increase that is attributable to:

(a) the Generator's adverse claims record; or

(b) a breach or default by the Generator of any term of any insurance policy relating to the Insurance Provision or any Insurance Arrangements or any prior Insurance Provision or Insurance Arrangements,

as such costs are set out in the Insurance Event Notice,

the CfD Counterparty will pay the Generator in accordance with Clause 48.3(D) the compensation amount calculated in accordance with Clause 48.3(B) provided that no compensation will be payable to the extent that Available Alternative Insurance Arrangements are not available in respect of the Generator as licensee of the Site by reason of:

(1) the Generator's adverse claims record; or

(2) a breach or default by the Generator of any term of any insurance policy relating to the Insurance Provision or any Insurance Arrangements or any prior Insurance Provision or Insurance Arrangements.

(B) Subject to Clauses 48.3(E), 48.3(H) and 49.3(B) (*Compensation*), the compensation amount will be an amount equal to the amount by which solely by reason of the Insurance Withdrawal (and not, for the avoidance of doubt, by reason of any other change):

(i) the annual cost to the Generator as licensee of the Site of making Insurance Provision in the year immediately following the Insurance Withdrawal, expressed in Real terms as at the Qualifying Insurance Event Date and capped at the Actual Insurance Cash Collateralisation Cost, after disregarding any element or amount of the actual cost that is attributable to:

(a) the Generator's adverse claims record;

(b) a breach or default by the Generator of any term of any insurance policy relating to the Insurance Provision or any Insurance Arrangements or any prior Insurance Provision or Insurance Arrangements; or

(c) increases in the costs of the Insurance Provision in respect of the categories of liability for which Government Insurance Arrangements were not in place prior to the Insurance Withdrawal,

exceeds

(ii) the annual cost incurred by the Generator as licensee of the Site of making Insurance Provision in the year immediately prior to the date of the Insurance Withdrawal expressed in Real terms as at the Qualifying Insurance Event Date or, if greater, the applicable NTPLI Threshold (as indexed in accordance with and at the same time as the Indexation Adjustment),

as calculated for each remaining year of the Term, pro-rated for part years, on the basis that the costs set out under this Clause 48.3(B) are held flat in Real terms for the remainder of the Term, as reasonably demonstrated by the Generator and set out in the Insurance Event Notice.

(C) The resulting amount for each remaining year of the Term (or part thereof) as calculated under Clause 48.3(B) shall be Discounted to Present Value as at the Qualifying Insurance Event Date using:

(i) if the compensation is to be paid by way of a Strike Price Adjustment, the Compensation Calculation Discount Rate; or

(ii) if the compensation is to be paid by way of a single lump sum payment or a Series of Payments, the Financing Costs Discount Rate.

(D) The CfD Counterparty may, in its discretion, elect to pay the compensation amount determined pursuant to Clause 48.3(B) by way of a Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment. If the compensation is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation for the remainder of the Term as Discounted to Present Value as at Qualifying Insurance Event Date using the Compensation Calculation Discount Rate.

(E) If, following an Insurance Withdrawal, any Government Insurance Arrangements are reinstated or introduced, then any compensation paid or payable by the CfD Counterparty after the commencement of such reinstated or introduced Government Insurance Arrangements will be reduced by an amount equal to the amount by which the annual cost to the Generator of making Insurance Provision in the year immediately before such reinstatement or introduction expressed in Real terms as at the date of such reinstatement or introduction, as the case may be, and net of any cancellation fees incurred by the Generator in respect of any existing Insurance Arrangements that are cancelled in order to take advantage of such reinstated or introduced Government Insurance Arrangements provided that such cancellation fees are necessary for the cancellation of the existing Insurance Arrangements and are in an amount and on terms that are typical or customary

within the market for that type of Insurance Arrangements, exceeds the annual cost incurred by the Generator as licensee of the Site of making Insurance Provision in the year immediately after such reinstatement or introduction (but excluding any reduction to the extent that such reduction relates to reasons other than such reinstatement) expressed in Real terms as at the date of such reinstatement or introduction; or, if greater, the applicable NTPLI Threshold (as indexed in accordance with and at the same time as the Indexation Adjustment), and then applied for each remaining year of the Term (pro-rated for part years), in each case, as reasonably demonstrated by the Generator.

(F) The resulting amount for each remaining year of the Term (or part thereof) as calculated under Clause 48.3(E) shall be Discounted to Present Value as at the date of such reinstatement or introduction using:

(i) if the compensation is to be reduced by way of a Strike Price Adjustment, the Compensation Calculation Discount Rate; or

(ii) if the compensation is to be reduced by way of a single lump sum payment or a Series of Payments, the Financing Costs Discount Rate.

(G) If the compensation amount determined pursuant to Clause 48.3(B) was paid by way of:

(i) a Strike Price Adjustment, the reduction pursuant to Clause 48.3(E) shall be effected by way of a Strike Price Adjustment and that Strike Price Adjustment shall be calculated by dividing the amount calculated under Clause 48.3(F)(i) by the Estimated Facility Generation for the remainder of the Term as Discounted to Present Value as at the date of such reinstatement or introduction using the Compensation Calculation Discount Rate;

(ii) a Series of Payments, the reduction pursuant to Clause 48.3(E) shall be effected:

(a) if any of the payments under that Series of Payments remain outstanding, by reducing each remaining payment proportionately to the reduction; or

(b) in each other case, by way of a single lump sum payment to the CfD Counterparty; or

(iii) a lump sum payment, by way of a single lump sum payment to the CfD Counterparty (or, if the original single lump sum payment has not yet been paid, by a reduction of the original single lump sum payment).

(H) The Generator will not be entitled to compensation under Clause 48.3(B) in respect of any period after the Generator is no longer required to make Insurance Provision as licensee of the Site, and, in any case, after the Term (or, if earlier, the day designated as an early termination date in respect of this Agreement in its entirety).

48.4 **Failure by Her Majesty's Government of the United Kingdom to make Insurance Arrangements with respect to third party nuclear liability insurance cover**

(A) If:

(i) the Generator is required to make Insurance Provision as licensee of the Site;

(ii) there are no Available Alternative Insurance Arrangements in respect of the Generator as licensee of the Site other than for reasons arising out of or in connection with:

(a) the Generator's adverse claims record; or

(b) a breach or default by the Generator of any term of any insurance policy relating to the Insurance Provision or any Insurance Arrangements or any prior Insurance Provision or Insurance Arrangements;

(iii) Her Majesty's Government of the United Kingdom does not have Government Insurance Arrangements in place and does not introduce or reinstate Government Insurance Arrangements in respect of the Generator (in each case in respect of future events or occurrences) to enable the Generator to make Insurance Provision at a cost such that the total cost of the Insurance Arrangements in respect of the Generator is no more than the Threshold Cash Collateralisation Cost (an "**Insurance Failure**"); and

(iv) the Insurance Failure is not for reasons relating to compliance with any State aid approval decision in relation to the Insurance Arrangements, as distinct from this Agreement, or any annulment, invalidation, revocation, modification, suspension or replacement of any such State aid approval decision by the European Commission or other Competent Authority, Her Majesty's Government of the United Kingdom having used reasonable endeavours to secure and comply with such a State aid approval decision,

the CfD Counterparty will pay the Generator in accordance with Clause 48.4(D) the compensation amount calculated in accordance with Clause 48.4(B).

(B) Subject to Clauses 48.4(E), 48.4(H) and 49.3(B) (*Compensation*), the compensation amount will be an amount equal to the amount by which solely by reason of the Insurance Failure (and not, for the avoidance of doubt, any other change):

(i) the annual cost to the Generator as licensee of the Site of making Insurance Provision in the year immediately following the Insurance Failure, expressed in Real terms as at the Qualifying Insurance Event Date and capped at the Actual Insurance Cash Collateralisation Cost,

exceeds

(ii) the annual cost incurred by the Generator as licensee of the Site of making Insurance Provision in the year immediately prior to the date of the Insurance Failure expressed in Real terms as at the Qualifying Insurance Event Date or, if greater, the applicable NTPLI Threshold (as indexed in accordance with and at the same time as the Indexation Adjustment),

as calculated for each remaining year of the Term, pro-rated for part years, and on the basis that the costs set out under this Clause 48.4(B) are held flat in Real terms for the remainder of the Term, as reasonably demonstrated by the Generator and set out in the Insurance Event Notice.

(C) The resulting amount for each remaining year of the Term (or part thereof) as calculated under Clause 48.4(B) shall be Discounted to Present Value as at the Qualifying Insurance Event Date using:

(i) if the compensation is to be paid by way of a Strike Price Adjustment, the Compensation Calculation Discount Rate; or

(ii) if the compensation is to be paid by way of a single lump sum payment or a Series of Payments, the Financing Costs Discount Rate.

(D) The CfD Counterparty may, in its discretion, elect to pay the compensation amount determined pursuant to Clause 48.4(B) by way of a Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment. If the compensation is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation for the remainder of the Term as Discounted to Present Value as at the Qualifying Insurance Event Date using the Compensation Calculation Discount Rate.

(E) If Available Alternative Insurance Arrangements in respect of the Generator as licensee of the Site subsequently become available, then any compensation paid or payable by the CfD Counterparty after such Available Alternative Insurance Arrangements first become available will be reduced by an amount equal to the amount by which:

(i) the compensation amount referred to in Clause 48.4(B) expressed in Real terms as at the Qualifying Insurance Event Date,

exceeds

(ii) the annual cost incurred by the Generator as licensee of the Site of making Insurance Provision under such Available Alternative Insurance Arrangements in the year immediately following such Available Alternative Insurance Arrangements becoming available, expressed in Real terms as at the date that such Available Alternative Insurance Arrangements become available (but excluding any reduction to the

extent that such reduction relates to reasons other than such Available Alternative Insurance Arrangements becoming available) or, if greater, the applicable NTPLI Threshold (as indexed in accordance with and at the same time as the Indexation Adjustment),

as calculated for each remaining year of the Term, pro-rated for part years, and on the basis that the costs set out under this Clause 48.4(E) are held flat in Real terms for the remainder of the Term, as reasonably demonstrated by the Generator and set out in the Insurance Event Notice.

(F) The resulting amount for each remaining year of the Term (or part thereof) as calculated under Clause 48.4(E) shall be Discounted to Present Value as at the date that such Available Alternative Insurance Arrangements become available using:

(i) if the compensation is to be reduced by way of a Strike Price Adjustment, the Compensation Calculation Discount Rate; or

(ii) if the compensation is to be reduced by way of a single lump sum payment or a Series of Payments, the Financing Costs Discount Rate.

(G) If the compensation amount determined pursuant to Clause 48.4(B) was paid by way of:

(i) a Strike Price Adjustment, the reduction pursuant to Clause 48.4(E) shall be effected by way of a Strike Price Adjustment and that Strike Price Adjustment shall be calculated by dividing the amount calculated under Clause 48.4(F)(i) by the Estimated Facility Generation for the remainder of the Term as Discounted to Present Value as at the date that such Available Alternative Insurance Arrangements become available using the Compensation Calculation Discount Rate;

(ii) a Series of Payments, the reduction pursuant to Clause 48.4(E) shall be effected:

(a) if any of the payments under that Series of Payments remains outstanding, by reducing each remaining payment proportionately to the reduction; or

(b) in each other case, by way of a single lump sum payment to the CfD Counterparty; or

(iii) a lump sum payment, by way of a single lump sum payment to the CfD Counterparty (or, if the original single lump sum payment has not yet been paid, by a reduction of the original single lump sum payment).

(H) The Generator will not be entitled to compensation under Clause 48.4(B) in respect of any period after the Generator is no longer required to make Insurance Provision as licensee of the Site, and, in any case, after the Term (or, if earlier,

the day designated as an early termination date in respect of this Agreement in its entirety).

48.5 **Increase in cost of Government Insurance Arrangements with respect to third party nuclear liability insurance cover**

(A) If in respect of any year ending on an Indexation Anniversary (each such Indexation Anniversary, an "**NTPLI Indexation Anniversary**"):

(i) the Generator is required to make Insurance Provision as licensee of the Site;

(ii) the annual premium, fees and other costs charged by Her Majesty's Government of the United Kingdom in respect of the provision of Government Insurance Arrangements to the Generator (together, the "**Government Insurance Charges**"), expressed in Real terms as at the NTPLI Indexation Anniversary, have increased since the Government Insurance Reference Date at a rate which is greater than one hundred and fifty per cent. (150%) of the rate of increase in the annual premium, fees and other costs charged by the Relevant Commercial Insurance Market, expressed in Real terms as at the NTPLI Indexation Anniversary, since the Government Insurance Reference Date other than for reasons arising out of or in connection with:

(a) the Generator's adverse claims record; or

(b) a breach or default by the Generator of any term of any insurance policy relating to the Insurance Provision or any Insurance Arrangements or any prior Insurance Provision or Insurance Arrangements;

(and for the purposes of this Clause 48.5(A):

(1) one hundred and fifty per cent. (150%) of the rate of increase in the annual premium, fees and other costs charged by the Relevant Commercial Insurance Market, expressed in Real terms as at the NTPLI Indexation Anniversary, is the "**Allowable Increase Rate**"; and

(2) the amount by which the actual Government Insurance Charges, expressed in Real terms as at the NTPLI Indexation Anniversary, exceed what the Government Insurance Charges, expressed in Real terms as at the NTPLI Indexation Anniversary, would have been if the Real Value of such charges had increased at the Allowable Increase Rate is the "**Excess Government Insurance Charges**");

(iii) the Excess Government Insurance Charges are not for reasons relating to compliance with any such State aid approval decision or any

annulment, invalidation, revocation, modification, suspension or replacement of such a State aid approval decision by the European Commission or other Competent Authority, Her Majesty's Government of the United Kingdom having used reasonable endeavours to secure and comply with any State aid approval decision in relation to the Insurance Arrangements (as distinct from this Agreement); and

(iv) for a period which is the shortest in time of:

(a) twelve (12) consecutive months ending on the NTPLI Indexation Anniversary;

(b) the period for which the relevant Government Insurance Arrangements have been in place; and

(c) the period since the Generator's last Insurance Arrangements renewal date,

the Generator as licensee of the Site had the benefit of such Government Insurance Arrangements and, during that period, did not make use of alternative Insurance Arrangements in respect of the matters which are the subject of those Government Insurance Arrangements (other than demonstrably in express contemplation of the Government Insurance Arrangements giving rise to Excess Government Insurance Charges), as reasonably demonstrated by the Generator,

the CfD Counterparty will pay the Generator in accordance with Clause 48.5(D) the compensation amount calculated in accordance with Clause 48.5(B).

(B) Subject to Clauses 48.5(E) and 49.3(B) (*Compensation*), in the circumstances in which the annual premium, fees and other costs of the Generator as licensee of the Site in making Insurance Provision for the year ending on the NTPLI Indexation Anniversary exceed in the aggregate the applicable NTPLI Threshold (as indexed in accordance with and at the same time as the Indexation Adjustment), the compensation amount will be an amount equal to the lesser of:

(i) the amount of the Excess Government Insurance Charges, capped at the Actual Insurance Cash Collateralisation Cost; and

(ii) the amount by which the annual cost incurred by the Generator as licensee of the Site of making Insurance Provision in the year immediately preceding the NTPLI Indexation Anniversary, expressed in Real terms as at the NTPLI Indexation Anniversary, exceeds the applicable NTPLI Threshold (Rebased as at the NTPLI Indexation Anniversary),

as reasonably demonstrated by the Generator and set out in the Insurance Event Notice.

(C) The resulting amount calculated under Clause 48.5(B) shall be Discounted to Present Value as at the NTPLI Indexation Anniversary using:

(i) if the compensation is to be paid by way of a Strike Price Adjustment, the Compensation Calculation Discount Rate; or

(ii) if the compensation is to be paid by way of a single lump sum payment or a Series of Payments, the Financing Costs Discount Rate.

(D) The CfD Counterparty may, in its discretion, elect to pay the compensation amount determined pursuant to Clause 48.5(B) by way of a Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment. If the compensation is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation for the remainder of the Term as Discounted to Present Value as at the NTPLI Indexation Anniversary using the Compensation Calculation Discount Rate.

(E) The Generator will not be entitled to compensation under Clause 48.5(B) in respect of any period after the Generator is no longer required to make Insurance Provision as licensee of the Site, and, in any case, after the Term (or, if earlier, the day designated as an early termination date in respect of this Agreement in its entirety).

48.6 **Increase in the categories of third party nuclear liability insurance cover**

(A) Subject to Clause 49.3 (*Compensation*), if:

(i) the Generator is required to make Insurance Provision as licensee of the Site; and

(ii) by reason of a Change in Applicable Law, an Additional Liability in respect of which the Generator is required to make Insurance Provision, comes into effect,

(a "**Relevant Insurance Scope Increase**"),

the CfD Counterparty will pay the Generator in accordance with Clause 48.6(D) the compensation amount calculated in accordance with Clause 48.6(B).

(B) Subject to Clauses 48.6(F), 49.3(A) and 49.3(B) (*Compensation*), the compensation amount will be an amount equal to the amount by which solely by reason of the Relevant Insurance Scope Increase (and not, for the avoidance of doubt, by reason of any other change):

(i) the annual cost to the Generator as licensee of the Site of making Insurance Provision in the year immediately following the Relevant Insurance Scope Increase, expressed in Real terms as at the Qualifying Insurance Event Date and capped at the Actual Insurance Cash Collateralisation Cost,

exceeds

(ii) the annual cost incurred by the Generator as licensee of the Site of making Insurance Provision in the year immediately prior to the date of the Relevant Insurance Scope Increase expressed in Real terms as at the Qualifying Insurance Event Date or, if greater, the applicable NTPLI Threshold (as indexed in accordance with and at the same time as the Indexation Adjustment),

as calculated for each remaining year of the Term, pro-rated for part years, and on the basis that the costs set out under this Clause 48.6(B) are held flat in Real terms for the remainder of the Term, as reasonably demonstrated by the Generator and set out in the Insurance Event Notice.

(C) The resulting amount for each remaining year of the Term (or part thereof) as calculated under Clause 48.6(B) shall be Discounted to Present Value as at the Qualifying Insurance Event Date using:

(i) if the compensation is to be paid by way of a Strike Price Adjustment, the Compensation Calculation Discount Rate; or

(ii) if the compensation is to be paid by way of a single lump sum payment or a Series of Payments, the Financing Costs Discount Rate.

(D) The CfD Counterparty may, in its discretion, elect to pay the compensation amount determined pursuant to Clause 48.6(B) by way of a Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment. If the compensation is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation for the remainder of the Term as Discounted to Present Value as at the Qualifying Insurance Event Date using the Compensation Calculation Discount Rate.

(E) If, after a Relevant Insurance Scope Increase, there is, by reason of a Change in Applicable Law, any further Additional Liability and the Generator as licensee of the Site is required to make Insurance Provision in respect of such further Additional Liability, the foregoing provisions of this Clause 48.6 shall be repeated as often as shall be required, with the necessary modifications.

(F) The Generator will not be entitled to compensation under Clause 48.6(B) in respect of any period after the Generator is no longer required to make Insurance Provision as licensee of the Site, and, in any case, after the Term (or, if earlier, the day designated as an early termination date in respect of this Agreement in its entirety).

48.7 **Withdrawal of approval by Her Majesty's Government of the United Kingdom to existing Insurance Arrangements previously approved under section 19 of the NIA 1965**

(A) If:

(i) the Generator is required to make Insurance Provision as licensee of the Site;

(ii) the Generator has proposed new Insurance Arrangements as a result of Her Majesty's Government of the United Kingdom withdrawing approval of existing Insurance Arrangements approved under section 19(1) of the NIA 1965 (an "**Approval Insurance Withdrawal**");

(iii) the Approval Insurance Withdrawal, in so far as it affects the Generator as licensee of the Site, is in circumstances where the Secretary of State ought reasonably to have been satisfied on the basis of how those requirements were interpreted as at the date on which the withdrawn Insurance Arrangements were previously approved that approval of such existing Insurance Arrangements under section 19(1) of the NIA 1965 should not have been withdrawn; and

(iv) the proposed Insurance Arrangements are at a cost which results in an increase in the cost to the Generator of making Insurance Provision immediately following the Approval Insurance Withdrawal compared with the cost to the Generator as licensee of the Site of making Insurance Provision immediately prior to the Approval Insurance Withdrawal, for this purpose disregarding any element or amount of that increase that is attributable to:

(a) the Generator's adverse claims record; or

(b) a breach or default by the Generator of any term of any insurance policy relating to the Insurance Provision or any Insurance Arrangements or any prior Insurance Provision or Insurance Arrangements,

as such costs are set out in the Insurance Event Notice,

the CfD Counterparty will pay the Generator in accordance with Clause 48.7(D) the compensation amount calculated in accordance with Clause 48.3(B) (*Withdrawal by Her Majesty's Government of the United Kingdom of Government Insurance Arrangements with respect to third party nuclear liability insurance cover*).

(B) Subject to Clauses 48.7(E) and 49.3(B) (*Compensation*), the compensation amount will be an amount equal to the amount by which solely by reason of the Approval Insurance Withdrawal (and not, for the avoidance of doubt, by reason of any other change):

(i) the annual cost to the Generator as licensee of the Site of making Insurance Provision in the year immediately following the Approval Insurance Withdrawal, capped at the Actual Insurance Cash Collateralisation Cost expressed in Real terms as at the Qualifying Insurance Event Date, after disregarding any element or amount of the actual cost that is attributable to:

(a) the Generator's adverse claims record;

(b) a breach or default by the Generator of any term of any insurance policy relating to the Insurance Provision or any Insurance Arrangements or any prior Insurance Provision or Insurance Arrangements,

exceeds

(ii) the annual cost incurred by the Generator as licensee of the Site of making Insurance Provision in the year immediately prior to the date of the Approval Insurance Withdrawal expressed in Real terms as at the Qualifying Insurance Event Date or, if greater, the applicable NTPLI Threshold (as indexed in accordance with and at the same time as the Indexation Adjustment),

as calculated for each remaining year of the Term, pro-rated for part years, and on the basis that the costs set out under this Clause 48.7(B) are held flat in Real terms for the remainder of the Term, as reasonably demonstrated by the Generator and set out in the Insurance Event Notice.

(C) The resulting amount for each remaining year of the Term (or part thereof) as calculated under Clause 48.7(B) shall be Discounted to Present Value as at the Qualifying Insurance Event Date using:

(i) if the compensation is to be paid by way of a Strike Price Adjustment, the Compensation Calculation Discount Rate; or

(ii) if the compensation is to be paid by way of a single lump sum payment or a Series of Payments, the Financing Costs Discount Rate.

(D) The CfD Counterparty may, in its discretion, elect to pay the compensation amount determined pursuant to Clause 48.7(B) by way of a Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment. If the compensation is to be paid by way of a Strike Price Adjustment, that Strike Price Adjustment shall be calculated by dividing the resulting amount by the Estimated Facility Generation for the remainder of the Term as Discounted to Present Value as at the Qualifying Insurance Event Date using the Compensation Calculation Discount Rate.

(E) The Generator will not be entitled to compensation under Clause 48.7(B) in respect of any period after the Generator is no longer required to make Insurance Provision as licensee of the Site, and, in any case, after the Term (or, if earlier,

the day designated as an early termination date in respect of this Agreement in its entirety).

49. NUCLEAR THIRD PARTY LIABILITY INSURANCE: GENERAL PROVISIONS

49.1 Interaction with Change in Law

To the extent that the Generator has, or wishes to make, a claim in respect of any of the matters, circumstances or events set out or referred to in the foregoing provisions of this Part 14:

(A) the Generator shall pursue (and, subject to Clause 49.1(B)(ii), may only pursue) such claim under the provisions of this Part 14; and

(B) if:

(i) the Generator and the CfD Counterparty agree or, as the case may be, it is resolved or determined in accordance with the Dispute Resolution Procedure that the Generator has a valid claim under this Part 14, payment of such compensation shall be in full and final settlement of the relevant claim; or

(ii) the Generator and the CfD Counterparty agree or, as the case may be, it is resolved or determined in accordance with the Dispute Resolution Procedure that the Generator does not have a valid claim under this Part 14, the Generator shall be entitled to pursue such claim to that extent under the Qualifying Change in Law provisions in Part 10 (*Changes in Law*) if the claim also falls within the scope of those provisions.

49.2 Insurance Mitigation Obligation

(A) Without prejudice to Clause 69 (*General Mitigation and Compensation*), the Generator shall promptly take all reasonable steps to mitigate any loss or, as the case may be, maximise any benefit arising from the operation of the provisions in this Part 14, including by taking all reasonable steps (taking into account Lender requirements) to obtain and maintain cost-efficient insurance and by using all reasonable endeavours to take advantage of Agreed Pooled Insurance Arrangements as are approved by the Secretary of State under section 19(1) of the NIA 1965, provided that the foregoing shall not be interpreted so as to require the Generator to reduce or not to reduce generation from the Facility or any Reactor (the "**Insurance Mitigation Obligation**").

(B) The Generator shall give notice promptly to the CfD Counterparty of the mitigating steps that it has taken, is taking and proposes to take and shall promptly provide such Supporting Information regarding such mitigation as the CfD Counterparty may reasonably request.

49.3 **Compensation**

(A) No compensation shall be payable under Clause 48.1 (*Increase in third party nuclear liability insurance limits*), Clause 48.2 (*Decrease in third party nuclear liability insurance limits*) or Clause 48.6 (*Increase in the categories of third party nuclear liability insurance cover*) if the relevant event was due to measures provided for by the Nuclear Installations Order.

(B) The amount of compensation payable by the CfD Counterparty to the Generator pursuant to this Part 14 shall be reduced by the amount of any net compensation received or which would have been received by the Generator (or its nominee) had the Generator complied in full with its obligations under Clauses 69 (*General Mitigation and Compensation*) and 70 (*No Double Recovery*).

(C) It is acknowledged by the CfD Counterparty that the same circumstances may give rise to more than one category of Qualifying Insurance Event and that the Generator shall be entitled to claim compensation in relation to any and all applicable categories of Qualifying Insurance Event, with any compensation adjusted as necessary to avoid double counting.

49.4 **Indemnity**

Save where the Generator Preliminary Insurance Event Notice relates to a Relevant Insurance Decrease Event, the Generator shall promptly on demand from time to time indemnify the CfD Counterparty, and keep the CfD Counterparty fully and effectively indemnified, against any out-of-pocket costs properly incurred by the CfD Counterparty (excluding, for the avoidance of doubt, any amount of compensation payable by the CfD Counterparty pursuant to this Part 14) and which would not have been incurred but for a Generator Preliminary Insurance Event Notice having been given.

49.5 **Interpretation**

It is recognised that Clause 1.5 (*Nuclear Third Party Liability Insurance*) applies in the construction of certain references in this Part 14.

Part 15
Representations, Warranties and Undertakings

50. GENERATOR REPRESENTATIONS AND WARRANTIES

50.1 Agreement Date representations

The Generator represents and warrants to the CfD Counterparty that, as at the Agreement Date, the following statements are true, accurate and not misleading:

(A) ***Status***: It and each other member of the NNB HoldCo Group:

(i) is a limited liability company, duly incorporated and validly existing under the laws of England and Wales; and

(ii) has the power to own its assets and carry on its business as it is currently being conducted and as contemplated by the Transaction Documents to which it is a party.

(B) ***Power and authority***: It and each other member of the NNB HoldCo Group has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Transaction Documents to which it is a party and the transactions contemplated by the Transaction Documents to which it is a party (excluding in each case any direct agreement referred to in paragraph (E) of the definition of "Transaction Documents" in Clause 1.1 (*Definitions*), to the extent not in force on the Agreement Date or, as applicable, each Start Date).

(C) ***Enforceability***: The obligations expressed to be assumed by it and each other member of the NNB HoldCo Group pursuant to the Transaction Documents to which it or the relevant other member of the NNB HoldCo Group is a party (excluding any direct agreement referred to in paragraph (E) of the definition of "Transaction Documents" in Clause 1.1 (*Definitions*), to the extent not in force on the Agreement Date or, as applicable, each Start Date) are legal, valid, binding and enforceable subject only to the Legal Reservations.

(D) ***Non-conflict with other obligations***: The entry into, delivery and performance by it and each other member of the NNB HoldCo Group of, and the transactions contemplated by, the Transaction Documents to which it or the relevant other member of the NNB HoldCo Group is a party (excluding the Direct Agreement and any direct agreement referred to in paragraph (E) of the definition of "Transaction Documents" in Clause 1.1 (*Definitions*), in each case to the extent not in force on the Agreement Date or, as applicable, each Start Date) do not conflict with:

(i) its constitutional documents or those of such other member of the NNB HoldCo Group;

(ii) any Law or Directive applicable to it or such other member of the NNB HoldCo Group to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect;

(iii) any Required Authorisations to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect; or

(iv) any agreement or instrument binding upon it or such other member of the NNB HoldCo Group or any of its assets or the assets of such other member of the NNB HoldCo Group to an extent or in a manner which has or is reasonably expected to have a material adverse effect on its payment obligations under this Agreement.

(E) ***Centre of main interests***: For the purposes of the Insolvency Regulations, its centre of main interest (as that term is used in Article 3(1) of the Insolvency Regulations) and that of each other member of the NNB HoldCo Group is situated in England.

(F) ***Required Authorisations***

(i) All Required Authorisations which are required to be obtained by the Generator on or before the date on which this representation and warranty is made or deemed to be repeated by the Generator have been obtained by the Generator and are in full force and effect, save to the extent that failure to do so has not had and is not reasonably expected to have a Material Adverse Effect.

(ii) All conditions of, and all obligations and liabilities under, Required Authorisations which are required to be performed, complied with or satisfied by the Generator on or before the date on which this representation and warranty is made or deemed to be repeated by the Generator have been performed, complied with or satisfied, save where failure to do so has not had and is not reasonably expected to have a Material Adverse Effect.

(G) ***No Default***: No Default with respect to the Generator has occurred and is continuing or might reasonably be expected to result from its entry into or performance of any of the Transaction Documents to which it is a party.

(H) ***No litigation***: No litigation, arbitration or administrative suit or proceeding, adjudication, expert determination, Tax claim or Tax investigation against the Generator or any other member of the NNB HoldCo Group is: (i) current; (ii) pending before any court, arbitral or other tribunal, administrative or regulatory body or, as the case may be, expert; or (iii) so far as it is aware, by reason of receipt of a formal written notice, threatened, in any such case which, if adversely determined, would have or would reasonably be expected to have a Material Adverse Effect.

(I) ***No requirement to deduct or withhold***: The Generator is not required by any Law or Directive applicable to it, as applied, interpreted or modified by the

published practice of any relevant Competent Authority of any jurisdiction in which it is resident for Tax purposes, to make any deduction or withholding for or on account of any Tax from any payment to be made by it to the CfD Counterparty pursuant to any of the Transaction Documents to which it is a party.

(J) ***Tax residency***: The Generator and each other member of the NNB HoldCo Group is resident for Tax purposes only in England and Wales.

(K) ***Original Base Case Financial Model***

As at the Agreement Date:

(i) all factual information in the Original Base Case Financial Model is true and accurate in all material respects by reference to the facts and circumstances existing at 28 September 2015;

(ii) the Original Base Case Financial Model:

(a) was prepared honestly and with due care and diligence on the basis of information, forecasts and assumptions believed by the Generator (having made all due and careful enquiries) to be reasonable by reference to the facts and circumstances existing at 28 September 2015; and

(b) fairly represents the Generator's expectations in relation to the matters covered by such information; and

(iii) so far as the Generator is aware, there is no information which would make the Original Base Case Financial Model untrue or misleading to an extent which would materially adversely prejudice the interests of the CfD Counterparty.

(L) ***Data Room Documentation***

(i) The Data Room Documentation was, as far as the Generator is aware (having made all due and careful enquiries), true and accurate in all material respects as at the date each document was prepared.

(ii) Save as fairly disclosed in writing to the CfD Counterparty prior to the Agreement Date, it is not aware of any information which would make the Data Room Documentation untrue or misleading in any material respect.

(M) ***Financial statements***

(i) NNB HoldCo's most recent audited consolidated financial statements and management accounts and the Generator's most recent audited financial statements and management accounts were each prepared in accordance with applicable accounting standards.

(ii) Each of NNB HoldCo's most recent audited consolidated financial statements and the Generator's most recent audited financial statements give a true and fair view of its financial condition as at the end of, and (to the extent applicable) results of operations for, the period to which they relate.

(iii) There has been no material adverse change in the Generator's financial condition, or the financial condition of the NNB HoldCo Group, since the date of the Generator's most recent audited financial statements.

(N) ***Corporate structure***

The Group Structure Chart is true, complete and accurate and shows (among other things) the following information, namely that:

(i) in the case of NNB HoldCo, its only subsidiaries are the Generator and NNB FinCo; and

(ii) in the case of the Generator, it does not have any subsidiaries.

(O) ***No other business***: The Generator has not traded or carried on, or had any assets or liabilities in respect of, any business since the date of its incorporation other than in respect of the Project, the Sizewell C Project, the Bradwell B Project and the Wind Farm Activities.

(P) ***Ownership***: The Generator is the legal and beneficial owner with freehold or leasehold title of the Site, the Facility and the Reactors at all relevant times subject only to:

(i) security interests arising by reason of or permitted under the FDP, any FDP Direct Agreement and any security interest created or subsisting in accordance with Clause 86.1 (*Restriction on Transfers*) or Clause 86.6 (*Permitted assignment by the Generator*); and

(ii) in the case of the Site, other third party rights which would not (save for any such third party rights arising by way of statute except to the extent those rights arise by reason of the fault or negligence of the Generator), so far as the Generator is aware, having made all due and careful enquiries, either individually or in aggregate, materially prejudice or materially adversely affect each stage of the Project (or part thereof) at the time that each stage is relevant to the Project.

(Q) ***UK EPR Technology***: The generation technology which is intended to be deployed at the Facility and each Reactor is the UK EPR Technology.

(R) ***HPC Properties***: The HPC Properties are all and the only properties of which the Generator has provided details to the Valuation Office Agency for the purpose of any preliminary assessment of the Business Rates payable in respect of the Project that formed the basis of the forecast for Business Rates as set out in the Original Base Case Financial Model.

(S) ***Lifecycle Assumptions***: The lifecycle assumptions set out in the Original Assumptions Book are the Generator's best estimate at the Agreement Date of each and every such lifecycle assumption.

50.2 **Generator Repeating Warranties**

The representations and warranties set out in Clauses 50.1(A), 50.1(B), 50.1(C), 50.1(D), 50.1(E) and 50.1(F) (the "**Generator Repeating Warranties**") are deemed to be repeated by the Generator on each Start Date, in each case by reference to the facts and circumstances then existing except in so far as the same is incorrect or misleading as a result of a Change in Applicable Law.

51. CFD COUNTERPARTY WARRANTIES

51.1 **Agreement Date representations**

The CfD Counterparty represents and warrants to the Generator that, as at the Agreement Date, the following statements are true, accurate and not misleading:

(A) ***Status***: The CfD Counterparty:

(i) is a limited liability company, duly incorporated and validly existing under the laws of England and Wales; and

(ii) has the power to own its assets and carry on its business as contemplated by the Transaction Documents to which it is a party.

(B) ***Power and authority***: The CfD Counterparty has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Transaction Documents to which it is a party and the transactions contemplated by the Transaction Documents to which it is a party.

(C) ***Enforceability***: The obligations expressed to be assumed by the CfD Counterparty pursuant to the Transaction Documents to which it is a party are legal, valid, binding and enforceable subject only to the Legal Reservations.

(D) ***Non-conflict with other obligations***: The entry into, delivery and performance by the CfD Counterparty of, and the transactions contemplated by, the Transaction Documents to which it is a party (excluding the Direct Agreement and any direct agreement referred to in paragraph (E) of the definition of "Transaction Documents" in Clause 1.1 (*Definitions*), in each case to the extent not in force on the Agreement Date or, as applicable, each Start Date) do not conflict with:

(i) its constitutional documents;

(ii) any Law or Directive applicable to it to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect;

(iii) any authorisation, licence, accreditation, permit, consent, certificate, resolution, clearance, exemption, order, confirmation or other approval of or from any Competent Authority required to enable it to perform and comply with its obligations under this Agreement and the other Transaction Documents to which it is a party, to an extent or in a manner which has or is reasonably expected to have a Material Adverse Effect; or

(iv) any agreement or instrument binding upon it or any of its assets to an extent or in a manner which has or is reasonably expected to have a material adverse effect on its payment obligations under this Agreement.

(E) ***No requirement to deduct or withhold***: The CfD Counterparty is not required by any Law or Directive applicable to it, as applied, interpreted or modified by the published practice of any relevant Competent Authority of any jurisdiction in which it is resident for Tax purposes, to make any deduction or withholding for or on account of any Tax from any payment to be made by it to the Generator pursuant to any of the Transaction Documents to which the CfD Counterparty is a party.

51.2 **Repetition**

The representations and warranties set out in Clauses 51.1(A) to 51.1(D) (*Agreement Date representations*) (inclusive) are deemed to be repeated by the CfD Counterparty on each Start Date, in each case by reference to the facts and circumstances then existing except in so far as the same are incorrect or misleading as a result of a Change in Applicable Law.

52. GENERATOR UNDERTAKINGS: GENERAL

52.1 **Generator undertakings**

The Generator undertakes to the CfD Counterparty as follows:

(A) ***Status***: The Generator shall maintain its status as a limited liability company incorporated under the laws of England and Wales.

(B) ***Compliance with Laws, Directives and Industry Documents***: The Generator shall at all times comply with all Laws, Directives and Industry Documents to which it is a party or may be subject or by which it is bound if failure to do so would have or would reasonably be expected to have a Material Adverse Effect.

(C) ***Centre of main interests***: For the purposes of the Insolvency Regulations, the Generator shall ensure that at all times its centre of main interests (as that term is used in Article 3(1) of the Insolvency Regulations) is situated in England.

(D) ***Required Authorisations***: The Generator shall: (i) promptly obtain all Required Authorisations; (ii) at all times perform, comply with and satisfy all conditions of, and all obligations and liabilities under, all Required Authorisations; and (iii) do all that is necessary to maintain in full force and effect all Required Authorisations,

to the extent, in each case, that failure to do so would have or would reasonably be expected to have a Material Adverse Effect.

(E) ***No insolvency action***: The Generator shall not petition, apply for, institute, support or vote for the administration, winding-up or liquidation of the CfD Counterparty or seek any other relief as against the CfD Counterparty under any administration, insolvency or bankruptcy law or similar law affecting creditors' rights generally provided that this shall not prevent the Generator from taking other action under this Agreement to enforce compliance by the CfD Counterparty with its obligations under Clause 78.1 (*CfD Counterparty payment undertakings*).

(F) ***Ownership***: The Generator is the legal and beneficial owner with freehold or leasehold title of the Site, the Facility and the Reactors subject only to:

(i) security interests arising by reason of or permitted under the FDP, any FDP Direct Agreement and any security interest created or subsisting in accordance with Clause 86.1 (*Restriction on Transfers*) or Clause 86.6 (*Permitted assignment by the Generator*);

(ii) in the case of the Site, other third party rights which would not (save for any such third party rights arising by way of statute except to the extent those rights arise by reason of the fault or negligence of the Generator), so far as the Generator is aware, having made all due and careful enquiries, either individually or in aggregate, materially prejudice or materially adversely affect each stage of the Project (or part thereof) at the time that each stage is relevant to the Project; and

(iii) in the case of the Facility and the Reactors (each after construction completion), other third party rights which would not (save for any such third party rights arising by way of statute except to the extent those rights arise by reason of the fault or negligence of the Generator), so far as the Generator is aware, having made all due and careful enquiries, either individually or in aggregate, materially prejudice or materially adversely affect the Project (or part thereof).

(G) ***Financial Statements***:

(i) The Generator shall provide:

(a) as soon as they are available, but in any event within one hundred and eighty (180) days after the end of each of its financial years, its audited financial statements for that year;

(b) as soon as they are available, but in any event within one hundred and twenty (120) days after the end of each of its financial half-years, its interim unaudited financial statements for that half-year; and

(c) as soon as they are available, its monthly management accounts.

(ii) Each set of financial statements delivered pursuant to Clause 52.1(G)(i) shall be prepared in accordance with applicable accounting standards.

(H) ***Taxation***: The Generator shall:

(i) as soon as reasonably practicable (and in no event later than the filing or return date required by any applicable Law or Directive), file all tax reports and returns required to be filed by or on behalf of it; and

(ii) pay and discharge all Taxes imposed upon it or its assets within the time period allowed without incurring penalties unless and only to the extent that:

(a) such payment is being contested in good faith;

(b) adequate reserves are being made for those Taxes and the costs required to contest them which have been disclosed in the latest financial statements of the Generator delivered to the CfD Counterparty; and

(c) such payment can be lawfully withheld and failure to pay those Taxes does not have or is not reasonably likely to have a Material Adverse Effect.

(I) ***Tax residency***: The Generator shall: (i) remain resident for Tax purposes in England and Wales only; and (ii) not maintain any place of business or permanent establishment outside England and Wales.

(J) ***UK EPR Technology***: The Generator shall at all times ensure that the generation technology deployed or to be deployed by the Facility (including, for the avoidance of doubt, each Reactor) is the UK EPR Technology.

(K) ***No change of business***:

(i) The Generator is, and from the Agreement Date shall be, a Single Purpose Company.

(ii) NNB FinCo shall not carry on any business other than that of a special purpose company which raises financing for the purposes of the Project.

(L) ***Contracting Policy***: The Generator shall comply at all times with the Contracting Policy.

(M) ***Non-conflict with other obligations***: The Generator shall at all times use all reasonable endeavours to ensure that, save for the (i) Finance Documents in circumstances where the Permitted Gearing Level has not been exceeded and (ii) the FDP, no agreement or instrument binding upon it or any other member of the NNB HoldCo Group or any of its assets or the assets of such other member of the NNB HoldCo Group shall prohibit the Generator complying with its payment obligations under this Agreement.

(N) ***Waste Transfer Contracts***: Promptly upon becoming aware, the Generator shall notify the CfD Counterparty when all conditions precedent to the effectiveness of the Waste Transfer Contracts have been satisfied and the Waste Transfer Contracts are unconditional.

(O) ***Assistance and Access***: The Generator shall give the CfD Counterparty and its Representatives (including business rates advisers and cost consultants) such assistance as the CfD Counterparty may reasonably request including such information and access to its relevant personnel, documents, books and records and, subject to compliance with any necessary health and safety and nuclear security rules and regulations, the Facility, each Reactor and the Site as the CfD Counterparty may reasonably require for the purpose of inspecting whether the Milestone Requirement has been met or obtaining, preparing, reviewing, verifying or approving any report, Information, valuation, opinion, cost, fee, expense or saving as is referred to in this Agreement.

(P) ***Lifecycle assumptions***: The Generator shall no later than 1 January 2020 propose in writing to the CfD Counterparty refinements to the lifecycle assumptions set out in the Original Assumptions Book, and if the Parties are unable to agree such refinements within a period of sixty (60) Business Days, either Party may refer the Dispute for determination by an Expert in accordance with the Expert Determination Procedure, and the Expert shall make his determination having regard to whether the lifecycle assumptions as proposed to be refined are ones that an electricity generator and power station operator in the civil generation nuclear industry, acting in accordance with the Reasonable and Prudent Standard, would adopt and use. Upon any and all such refinements being so agreed or determined, the lifecycle assumptions set out in the Original Assumptions Book as so refined shall become the Lifecycle Replacement Assumptions for the purposes of this Agreement.

(Q) ***Notification***: The Generator shall as soon as reasonably practicable:

(i) provide the CfD Counterparty with such Information regarding compliance or non-compliance by the Generator with the undertakings in this Clause 52.1 as the CfD Counterparty may reasonably request; and

(ii) give notice to the CfD Counterparty upon becoming aware of the occurrence of any Default (together with details of the steps, if any, being taken to remedy it).

53. GENERATOR UNDERTAKINGS: METERING

53.1 Undertakings: Metering Equipment

With effect from the Reactor One Start Date, the Generator undertakes to the CfD Counterparty:

(A) to ensure that at all times the Metering Equipment in respect of each Reactor (as applicable) and the Facility meets (subject to any Metering Dispensation as defined in the BSC) all applicable rules and standards provided for in the BSC;

(B) to ensure that at all times the Metering Equipment in respect of each Reactor (as applicable) and the Facility accurately records, within the tolerances permitted by the BSC, the BM Unit Metered Volume in respect of that Reactor;

(C) to ensure that at all times the Metering Equipment in respect of each Reactor (as applicable) and the Facility measures the BM Unit Metered Volume referred to in Clause 53.1(B) separately from any other input and output electricity; and

(D) to investigate any fault or issue with the Metering Equipment in respect of a Reactor or the Facility of which it is notified by the CfD Counterparty or required to investigate pursuant to the BSC,

(each, a "**Metering Compliance Obligation**" and, together, the "**Metering Compliance Obligations**").

53.2 **Notification of Metering Compliance Obligation breach**

(A) The CfD Counterparty may at any time give a Metering Breach Notice to the Generator if it considers that the Generator is in material breach of a Metering Compliance Obligation.

(B) A Metering Breach Notice shall:

(i) specify which Metering Compliance Obligation the CfD Counterparty considers that the Generator has breached; and

(ii) be accompanied by such Supporting Information as the CfD Counterparty considers necessary to evidence the breach of the Metering Compliance Obligation.

53.3 **Response to notification of Metering Compliance Obligation breach**

(A) Within ten (10) Business Days after receipt of a Metering Breach Notice (a "**Metering Breach Response Notice Period**"), the Generator shall investigate whether it is in material breach of the relevant Metering Compliance Obligation and give a Metering Breach Response Notice to the CfD Counterparty.

(B) A Metering Breach Response Notice shall state that either:

(i) the Generator accepts that there has been a material breach of the Metering Compliance Obligation (and, in such case, the notice shall include confirmation of the date from which the Generator accepts that there has been a material breach of the relevant Metering Compliance Obligation); or

(ii) the Generator does not accept that there has been a material breach of the Metering Compliance Obligation.

(C) If:

(i) the Generator submits a Metering Breach Response Notice in accordance with Clause 53.3(B)(i), the provisions of Clause 53.4 (*Resolution of Metering Compliance Obligation breach*) shall apply; or

(ii) the Generator fails to submit a Metering Breach Response Notice within the Metering Breach Response Notice Period or submits a Metering Breach Response Notice in accordance with Clause 53.3(B)(ii), the Expert Determination Procedure shall apply to determine whether there has been a material breach of the Metering Compliance Obligation and if the Expert Determination Procedure applied pursuant to this Clause 53.3(C)(ii) determines that:

(a) there has not been a material breach of the Metering Compliance Obligation, then neither Party shall be required to take any further steps in relation to the Metering Breach Notice; or

(b) there has been a material breach of the Metering Compliance Obligation and that determination is not in conflict with applicable obligations of, or applicable requirements on, the Generator under the BSC, the provisions of Clause 53.4 (*Resolution of Metering Compliance Obligation breach*) shall apply.

53.4 **Resolution of Metering Compliance Obligation breach**

If this Clause 53.4 applies:

(A) the Generator shall promptly and diligently prepare and submit to the relevant BSC Company a proposed Metering Remediation Plan and shall use all reasonable endeavours (including promptly and diligently amending and resubmitting the Metering Remediation Plan) to have the BSC Company approve, sign, date and return the Metering Remediation Plan as soon as reasonably practicable, and the Generator shall keep the CfD Counterparty informed throughout as to progress in the preparation, submission and approval of the Metering Remediation Plan;

(B) the Generator shall provide a copy of a Metering Remediation Plan to the CfD Counterparty within fifteen (15) Business Days after the latest of:

(i) the expiry of the Metering Breach Response Notice Period;

(ii) the date on which a BSC Company has approved, signed and dated the Metering Remediation Plan; and

(iii) the date on which an Expert makes a determination in accordance with Clause 53.3(C)(ii)(b) (*Response to notification of Metering Compliance Obligation breach*) (as applicable);

(C) as soon as reasonably practicable after the date referred to in Clause 53.4(B), and in any event no later than the later of: (x) the date falling sixty (60) Business Days after a BSC Company has approved, signed and dated the Metering Remediation Plan; and (y) the deadline for remedying a breach of the Metering Compliance Obligation as set out in the Metering Remediation Plan, the Generator shall:

(i) remedy the breach of the Metering Compliance Obligation; and

(ii) except to the extent such confirmation is delayed by a BSC Company, provide to the CfD Counterparty written confirmation from the relevant BSC Company that the breach of the Metering Compliance Obligation has been remedied to the satisfaction of such relevant BSC Company;

(D) the Generator shall give a Generator Metering Remediation Notice to the CfD Counterparty confirming the fulfilment of its obligations pursuant to Clause 53.4(C) within five (5) Business Days after a BSC Company has provided written confirmation that the breach of the Metering Compliance Obligation has been remedied, together with such Supporting Information as is reasonably necessary to evidence that the breach has been remedied;

(E) the CfD Counterparty may, by notice to the Generator on one occasion within twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of a Generator Metering Remediation Notice, request the Generator to provide such Supporting Information in relation to that Generator Metering Remediation Notice (a "**Generator Metering Remediation Notice Information Request**") as the CfD Counterparty reasonably requires; and

(F) if the CfD Counterparty gives a Generator Metering Remediation Notice Information Request, the Generator shall, no later than twenty (20) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after receipt of the request, prepare and deliver such further Supporting Information to the CfD Counterparty.

53.5 **Failure to remedy Metering Compliance Obligation breach**

If the Generator has not complied with its obligations under Clause 53.4 (*Resolution of Metering Compliance Obligation breach*) except to the extent that this is due to the fault of a BSC Company, then a Technical Compliance Termination Event will be deemed to have occurred in respect of the relevant Reactor(s) or the Facility, as the case may be.

53.6 **Undertakings: electrical schematic**

(A) If there is a "material change" (as defined in Section L – Metering of the BSC) to the Metering Equipment in respect of one or both Reactor(s) or the Facility (as such term is defined in the BSC, with references to Metering Equipment therein being replaced by references to the Metering Equipment in respect of the relevant Reactor(s) or the Facility, as the case may be), as determined in accordance with

the BSC (a "**Metering Change**") which makes the previous version of the electrical schematic diagram referred to in paragraph 3 of Part B (*Start Date Conditions Precedent*) of Schedule 1 (*Conditions Precedent*) no longer true, complete and accurate in all material respects, the Generator shall:

(i) as soon as reasonably practicable and in any event within two (2) Business Days after the Metering Change occurs, give the CfD Counterparty an Electrical Schematic Obligation Notice; and

(ii) provide an updated version of the electrical schematic diagram referred to in paragraph 3 of Part B (*Start Date Conditions Precedent*) of Schedule 1 (*Conditions Precedent*) as soon as reasonably practicable and in any event within ten (10) Business Days after the Metering Change occurs,

(the "**Electrical Schematic Obligation**").

(B) Any:

(i) Electrical Schematic Obligation Notice shall be accompanied by a Directors' Certificate in relation to the details of the Metering Change referred to in the Electrical Schematic Obligation Notice; and

(ii) copy of the updated electrical schematic diagram provided pursuant to Clause 53.6(A)(ii) shall be accompanied by a Directors' Certificate in relation to the electrical schematic diagram (including the date of such diagram and the version number thereof),

in each case by reference to the facts and circumstances then existing.

53.7 **Undertakings: access to and testing of meters**

(A) With effect from the Reactor One Start Date, the Generator shall grant (or, if the Generator is not the Registrant of the Metering Equipment in respect of one or both Reactor(s) or the Facility, as the case may be, shall procure that the Registrant grants) the CfD Counterparty (and any and all persons reasonably nominated by the CfD Counterparty and established by the CfD Counterparty to be suitably qualified and in compliance with Clause 53.7(E)) access to the Facility, the Metering Equipment in respect of the Reactors and the Facility and to such plant, property or assets owned, occupied or controlled by the Generator (or the Registrant if the Generator is not the Registrant of the Metering Equipment in respect of one or both Reactor(s) or the Facility, as the case may be) and to which the Generator (or the Registrant if the Generator is not the Registrant of the Metering Equipment in respect of one or both Reactor(s) or the Facility, as the case may be) can lawfully grant access as may be reasonably necessary for the CfD Counterparty to read, test or verify any relevant data and inspect and conduct tests in respect of the Metering Equipment in respect of one or both Reactors or the Facility, as the case may be, in accordance with Clause 53.7(D) (each, a "**Metering Access Right**").

(B) If the CfD Counterparty intends to exercise the Metering Access Right it shall give a Metering Inspection Notice to the Generator.

(C) A Metering Inspection Notice shall:

(i) specify that the CfD Counterparty (or suitably qualified persons nominated by it in accordance with Clause 53.7(A)) intends to exercise the Metering Access Right;

(ii) specify whether the Metering Access Right that the CfD Counterparty intends to exercise is in respect of Reactor One, Reactor Two, both Reactors or the Facility; and

(iii) specify the date by which the Generator must, in accordance with Clause 53.7(D), permit the exercise of the relevant Metering Access Right.

(D) If the Generator:

(i) is the Registrant of the Metering Equipment in respect of the relevant Reactor(s) or the Facility, as the case may be, it shall permit the CfD Counterparty to exercise the relevant Metering Access Right within ten (10) Business Days after receipt of the Metering Inspection Notice and evidence of compliance with Clause 53.7(E)(ii); or

(ii) is not the Registrant of the Metering Equipment in respect of the relevant Reactor(s) or the Facility, as the case may be, it shall procure that the CfD Counterparty is permitted to exercise the relevant Metering Access Right within fifteen (15) Business Days after receipt of the Metering Inspection Notice and evidence of compliance with Clause 53.7(E)(ii).

(E) The CfD Counterparty shall (and shall procure that any suitably qualified persons nominated by it in accordance with Clause 53.7(A) shall):

(i) take or refrain from taking all such other action as may be reasonably required by the Generator in order to comply with health and safety and nuclear security rules relating to the Facility; and

(ii) obtain each authorisation, licence, accreditation, permit, consent, certificate, resolution, clearance, exemption, order, confirmation, permission or other approval of or from a Competent Authority necessary for it to exercise the relevant Metering Access Right.

53.8 **Failure to provide Metering Access Right**

If the Generator:

(A) fails to comply with its obligations under Clause 53.7(D) (*Undertakings: access to and testing of meters*); and

(B) has not permitted the CfD Counterparty to exercise the relevant Metering Access Right within twenty (20) Business Days following the latest permitted date for compliance with its obligations pursuant to Clause 53.7(D)(i) or 53.7(D)(ii) (*Undertakings: access to and testing of meters*) (as applicable),

then a Metering Access Termination Event will be deemed to have occurred in respect of the relevant Reactor(s) or the Facility (as the case may be).

53.9 **Metering Access Right costs**

If pursuant to or as a result of the exercise of the Metering Access Right it is agreed or determined that there has been a breach of a Metering Compliance Obligation, the Generator shall, promptly on demand from time to time, indemnify the CfD Counterparty, and keep the CfD Counterparty fully and effectively indemnified, against any and all out-of-pocket costs properly incurred by the CfD Counterparty in exercising the Metering Access Right.

54. GENERATOR UNDERTAKINGS: INFORMATION PROVISION

54.1 **Provision of Information to the CfD Counterparty**

The Generator, acting in accordance with the Reasonable and Prudent Standard, shall provide the CfD Counterparty with (or in the case of Clause 54.1(F) below, make available to the CfD Counterparty):

(A) on the Agreement Date and at quarterly intervals thereafter, the Generator's estimate of:

(i) the expected Reactor One Start Date;

(ii) the expected Reactor Two Start Date;

(iii) the Installed Capacity in respect of the relevant Reactor as at each Start Date; and

(iv) the commissioning profile of the Facility and each Reactor;

(B) all Information requested by the CfD Counterparty to comply with its obligations under this Agreement and the other Transaction Documents (including the CfD Settlement Required Information), such Information to be provided promptly, and within five (5) Business Days (or, if such Information is not within the possession of the Generator, within ten (10) Business Days) or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after the Information is requested;

(C) a forecast of the availability and the Loss Adjusted Metered Output in respect of each Reactor, such forecast to be provided:

(i) within ten (10) Business Days after the Agreement Date, for the period from the projected Reactor One Start Date to the following 31 March and

in respect of each calendar month (or part of a calendar month) during such period (but only if the Reactor One Start Date is projected to occur before the following 31 March);

(ii) not later than 30 September in each year (or, in relation to the first such forecast, and if the Agreement Date is after 30 September, within ten (10) Business Days after the Agreement Date) for the twelve (12) month period commencing on 1 April in the following year in respect of each calendar month (or part of a calendar month) during such period, provided that either:

(a) such period commences after the Reactor One Start Date; or

(b) the Reactor One Start Date is projected to occur during such period; and

(iii) not later than five (5) Business Days prior to the first day of each calendar month after the Reactor One Start Date in respect of:

(a) the next calendar month; and

(b) any other calendar months in respect of which the Generator has previously provided forecasts to the CfD Counterparty (but only if any of the Generator's forecasts have changed);

(D) notification of the occurrence of any event or circumstance which will or is reasonably likely to affect significantly the Metered Output of one or both Reactors or the Facility, such notification to be provided promptly, and within five (5) Business Days after the Generator has become aware of such an event or circumstance;

(E) at the same time as they are dispatched, copies of all documents dispatched by it to its shareholders generally (or any class of them) or dispatched by it to its creditors generally (or any class of them);

(F) within five (5) Business Days after they are provided or made available to any of the directors of the Generator, copies of the final version of all board meeting packs and papers, provided that if such board meeting packs and papers contain information relating to any actual, threatened or contemplated dispute with the CfD Counterparty or a UK Competent Authority (including any information in respect of the above disputes which is subject to a bona fide claim of legal professional privilege), or Sensitive Nuclear Information, the Generator may to that extent redact such information;

(G) promptly, copies of all documents entered, and copies of the final version of all documents proposed to be entered, into by it as set out in or in accordance with or as required by the Contracting Policy;

(H) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings (excluding litigation, arbitration or administrative

proceedings where a UK Competent Authority is a party to the proceedings) which are current or pending against it or for which a formal written notice threatening such proceedings has been received and which, if adversely determined, are reasonably likely to have a Material Adverse Effect;

(I) promptly on request, copies of the cover notes and insurance policies relating to Insurance Arrangements (including endorsements) and details of any changes requested or effected thereto; evidence of payment of premiums thereunder; details of any claim(s) made and/or paid thereunder; and details of any other Insurance Arrangements made by or on behalf of the Generator in respect of the Facility or the Site;

(J) save to the extent that it is expressly not required to be disclosed under the foregoing paragraphs, promptly on request and within ten (10) Business Days after such Information is requested, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), all Information reasonably requested by the CfD Counterparty regarding its financial condition, business or operations to enable or assist the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes;

(K) save to the extent that it is expressly not required to be disclosed under the foregoing paragraphs, promptly on request and within ten (10) Business Days, or such other period, if any, as is agreed in writing between the CfD Counterparty and the Generator (each acting reasonably), after such Information is requested, all Information (not being Sensitive Information) reasonably requested by the CfD Counterparty for the purposes of: (i) compiling and evaluating statistics relating to the outcomes of the Electricity Market Reform programme and the impact of that programme across a range of social and economic factors; and (ii) publishing material relating thereto, including announcements and reports describing the general outcomes, merits and achievements relating to the programme; and

(L) promptly on request, all Information reasonably requested by the CfD Counterparty for the purpose of assessing compliance by the Generator with the Metering Compliance Obligation.

54.2 **Accuracy of Information**

The Generator shall ensure that:

(A) all forecasts and forward-looking statements provided by or on behalf of the Generator pursuant to Clause 54.1 (*Provision of Information to the CfD Counterparty*) or otherwise pursuant to this Agreement are prepared honestly and diligently, on a reasonable basis and with due care and attention; and

(B) all other Information (which, for the avoidance of doubt, shall not include forecasts and forward-looking statements) provided by or on behalf of the Generator pursuant to Clause 54.1 (*Provision of Information to the CfD Counterparty*) or otherwise pursuant to this Agreement is in all material respects true, complete and accurate and not misleading.

55. STATE AID UNDERTAKINGS

(A) Subject to the terms of the State Aid Side Letter, or as otherwise agreed by the Parties in writing, the Parties shall promptly take or refrain from taking all such actions (including promptly providing information and acting in accordance with the Reasonable and Prudent Standard and any standstill requirements) as may be:

(i) required by a State Aid Competent Authority and/or the State Aid Rules; and/or

(ii) requested by the Secretary of State (acting reasonably),

to enable the United Kingdom to grant approved State aid in relation to this Agreement in compliance with the terms of any European Commission State aid approval decision and/or the State Aid Rules.

(B) If the CfD Counterparty is notified by the Secretary of State that:

(i) a State Aid Competent Authority has determined that the United Kingdom must recover any State aid granted or paid in relation to this Agreement; and

(ii) the Secretary of State has decided that the United Kingdom must recover such State aid,

the CfD Counterparty shall, as soon as reasonably practicable, notify the Generator of this and of the amount to be repaid and to whom and all other actions which it is necessary for the Generator to take or procure to ensure compliance with the terms of that decision, determination or ruling and/or the State Aid Rules.

(C) The Generator shall without delay repay or procure repayment of any amount notified to it under Clause 55(B) (provided that such action is in accordance with the State Aid Rules) and, where reasonably practicable, will perform any other necessary actions so notified to it under Clause 55(B) in accordance with the State Aid Rules.

(D) If the Side Letter Parties have, pursuant to the terms of the State Aid Side Letter, agreed any amendments to this Agreement, the Parties agree that any such amendments will, subject to the terms of the State Aid Side Letter, be implemented as soon as reasonably practicable.

Part 16
Suspension

56. SUSPENSION EVENTS

56.1 Suspension for breach

(A) If, as applicable to it, any of the Generator, NNB HoldCo, an Investor Super TopCo or an Investor fails to comply with:

(i) a Material Suspension Information Requirement; or

(ii) a Material Suspension Provision,

the CfD Counterparty, subject to Clause 56.1(B):

(a) may withhold payment of any amounts which would otherwise be payable by the CfD Counterparty to the Generator for the period during which, as applicable, the Generator, NNB HoldCo, the relevant Investor Super TopCo or the relevant Investor is not in compliance with such Material Suspension Information Requirement or, as the case may be, Material Suspension Provision, provided that:

(1) prior to effecting any such suspension, the CfD Counterparty shall give the Generator not less than ten (10) Business Days' notice of its intention to suspend payment of those amounts and the date from which it proposes to effect such suspension, provided that no such minimum period of notice shall be required in the case of a failure to comply with the Electrical Schematic Obligation or the Metering Access Right; and

(2) except in the case of a failure to comply with the Electrical Schematic Obligation or the Metering Access Right, the maximum amount that the CfD Counterparty may so withhold is twenty per cent. (20%) of such amounts which would otherwise be payable as aforesaid; and

(b) shall be entitled to recover from the Generator any amounts paid by the CfD Counterparty to the Generator which are attributable to the period during which the Generator is not in compliance with such Material Suspension Information Requirement or, as the case may be, Material Suspension Provision, in each case to the extent that the CfD Counterparty would have been entitled to suspend those amounts pursuant to Clause 56.1(A)(ii)(a) if such amounts had not already been paid.

(B) If, as applicable, the Generator, NNB HoldCo, the relevant Investor Super TopCo or the relevant Investor subsequently complies with or, as the case may be, remedies the breach of a Material Suspension Information Requirement or a Material Suspension Provision or (in respect of a Material Suspension Information Requirement) if earlier, the date on which the CfD Counterparty obtains the relevant information from an Expert or other consultant pursuant to this Agreement, the CfD Counterparty shall not, in respect of that breach, be entitled to exercise or, as the case may be, continue to exercise its rights under Clause 56.1(A) and, if it has already exercised its right in respect of that breach under Clause 56.1(A), it shall pay or repay any amounts to the Generator which would have been payable or would not have been recovered but for the operation of Clause 56.1(A). No Compensatory Interest or Default Interest shall be payable in respect of any amount payable pursuant to this Clause 56.1(B).

56.2 **State Aid Suspension**

(A) The CfD Counterparty shall not be required to perform its obligations under this Agreement to the extent that such performance:

(i) is or becomes unlawful as a result of not being in compliance with the terms of any European Commission State aid approval decision in relation to this Agreement;

(ii) is or becomes unlawful as a result of a decision, determination or ruling or other action of a State Aid Competent Authority; or

(iii) otherwise is or becomes unlawful under the State Aid Rules.

(B) If the CfD Counterparty decides to suspend the performance of its obligations pursuant to Clause 56.2(A) it shall notify the Generator of this decision.

(C) If, pursuant to Clause 56.2(A), the CfD Counterparty decides to suspend payment of Difference Amounts (whether or not the CfD Counterparty decides pursuant to Clause 56.2(A) to suspend payment of any other amounts under this Agreement) then, subject to Clause 55(B) (*State Aid Undertakings*), from the date of the suspension and for so long as such suspension continues, all obligations of each of the Parties under this Agreement and the Secretary of State Investor Agreement to make payments under this Agreement (including payment of Difference Amounts) or the Secretary of State Investor Agreement, as applicable, shall also be suspended, except to the extent required under the State Aid Rules or to comply with a decision, determination, ruling or other action of a State Aid Competent Authority.

(D) If, pursuant to Clause 56.2(A), the CfD Counterparty decides to suspend payment of amounts (other than Difference Amounts) under this Agreement then, subject to Clause 55(B) (*State Aid Undertakings*), the Parties shall be obliged to continue to make all other payments due under this Agreement and/or the Secretary of State Investor Agreement, to the extent this is in compliance with the State Aid Rules and/or with a decision, determination, ruling or other action of a State Aid Competent Authority.

(E) For the avoidance of doubt, any obligation of a Party that has not been suspended pursuant to the foregoing provisions of this Clause 56.2 shall continue in full force and effect and, without prejudice to the generality of the foregoing, the Parties shall continue to keep records, receive and exchange information, monitor performance and generally continue to operate and manage this Agreement in accordance with its terms such that upon cessation of the suspension of the Parties' obligations, they are each ready and able to comply with the requirements of Clause 56.2(G).

(F) Any suspension of a Party's obligations pursuant to the foregoing provisions shall continue until the date on which the first of the following events occurs:

(i) the Side Letter Parties have taken or refrained from taking all such actions as may be required by a State Aid Competent Authority and/or the State Aid Rules or as reasonably requested by the Secretary of State to enable the United Kingdom to grant approved State aid in relation to this Agreement in compliance with the terms of any European Commission State aid approval decision in relation to this Agreement and the State Aid Rules;

(ii) the Side Letter Parties have, pursuant to the terms of the State Aid Side Letter, agreed amendments to the Approved Arrangements to enable the Parties to perform their respective obligations under this Agreement in compliance with the terms of any European Commission State aid approval decision in relation to this Agreement and/or the State Aid Rules and such amendments have been implemented in accordance with Clause 55(D) (*State Aid Undertakings*) and any actions or events upon which the amendments are conditional have taken place;

(iii) a decision, determination or ruling leading to a suspension under Clause 56.2(A) has been annulled, revoked or otherwise overturned, such that the performance by the Parties of their respective obligations under this Agreement is in compliance with the terms of any European Commission State aid approval decision in relation to this Agreement and the State Aid Rules;

(iv) performance by the CfD Counterparty otherwise ceases to be unlawful under the State Aid Rules; or

(v) expiry or earlier termination of this Agreement,

(each, a "**Suspension Cessation Event**").

(G) Upon the occurrence of a Suspension Cessation Event, the Parties shall make such payments ("**Reconciliation Payments**") to each other as they would have made under this Agreement but for such suspension save to the extent that any such payment would be unlawful, and for this purpose:

(i) the amount of any such Reconciliation Payment shall be determined in the same manner (in terms of both methodology and data used) in which

the original payment would have been determined had there been no suspension;

(ii) the amount of any such Reconciliation Payment shall not exceed the amount of the original payment that would have been determined had there been no suspension and, in particular but without prejudice to the generality of the foregoing, the Parties shall not be obliged to pay any Compensatory Interest or Default Interest on, or any other compensation with respect to, amounts that would have been required to have been paid but for such suspension (save to the extent otherwise required under the State Aid Rules or to comply with a decision, determination, ruling or other action of a State Aid Competent Authority); and

(iii) the manner (such as, for example, by way of Strike Price Adjustment and/or a Series of Payments and/or a single lump sum payment) and timing of any such Reconciliation Payment shall be determined by the CfD Counterparty having regard both to the requirements of Clause 1.11 (*Payment methods and Trigger Events*) and to the interests of both electricity suppliers (being persons who are holders of a licence to supply electricity under section 6(i)(d) of the EA 1989) and consumers,

provided that the Parties may agree instead to extend the Reactor One Term and, if it has commenced, the Reactor Two Term, day for day for each full day that such suspension was in effect, in which case the Parties shall not be required to make any Reconciliation Payments or pay any Compensatory Interest or Default Interest on, or any other compensation with respect to, any such amounts.

Part 17
Termination

57. TERMINATION

57.1 Pre-Start Date termination

(A) If:

(i) the Milestone Requirement has not been complied with and fulfilled by the Milestone Delivery Date;

(ii) at any time prior to the Reactor One Start Date, a Termination Event occurs and is continuing after five (5) days' notice from the CfD Counterparty to the Generator referring to this Clause 57.1(A);

(iii) any of the Initial Conditions Precedent is not fulfilled by the Generator or waived by the Parties within thirty (30) Business Days after the Agreement Date; or

(iv) any of the Start Date Conditions Precedent in respect of Reactor One is not fulfilled by the Generator or, as permitted, waived by the Parties (or, having been fulfilled, is no longer fulfilled) by the Longstop Date,

then the CfD Counterparty shall have the right, but not the obligation, to give a Pre-Start Date Termination Notice to the Generator, provided that such notice is given within twelve (12) months of the date on which the circumstances entitling the issue of the notice first arise (as such period may be extended day for day by any applicable standstill period under the Direct Agreement (if any)).

(B) A Pre-Start Date Termination Notice shall specify:

(i) the date (on or following, but not later than thirty (30) Business Days after, the date of the Pre-Start Date Termination Notice) on which termination of this Agreement is designated by the CfD Counterparty to take effect (the date so designated being a "**Pre-Start Date Termination Date**"); and

(ii) in the case of termination pursuant to Clause 57.1(A)(ii), the Termination Event which has occurred.

(C) If the CfD Counterparty gives a Pre-Start Date Termination Notice, this Agreement shall terminate on the Pre-Start Date Termination Date even if (as the context requires):

(i) the Milestone Requirement has been complied with and fulfilled prior to such date;

(ii) the Termination Event is no longer continuing as at such date; or

(iii) the Conditions Precedent remaining to be fulfilled when the Pre-Start Date Termination Notice was given have been fulfilled.

57.2 **State aid termination**

(A) This Agreement shall terminate in its entirety if all of (i), (ii) and (iii) below apply:

(i) in circumstances where the CfD Counterparty has suspended its obligations in any material respect under this Agreement in accordance with Clause 56.2(A)(ii) (*State Aid Suspension*):

(a) the time period under the relevant European or national laws for filing an appeal against the decision, determination, ruling or other action has lapsed without an appeal having been filed; or

(b) there is no right of further appeal of the decision, determination, ruling or other action;

(ii) a Suspension Cessation Event has not yet occurred by the date falling 30 (thirty) months (or such other period, if any, as is agreed in writing between the Side Letter Parties) after the date that the CfD Counterparty notifies the Generator that it intends to suspend its obligations under this Agreement pursuant to Clause 56.2(A) (*State Aid Suspension*); and

(iii) a Party has notified the other Party in writing that it wishes to terminate this Agreement pursuant to this Clause 57.2(A), provided that neither Party may serve such a notice of termination until 20 (twenty) Business Days after the end of the period referred to in Clause 57.2(A)(ii).

(B) For the avoidance of doubt, termination of this Agreement will take effect upon receipt of such written notice by one Party to the other Party under and in accordance with Clause 57.2(A)(iii).

57.3 **Default termination**

(A) If, at any time on or after the Reactor One Start Date, a Termination Event has occurred and is continuing, the CfD Counterparty shall have the right, but not the obligation, to give the Generator a Default Termination Notice.

(B) A Default Termination Notice shall specify:

(i) the date (on or following, but not later than thirty (30) Business Days after, the date of the Default Termination Notice) on which termination of this Agreement is designated by the CfD Counterparty to take effect (the date so designated being a "**Designated Termination Date**"); and

(ii) the Termination Event which has occurred.

(C) If the CfD Counterparty gives a Default Termination Notice to the Generator, this Agreement shall terminate on the Designated Termination Date even if the Termination Event is no longer continuing on the Designated Termination Date.

57.4 **QCiL Compensation termination**

(A) In the circumstances provided for in Clause 30.1(D) (*QCiL Compensation*), the CfD Counterparty shall have the right, but not the obligation, to give a QCiL Compensation Termination Notice to the Generator.

(B) A QCiL Compensation Termination Notice shall specify the date (on or following, but not later than thirty (30) Business Days after the date of the QCiL Compensation Termination Notice) on which termination of this Agreement is designated by the CfD Counterparty to take effect.

(C) If the CfD Counterparty gives a QCiL Compensation Termination Notice to the Generator, this Agreement shall terminate on the date designated by the CfD Counterparty in such notice.

57.5 **No other termination rights**

The termination rights set out or referred to in this Part 17 and Clause 56.2 (*State Aid Suspension*) are the only rights that either Party has to terminate this Agreement.

57.6 **Notice provisions**

Any Pre-Start Date Termination Notice or Default Termination Notice issued by the CfD Counterparty pursuant to this Clause 57 may be revoked by the CfD Counterparty giving written notice of the same to the Generator at any time prior to the Pre-Start Date Termination Date or Designated Termination Date, as the case may be, and upon such revocation the Pre-Start Date Termination Notice or Default Termination Notice (as applicable) shall cease to have any effect.

58. CONSEQUENCES OF TERMINATION

58.1 **Consequences of termination: General**

Termination of this Agreement pursuant to Clause 57.1(A) (*Pre-Start Date termination*), Clause 57.2 (*State aid termination*), Clause 57.3(A) (*Default termination*) or Clause 57.4(A) (*QCiL Compensation termination*):

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

(i) any antecedent breach of any provision of this Agreement which did not give rise to such termination; and

(ii) any breach of any provision of this Agreement which is expressed to survive expiry pursuant to Clause 8 (*Survival*); and

(B) shall be subject to Clause 8 (*Survival*).

58.2 **Consequences of Pre-Start Date termination**

Subject to Clause 58.1 (*Consequences of termination: General*), if the CfD Counterparty terminates this Agreement pursuant to Clause 57.1(A) (*Pre-Start Date termination*):

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

(B) all rights and obligations of the Parties under this Agreement shall end.

58.3 **Consequences of Default termination**

(A) If the CfD Counterparty terminates this Agreement pursuant to Clause 57.3(A) (*Default termination*), the CfD Counterparty shall:

(i) calculate the Termination Default Amount; and

(ii) give a Termination Default Amount Notice to the Generator.

(B) A Termination Default Amount Notice shall specify the Termination Default Amount together with the principal inputs used by the CfD Counterparty to calculate such Termination Default Amount and the CfD Counterparty's calculation of the Termination Default Amount.

(C) The Generator shall within thirty (30) Business Days after notification of the amount of the Termination Default Amount, pay to the CfD Counterparty (or such person as the CfD Counterparty may direct) the Termination Default Amount as a single lump sum payment and, without prejudice to the right of the Generator to subsequently dispute the amount of the Termination Default Amount, no dispute by the Generator as to the amount of the Termination Default Amount shall relieve the Generator of its obligation pursuant to this Clause 58.3(C).

(D) Subject to Clauses 58.1 (*Consequences of termination: General*), 58.3(A) and 58.3(C), if the CfD Counterparty terminates this Agreement pursuant to Clause 57.3(A) (*Default termination*):

(i) no payment shall be payable by a Party to the other Party as a consequence of such termination; and

(ii) all rights and obligations of the Parties under this Agreement shall end.

58.4 **Consequences of QCiL Compensation termination**

Subject to Clause 58.1 (*Consequences of termination: General*), if the CfD Counterparty terminates this Agreement pursuant to Clause 57.4(A) (*QCiL Compensation termination*):

(A) no payment shall be payable by a Party to the other Party under this Agreement as a consequence of such termination (except that such termination shall be

without prejudice to the CfD Counterparty's obligations to pay any compensation under the Secretary of State Investor Agreement); and

(B) subject to Clause 58.4(A), all rights and obligations of the Parties under this Agreement shall end.

59. TERMINATION EVENTS

59.1 Termination Events

A "**Termination Event**" means the occurrence at any time with respect to the Generator of any of the following events:

(A) ***Insolvency***: Other than where a Qualifying Exit Event has been alleged by the Generator (other than frivolously or vexatiously) or, as the case may be, determined, the Generator:

(i) is dissolved (other than pursuant to a solvent consolidation, amalgamation or merger);

(ii) has a resolution passed for its winding-up or liquidation (other than pursuant to a solvent consolidation, amalgamation or merger); or

(iii) is subject to any event with respect to it which, pursuant to the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in Clause 59.1(A)(i) or Clause 59.1(A)(ii),

except where any of the events set out in this Clause 59.1(A) is attributable to the CfD Counterparty not paying any amount which is actually due, or which, but for the operation of Clause 78 (*Limited Recourse Arrangements and Undertakings*), would have been due pursuant to this Agreement.

(B) ***Non-payment***: The Generator fails to pay:

(i) any Net Payable Amount on the due date pursuant to this Agreement at the place at and in the currency in which it is expressed to be payable and that failure is not remedied on or before the tenth (10th) Business Day after the CfD Counterparty gives the Generator notice of that failure (the "**NPA Payment Cure Period**") unless the failure is caused by a Payment Disruption Event in which case the NPA Payment Cure Period shall be extended day for day for each day on which the Payment Disruption Event continues; or

(ii) any amount other than a Net Payable Amount on the due date pursuant to this Agreement at the place at and in the currency in which it is expressed to be payable and that failure is not remedied on or before the twentieth (20th) Business Day after the CfD Counterparty gives the Generator notice of that failure (the "**Non-NPA Payment Cure Period**") unless the failure is caused by a Payment Disruption Event in which case

the Non-NPA Payment Cure Period shall be extended day for day for each day on which the Payment Disruption Event continues.

(C) ***Breach of key obligations***:

(i) The Generator is in breach of Clause 86.7 (*Other Transfers by the Generator: stapling obligation*).

(ii) Any Material Termination Representation made or deemed to be made by the Generator is or proves to have been incorrect or misleading when made or deemed to be made.

(iii) The Generator does not comply with any Material Termination Undertaking.

(iv) Court proceedings have determined that any director, officer or other senior manager of the Generator has committed or procured fraud, or has aided, abetted or counselled fraud, in each case in relation to this Agreement or any other Transaction Document, and the Generator has not taken corrective action to the reasonable satisfaction of the CfD Counterparty (including by terminating the employment of that director, officer or other senior manager and revising its anti-bribery, corruption and fraud procedures).

(D) ***Credit support default***:

(i) The Generator fails to transfer, deliver, extend, renew, replace (or procure the transfer, delivery, extension, renewal or replacement of) Acceptable Collateral in accordance with Part 18 (*Credit Support*).

(ii) Any Letter of Credit provided pursuant to Part 18 (*Credit Support*) expires or terminates or fails or ceases to be in full force and effect in breach of, and is not extended, renewed or replaced in accordance with, Part 18 (*Credit Support*).

(iii) The Generator, or the issuer of any Letter of Credit, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of a Letter of Credit provided to the CfD Counterparty pursuant to Part 18 (*Credit Support*), unless such disclaimer, repudiation, rejection or challenge is withdrawn or a substitute Letter of Credit is provided to the CfD Counterparty within five (5) Business Days after such disclaimer, repudiation, rejection or challenge.

(E) ***Metering***: A Technical Compliance Termination Event or a Metering Access Termination Event.

Part 18
Credit Support

60. COLLATERAL REQUIREMENT

60.1 Notification of collateral requirement

(A) If there is a Payment Failure on more than one (1) occasion within any twelve (12) month period, the CfD Counterparty may (irrespective of whether or not the Generator has paid any of the Net Payable Amounts owing within the applicable NPA Payment Cure Period) give the Generator a Second Payment Failure Notice on the second of those occurrences. A Second Payment Failure Notice shall identify the Billing Periods to which such Payment Failures relate.

(B) If there have been Payment Failures on three (3) or more occasions in any twelve (12) month period, the CfD Counterparty may (irrespective of whether or not the Generator has paid any of the Net Payable Amounts owing within the applicable NPA Payment Cure Period) give a Collateral Posting Notice to the Generator. A Collateral Posting Notice shall:

(i) identify the Billing Periods to which such Payment Failures relate; and

(ii) specify:

(a) the requirement for the Generator to transfer or deliver, or procure the transfer or delivery of, Acceptable Collateral to the CfD Counterparty;

(b) the Collateral Amount;

(c) the Collateral Posting Date;

(d) the Initial Collateral Repayment Date; and

(e) details of the CfD Reserve Account.

(C) If any Payment Failure occurs after the date of a Collateral Posting Notice and before the applicable Collateral Repayment Date, the CfD Counterparty may give the Generator a Replacement Collateral Notice. A Replacement Collateral Notice shall:

(i) identify the Billing Period to which any such Payment Failure relates; and

(ii) specify the Replacement Collateral Repayment Date.

60.2 **Collateral Amount**

The Collateral Amount (expressed in pounds) shall be calculated by the CfD Counterparty in accordance with the following formula:

$$Collateral\ Amount = 10 \cdot IC \cdot ALF \cdot ATLM \cdot N \cdot HID$$

where:

IC is the Installed Capacity;

ALF is the Assumed Load Factor;

ATLM is zero point nine nine (0.99) (or such other number as the CfD Counterparty and the Generator may agree in writing);

N is forty (40), representing the number of days for which collateral is required; and

HID is the number of hours in a day, being twenty-four (24).

61. ACCEPTABLE COLLATERAL

61.1 **Provision of collateral**

If a Collateral Posting Notice is given to the Generator which correctly states the Collateral Amount, the Generator shall, no later than the Collateral Posting Date, transfer or deliver, or procure the transfer or delivery of, Acceptable Collateral to the CfD Counterparty in an aggregate amount equal to the Collateral Amount.

61.2 **Transfers and custody of collateral**

All transfers or deliveries pursuant to this Agreement of any Acceptable Collateral shall be made by or on behalf of the Generator and shall be given:

(A) in the case of cash, by transfer in accordance with the instructions made by or on behalf of the CfD Counterparty, to the credit of the CfD Reserve Account; and

(B) in the case of a Letter of Credit, by a Qualifying Issuer issuing a Letter of Credit to the CfD Counterparty or its designee. Such transfer or delivery shall be deemed effective upon receipt by the CfD Counterparty or its designee from the Qualifying Issuer of the duly executed and issued Letter of Credit.

61.3 **Letters of Credit**

(A) The Generator shall:

(i) procure that:

(a) any Letter of Credit provided pursuant to a Collateral Posting Notice shall be valid at least until the Initial Collateral Repayment Date as set out in that notice; and

(b) (if a Replacement Collateral Notice is given) any Letter of Credit provided pursuant to a Replacement Collateral Notice shall be valid at least until the Replacement Collateral Repayment Date as set out in that notice; and

(ii) ensure that any Letter of Credit provided by the Generator as Acceptable Collateral, including any renewal or replacement of a Letter of Credit, shall be accompanied by a Letter of Credit Details Notice from the Generator. A Letter of Credit Details Notice shall specify:

(a) the Letter of Credit;

(b) the Qualifying Issuer in respect of the Letter of Credit;

(c) the credit rating of the Qualifying Issuer;

(d) the contact details of the Qualifying Issuer;

(e) the amount of the Letter of Credit; and

(f) the term of the Letter of Credit.

(B) No later than ten (10) Business Days prior to the date of expiry or cancellation of a Letter of Credit, the Generator shall renew or procure the renewal of such Letter of Credit by transferring or delivering, or by procuring the transfer or delivery of, Acceptable Collateral in the amount of and in substitution for and to be effective no later than the date of expiry or cancellation of the current Letter of Credit, provided that Acceptable Collateral is still required, pursuant to the provisions of this Part 18, after the date of expiry or cancellation of the current Letter of Credit.

61.4 **Altering collateral**

(A) If, at any time, the Posted Collateral is not, or ceases to be, Acceptable Collateral and/or the Posted Collateral is less than the Collateral Amount, the CfD Counterparty may give a Collateral Correction Notice to the Generator. A Collateral Correction Notice shall specify:

(i) the Posted Collateral which is not or has ceased to be Acceptable Collateral and the reason that prevents such collateral from constituting Acceptable Collateral; and/or

(ii) the amount by which the Posted Collateral is less than the Collateral Amount (a "**Deficient Collateral Amount**").

(B) No later than five (5) Business Days after the giving of a Collateral Correction Notice, the Generator shall transfer or deliver, or procure the transfer or delivery

of, Acceptable Collateral in an amount more than or equal to the Deficient Collateral Amount.

(C) The Generator may, from time to time, and on giving the CfD Counterparty not less than ten (10) Business Days' notice, substitute some or all of the Posted Collateral with other Acceptable Collateral which shall not in any event be less than the Collateral Amount in aggregate.

61.5 **Credit event by a Qualifying Issuer**

(A) If, at any time, the Qualifying Issuer of a Letter of Credit ceases to be a Qualifying Issuer, the Generator shall give notice to the CfD Counterparty and the Generator shall procure the replacement of such Letter of Credit with Acceptable Collateral within ten (10) Business Days after the date on which the Qualifying Issuer ceases to be a Qualifying Issuer.

(B) If the Generator fails to procure replacement Acceptable Collateral within ten (10) Business Days in accordance with Clause 61.5(A), the CfD Counterparty may demand payment pursuant to the Letter of Credit and shall hold any cash paid pursuant to the Letter of Credit in a CfD Reserve Account until such time as the Posted Collateral is substituted in accordance with Clause 61.4(C) (*Altering collateral*).

61.6 **Making a Posted Collateral Demand**

(A) The CfD Counterparty may make a demand under a Letter of Credit procured by the Generator or draw down on any cash amount in a CfD Reserve Account (a "**Posted Collateral Demand**") in the following circumstances:

(i) the Generator fails to pay any amount when due under or pursuant to this Agreement and that failure is not remedied by the last day of the NPA Payment Cure Period; or

(ii) the Generator fails to renew or extend, or fails to procure the renewal or extension of, a Letter of Credit by the transfer or delivery of substitute Acceptable Collateral in accordance with Clause 61.3(B) (*Letters of Credit*).

(B) If a Posted Collateral Demand has been made, the Generator shall transfer or deliver, or procure the transfer or delivery of, further Acceptable Collateral in an amount no less than the Collateral Amount within two (2) Business Days after such demand.

61.7 **Return of collateral**

(A) If the Generator has transferred or delivered, or procured the transfer or delivery of, Acceptable Collateral to the CfD Counterparty pursuant to the foregoing provisions of this Part 18, and:

(i) the Collateral Repayment Date has passed; or

(ii) the Collateral Amount has been replaced or substituted with Acceptable Collateral in accordance with this Part 18,

then, subject to Clause 61.8 (*Termination*), the CfD Counterparty shall transfer the Posted Collateral back to the Generator within five (5) Business Days after:

(iii) in the case of Clause 61.7(A)(i), the Collateral Repayment Date; and

(iv) in the case of Clause 61.7(A)(ii), the date on which the Generator replaces or substitutes Acceptable Collateral pursuant to this Part 18.

(B) The CfD Counterparty shall transfer back the Posted Collateral:

(i) in the case of cash, by transfer in accordance with the instructions made by or on behalf of the Generator, to the credit of one or more bank accounts in the United Kingdom specified by the Generator; and

(ii) in the case of a Letter of Credit, by surrendering, or procuring the surrender of, the relevant Letter of Credit.

61.8 **Termination**

Within (i) five (5) Business Days after the date when this Agreement expires in its entirety or earlier termination of this Agreement in its entirety or (ii) if later, five (5) Business Days after the date on which any and all Payment Obligations have been paid or discharged in full, the CfD Counterparty shall transfer back in accordance with Clause 61.7(B) (*Return of collateral*) any remaining Posted Collateral transferred, delivered or procured by the Generator, provided that the CfD Counterparty shall be entitled to set off against the cash collateral in accordance with Clause 26 (*Set-off*).

Part 19
Dispute Resolution

62. DISPUTE RESOLUTION PROCEDURE: GENERAL PROVISIONS

62.1 Objective for resolution of Disputes

Each Party shall, at each stage of the Dispute Resolution Procedure, endeavour honestly and diligently to resolve all Disputes through negotiation.

62.2 Compliance with obligations during a Dispute

Save to the extent inconsistent with any order or judgment of a type referred to in Clauses 67.2(A)(i) and 67.2(A)(ii) (*No Other Proceedings*), each Party shall continue to comply with all of its respective obligations under this Agreement notwithstanding any Dispute which falls to be resolved in accordance with this Part 19.

62.3 Outline of Dispute Resolution Procedure

(A) Except as otherwise expressly provided in this Agreement, if a Dispute arises either Party may give a Dispute Notice to the other Party. A Dispute Notice:

(i) shall include a description of the subject matter of the Dispute and the issues to be resolved;

(ii) shall include a statement identifying the Clause to which the Dispute relates or pursuant to which the Dispute arises;

(iii) shall include a description of the position the referring Party considers is correct and a summary of the referring Party's reasons for that position;

(iv) shall include details of any other dispute or claim relating to or arising out of another FiT Contract for Difference which the referring Party considers should be consolidated with or joined to the Dispute;

(v) may, where the referring Party considers it appropriate, include copies of any Supporting Information on which the referring Party intends to rely;

(vi) shall include a statement outlining the relief, determination, remedy or recourse which the referring Party seeks in relation to the Dispute;

(vii) (except where this Agreement expressly provides for the Dispute to be subject to determination in accordance with the Expert Determination Procedure or to the jurisdiction of the courts of England or some other dispute resolution procedure) shall include a statement as to whether the referring Party considers that the Dispute should (without a Senior Representatives Settlement being reached) be referred for determination in accordance with the Expert Determination Procedure or resolution in accordance with the Arbitration Procedure; and

(viii) shall include the identity of the referring Party's Senior Representative,

provided that where a Dispute has arisen owing to the CfD Counterparty being deemed not to have agreed a report submitted by the Generator, the Generator may include such information in relation to Clauses 62.3(A)(i) to (iv) (inclusive) as is reasonably practicable in the circumstances.

(B) Following the service by a Party of a Dispute Notice and save where this Agreement expressly provides that Clause 63 (*Resolution by Senior Representatives*) shall not apply to the relevant Dispute, the Parties shall seek to resolve the Dispute by convening a meeting of the Senior Representatives of the Parties in accordance with Clause 63 (*Resolution by Senior Representatives*).

(C) If the Senior Representatives are unable to agree, settle, compromise or resolve the Dispute in accordance with Clause 63 (*Resolution by Senior Representatives*), a Party may at the end of the Resolution Period:

(i) refer an Arbitration Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure; or

(ii) refer an Expert Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

(D) Except as otherwise expressly provided in this Agreement, neither Party may commence the Arbitration Procedure or the Expert Determination Procedure without first:

(i) serving a Dispute Notice on the other Party in accordance with Clause 62.3(A); and

(ii) seeking to resolve the Dispute by following the resolution procedure set out in Clause 63 (*Resolution by Senior Representatives*).

(E) Subject to Clause 62.3(F), all communications between the Parties with respect to a Dispute including any statement, concession, waiver or agreement made by a Party during discussions and meetings pursuant to Clause 63 (*Resolution by Senior Representatives*) (and any minutes or statements relating to such discussions or meetings) (together, the "**Dispute Information**") shall be "without prejudice" to the Dispute (or "without prejudice save as to costs" if expressly communicated or stated to be as such). Dispute Information shall be inadmissible in any Proceedings that may follow (including pursuant to the Expert Determination Procedure or the Arbitration Procedure), except that those expressly stated to be "without prejudice save as to costs" shall be admissible for the purposes of Clauses 64.12 (*Expert Determination Procedure*) and Article 28 of the LCIA Arbitration Rules (as incorporated into this Agreement pursuant to Clause 65.1 (*Arbitration Procedure*)).

(F) Clause 62.3(E) shall not apply to:

(i) any Dispute Notice;

(ii) any Senior Representatives Settlement; or

(iii) any communications between the Parties once an Expert Determination Procedure or an Arbitration Procedure has commenced, save for such communications expressly communicated or stated to be "without prejudice" or "without prejudice save as to costs".

63. RESOLUTION BY SENIOR REPRESENTATIVES

63.1 Except where this Agreement expressly provides that this Clause 63 shall not apply, the Parties shall procure that their respective Senior Representatives shall meet within ten (10) Business Days after the date of service of a Dispute Notice. If the Senior Representatives of the Parties:

(A) are able to resolve the Dispute within thirty (30) Business Days after the date of service of the Dispute Notice (or within such longer period, if any, as the Senior Representatives of the Parties may agree) (the "**Resolution Period**"), the terms of the agreement, settlement, compromise or resolution reached between the Senior Representatives in respect of the Dispute (a "**Senior Representatives Settlement**") shall be documented in writing and shall be signed by the Senior Representative of, and with effect from such signature shall become binding upon, each Party; or

(B) are unable to agree, settle, compromise or resolve the Dispute within the Resolution Period either Party may:

(i) refer an Arbitration Dispute for resolution by an Arbitral Tribunal in accordance with the Arbitration Procedure; or

(ii) refer an Expert Dispute to an Expert for determination in accordance with the Expert Determination Procedure.

63.2 If, at any time during the Resolution Period, both Parties agree in writing that the Senior Representatives of the Parties will not be able to agree, settle, compromise or resolve the Dispute, then the Resolution Period will end immediately and the Parties will be free to commence either the Expert Determination Procedure or the Arbitration Procedure (as appropriate) in accordance with the terms of this Part 19.

63.3 Except where this Agreement expressly provides that this Clause 63 shall not apply, neither Party may commence the Expert Determination Procedure or the Arbitration Procedure prior to the expiry of the Resolution Period.

64. EXPERT DETERMINATION PROCEDURE

64.1 Subject, as applicable, to Clause 63 (*Resolution by Senior Representatives*), a Party may refer an Expert Dispute to be determined by an Expert in accordance with the Expert Determination Procedure. Such referral shall be effected by either Party giving an Expert Determination Notice to the other Party. An Expert Determination Notice shall:

(A) include the information required to be included in a Dispute Notice pursuant to Clauses 62.3(A)(i) to 62.3(A)(vi) (*Outline of Dispute Resolution Procedure*) (inclusive); and

(B) include a proposal as to the identity, and terms of reference, of the Expert and the relevant expertise that the referring Party considers qualifies him to determine the relevant Expert Dispute.

64.2 Any Expert appointed to determine any Expert Dispute shall be required to have an appropriate level of experience in relation to matters of the same general description as the matter in Dispute.

64.3 The Party receiving the Expert Determination Notice (the "**Respondent**") shall, within ten (10) Business Days after receipt of the Expert Determination Notice, give an Expert Determination Response Notice to the other Party (the "**Claimant**"). An Expert Determination Response Notice shall specify whether or not the Respondent accepts:

(A) the Expert proposed by the Claimant (and, if the Respondent does not accept the Expert proposed by the Claimant, it shall specify an alternative Expert for consideration by the Claimant); and

(B) the terms of reference for the Expert proposed by the Claimant (and, if the Respondent does not accept the terms of reference for the Expert proposed by the Claimant, it shall propose alternative terms of reference for the Expert for consideration by the Claimant).

64.4 If the Parties fail to agree on the identity of the Expert within ten (10) Business Days after the date of service of the Expert Determination Notice, either Party may request that the LCIA appoints a suitably qualified and experienced Expert for the Expert Dispute in question.

64.5 The Parties shall:

(A) use reasonable endeavours to procure that within ten (10) Business Days after the Parties have agreed the identity of the Expert to be appointed (or the LCIA having appointed an Expert in accordance with Clause 64.4):

(i) the Expert confirms in writing to the Parties that:

(a) he is willing and available to act in relation to the Expert Dispute; and

(b) he has no conflict of interest which prevents him from determining the Expert Dispute;

(ii) (subject to the confirmation referred to in Clause 64.5(A)(i) having been given) the terms of appointment of the Expert are agreed between the Parties and the Expert (and an appointment letter entered into among them). Neither Party will object to such terms of appointment of the

Expert provided that they are reasonable and consistent with the applicable terms of this Agreement, such terms to:

(a) include an undertaking that the Expert shall not disclose to any person any submissions or Supporting Information disclosed or delivered to the Expert by a Party to the Expert Dispute in consequence of, or in respect of, his appointment as the Expert;

(b) exempt the Expert (and any employee, agent or adviser of or to the Expert) from liability for anything done or omitted in the discharge or purported discharge of the Expert's functions, unless such act or omission is fraudulent or in bad faith; and

(c) include the instructions set out in Clause 64.5(B);

(B) instruct the Expert:

(i) to act fairly and impartially;

(ii) to take the initiative in ascertaining the facts and the law, including by:

(a) considering any Supporting Information submitted to him by the Parties;

(b) instructing an expert and/or taking counsel's opinion as to any matter raised in connection with the Expert Dispute, provided that the Expert shall not be entitled to delegate any decision to such expert or counsel;

(c) requiring the Parties to produce any Supporting Information (excluding any Supporting Information which would be privileged from production in court proceedings);

(d) opening up, reviewing and revising any opinion, assessment, certificate, instruction, determination or decision of whatsoever nature given or made pursuant to this Agreement provided that he may not in so doing purport to decide any matter which falls outside the Expert's terms of reference in relation to the relevant Expert Dispute or is otherwise excluded from the Expert Determination Procedure; and

(e) taking such other actions as the Expert deems appropriate, taking into account the nature of the Expert Dispute;

(iii) that, if necessary to resolve the Dispute, his determination in respect of the relevant Expert Dispute may require the Parties to make amendments to this Agreement on the following basis:

(a) the Parties agree that it is their intention that in the absence of their ability to agree any required amendments to this Agreement,

this Agreement should continue and should not come to an end or be deemed void or voidable in accordance with the doctrine of frustration or any other legal theory;

(b) during the Expert Determination Procedure, the Parties shall submit such amendments to this Agreement as they deem fit to resolve the Dispute and any consequential amendments required to this Agreement; and

(c) the Expert shall use reasonable endeavours to arrive at a determination which adopts one Party's proposed amendments, provided that if neither Party's proposed amendments are capable technically of resolving the Dispute in the Expert's opinion, the Expert shall be entitled to draft amendments which contain elements of either of the Parties' proposed amendments or to substitute the Expert's own amendments in each case as necessary to resolve the Dispute and with due regard to the intent of the Parties' proposed amendments;

(iv) in determinations pursuant to Clauses 15.2 (*Disputes in relation to a Preliminary Construction Costs Report*), 16.2 (*Disputes in relation to an Opex reopener*), 17.3 (*Disputes in relation to a Tax Reopener Report*), 18.3 (*Disputes in relation to the Preliminary Business Rates Report*), 20.2 (*Disputes in relation to the Financial Model*), 29.5 (*Disputes in respect of a Qualifying Change in Law*), 39.1 (*GT Strike Price Adjustment*), 41.2 (*Disputes in relation to a Preliminary TNUoS Charges Report*) and 44.3 (*Disputes in relation to a Preliminary Quarterly QC Report*), the Expert shall have regard to the purposes, criteria and/or requirements imposed on the Parties in connection with the report or other documents and the subject of the dispute including the matters set out in (as appropriate) Clauses 15.1(D) (*Preliminary Construction Costs Report*), 16.1(D) (*Preliminary Opex Reports*), 17.2(B) (*Tax Reopener Report*), 18.2(D) (*Preliminary Business Rates Report*), 20.1(D) (*Revision of the Financial Model*), 29.1(B) (*Generator QCiL Initial Assessment Notice*), 29.2(B) (*Generator QCiL Notice*), 29.3(B) (*CfD Counterparty QCiL Notice*), 38.5 (*Generation Tax Reports*), 41.1(C) (*Preliminary TNUoS Charges Report*) and 44.1(B) (*Preliminary Quarterly QC Report*); and

(v) if requested by either Party in writing, to provide reasons for his decision, which shall be communicated to the Parties;

(C) afford the Expert the discretion to establish the procedure (including the timetable) for the determination of the Expert Dispute, it being agreed by the Parties that:

(i) the Expert shall be requested to confirm to the Parties the proposed procedure for the relevant Expert Dispute as soon as reasonably practicable after the Expert Appointment Date and, in any event, within ten (10) Business Days after such date and, in so doing, the Parties agree that:

(a) the Expert shall be requested to afford the Parties the opportunity to address him in a meeting at which both Parties shall have the right to be present, where either Party requests such a meeting in writing or the Expert otherwise considers it to be necessary or desirable to reach a determination in respect of the relevant Expert Dispute, with the format and procedure applicable to any such meeting being a matter for the Expert to decide in his sole and absolute discretion; and

(b) the Expert may (without limitation) modify the time periods provided for in this Clause 64 and otherwise modify the procedure contemplated by such Clause;

(ii) subject to Clause 16.3(C) (*HPC Comparator Group*), all submissions made by a Party to the Expert (including all Supporting Information provided to him) shall be provided to the other Party contemporaneously with such submissions being made to the Expert; and

(iii) the Parties shall (without prejudice to Clause 64.5(C)(i)(b)) request the Expert to determine the Expert Dispute within the earlier of:

(a) thirty (30) Business Days following the date on which a Response Submission has been provided by a Party to the other Party; and

(b) sixty (60) Business Days after the First Submission Deadline; and

(D) afford the Expert all Supporting Information and assistance which the Expert requires to determine the Expert Dispute (and, if a Party fails to produce any such Supporting Information or assistance, the Expert may continue the determination process without that Supporting Information or assistance).

64.6 Subject to Clause 64.5(C):

(A) the Claimant shall provide the Expert with a copy of the Expert Determination Notice and the Expert Determination Response Notice within ten (10) Business Days after the Expert Appointment Date (the date on which the Expert receives the copy of the Expert Determination Notice being the "**Expert Referral Date**");

(B) each Party may, but is not obliged to, provide a written statement of its case, together with any Supporting Information, to the Expert (the "**First Submission**") within twenty (20) Business Days after the Expert Referral Date (the "**First Submission Deadline**") and, without limitation, the First Submission may cover any of the matters required to be contained in the relevant Dispute Notice pursuant to Clauses 62.3(A)(i) to 62.3(A)(vi) (*Outline of Dispute Resolution Procedure*) (inclusive) and a copy of such First Submission shall be provided to the other Party at the same time as it is provided to the Expert; and

(C) each Party may submit a reply, together with any Supporting Information, to the other Party's First Submission (a "**Response Submission**") within thirty (30) Business Days after receipt of the First Submission.

64.7 The Arbitration Act 1996 and the law relating to arbitrators and arbitrations shall not apply to the Expert or his determination or the procedure by which he reaches his determination.

64.8 If the Expert is at any time unable or unwilling to act, either Party may proceed to seek the appointment of a replacement Expert as if the Expert Determination Notice had just been served. The provisions of the Expert Determination Procedure shall apply, with the necessary modifications, to any replacement Expert and the replacement Expert shall be authorised to determine any Expert Dispute which was submitted to his predecessor but which his predecessor had not determined at the time when his predecessor became unable or unwilling to act.

64.9 The Expert's determination shall be final and binding upon the Parties except in the event of fraud or manifest error.

64.10 No Expert determination shall have the effect of amending this Agreement unless expressly permitted pursuant to this Agreement. For the avoidance of doubt, the Expert's determination may, in accordance with Clause 64.5(B)(iii), require the Parties to make amendments to this Agreement in compliance with the requirements of Clause 91 (*No Variation*).

64.11 The Parties agree that they will take all necessary steps to implement the Expert's determination.

64.12 The Expert may, in his determination, provide that one or other or both of the Parties pay the Expert's fees and expenses and each other's costs (including the fees and expenses of external advisers and consultants) in such proportions as he may specify on the general principle that the allocation of costs should reflect the relative success and failure in the Expert Determination Procedure. Without such a direction, each Party shall bear its own costs and the fees and expenses of the Expert shall be paid in equal shares by the Parties.

65. ARBITRATION PROCEDURE

65.1 Subject to Clause 63 (*Resolution by Senior Representatives*), either Party may refer an Arbitration Dispute to arbitration. Any Arbitration Dispute so referred to arbitration shall be resolved in accordance with the LCIA Arbitration Rules, which rules are to be treated as incorporated by reference into this Clause 65.1, as amended in accordance with Clause 65.2.

65.2 The Parties agree that, if necessary to resolve the Dispute, the Arbitral Tribunal may require the Parties to make amendments to this Agreement on the following basis:

(A) it is their intention that in the absence of their ability to agree any required amendments to this Agreement, this Agreement should continue and should not come to an end or be deemed void or voidable in accordance with the doctrine of frustration or any other legal theory;

(B) during any Arbitration Dispute, the Parties shall submit such amendments to the Agreement as they deem fit to resolve the Dispute; and

(C) the Arbitral Tribunal shall use reasonable endeavours to arrive at a determination which adopts one Party's proposed amendments, provided that if neither Party's proposed amendments are capable technically of resolving the Dispute in the Arbitral Tribunal's opinion, the Arbitral Tribunal shall be entitled to draft amendments which contain elements of either of the Parties' proposed amendments or to substitute the Arbitral Tribunal's own amendments in each case as necessary to resolve the Dispute and with due regard to the intent of the Parties' proposed amendments.

65.3 The Arbitral Tribunal shall make its award in writing (the "**Arbitral Award**") and the Parties agree that all Arbitral Awards shall be binding on the Parties.

65.4 The Parties agree that they will take all necessary steps to implement the Arbitral Award.

65.5 No Arbitral Award shall have the effect of amending this Agreement unless expressly permitted pursuant to this Agreement.

65.6 In resolving disputes pursuant to Clauses 15.2 (*Disputes in relation to a Preliminary Construction Costs Report*), 16.2 (*Disputes in relation to an Opex reopener*), 17.3 (*Disputes in relation to a Tax Reopener Report*), 18.3 (*Disputes in relation to the Preliminary Business Rates Report*), 20.2 (*Disputes in relation to the Financial Model*), 29.5 (*Disputes in respect of a Qualifying Change in Law*), 39.1 (*GT Strike Price Adjustment*), 41.2 (*Disputes in relation to a Preliminary TNUoS Charges Report*) and 44.3 (*Disputes in relation to a Preliminary Quarterly QC Report*), the Arbitral Tribunal shall have regard to the purposes, criteria and/or requirements imposed on the Parties in connection with the report or other documents and the subject of the dispute including the matters set out in (as appropriate) Clauses 15.1(D) (*Preliminary Construction Costs Report*), 16.1(D) (*Preliminary Opex Reports*), 17.2(B) (*Tax Reopener Report*), 18.2(D) (*Preliminary Business Rates Report*), 20.1(D) (*Revision of the Financial Model*), 29.1(B) (*Generator QCiL Initial Assessment Notice*), 29.2(B) (*Generator QCiL Notice*), 29.3(B) (*CfD Counterparty QCiL Notice*), 38.5 (*Generation Tax Reports*), 41.1(C) (*Preliminary TNUoS Charges Report*) and 44.1(B) (*Preliminary Quarterly QC Report*).

65.7 The Arbitral Tribunal shall consist of three (3) Arbitrators except where the Parties have agreed in writing that the Arbitral Tribunal shall consist of one (1) Arbitrator (the "**Mutual Appointment Decision**").

65.8 If the Arbitral Tribunal is to consist of:

(A) three (3) Arbitrators, each Party shall nominate one (1) Arbitrator to be appointed by the LCIA as contemplated by the LCIA Arbitration Rules and the third Arbitrator shall be nominated by the Arbitrators nominated by the Parties and shall act as chairman, following which the Arbitrators shall be appointed by the LCIA as contemplated by the LCIA Arbitration Rules; or

(B) one (1) Arbitrator, the Parties shall use reasonable endeavours to agree on the identity of the Arbitrator within ten (10) Business Days after the Mutual

Appointment Decision, failing which the Arbitrator shall be appointed by the LCIA as contemplated by the LCIA Arbitration Rules.

65.9 The seat, or legal place, of any arbitration shall be London.

65.10 The language to be used in any arbitral Proceedings shall be English.

66. CONSOLIDATION OF CONNECTED DISPUTES

66.1 If any Dispute raises issues which are substantially the same as, connected with or related to issues raised in any dispute or claim relating to or arising out of any other FiT Contract for Difference (each, a "**Connected Dispute**"), and the Dispute Resolution Procedure has been commenced in relation to the Connected Disputes, then either Party may request consolidation of those Connected Disputes at any time so that the Connected Disputes shall be determined together in accordance with the Dispute Resolution Procedure, subject to the provisions of Clauses 66.2 to 66.6 (inclusive).

66.2 Where a Party wishes to consolidate Connected Disputes pursuant to Clause 66.1, that Party shall give a Consolidation Notice to all of the parties to the Connected Disputes. A Consolidation Notice shall:

(A) identify the subject matter of the Dispute;

(B) identify the Dispute(s) that is or are considered to be Connected Dispute(s);

(C) give reasons as to why the Dispute should be consolidated with the Connected Dispute(s); and

(D) where the referring Party considers it appropriate, include copies of any Supporting Information on which the referring Party intends to rely.

A Consolidation Notice shall be copied to the Expert(s) or Arbitrator(s) (as relevant) of each Connected Dispute at the same time that it is given to the parties to each Connected Dispute, or, to the extent that the Expert(s) or Arbitrator(s) have not been appointed at that date, forthwith upon appointment of the Expert(s) or Arbitrator(s).

66.3 Following delivery of a Consolidation Notice, the Parties shall use reasonable endeavours to procure that the Expert(s) or Arbitrator(s) (as relevant) of the Connected Disputes shall, within five (5) Business Days thereafter, determine between them whether:

(A) they are satisfied that the issues of fact and/or law raised in each of the Connected Disputes are substantially the same as, or substantially connected or related to, each other; and

(B) consolidation of the Connected Disputes will not materially affect the timetable for resolution of any Connected Disputes and:

(i) if they are so satisfied by majority:

(a) the Expert(s) and/or Arbitrator(s) shall be requested by the Parties to give notice of that fact on the parties to all of the Connected Disputes; and

(b) subject to Clause 66.4, the Connected Disputes shall be consolidated; or

(ii) if they are not so satisfied by majority, the Connected Disputes shall not be consolidated unless and until (but subject to Clause 66.4) the Expert(s) and/or Arbitrator(s) become so satisfied and determine that they shall be consolidated.

66.4 If the Expert(s) and/or Arbitrator(s) determine that the Connected Disputes shall be consolidated, the Generator shall have the right exercisable within five (5) Business Days after notice of consolidation by the relevant Expert(s) or Arbitrator(s) to object to such consolidation by notice in writing to such Expert(s) or Arbitrator(s) in which event the Dispute shall not be consolidated with any other Connected Dispute (but without prejudice to the consolidation of the other Connected Disputes among themselves), provided that the Generator shall not have such right to object in the circumstances set out in Clause 36 (*Change in Applicable Law: Dispute Process*) or in the case of a BMRP Dispute (as defined in Annex 3 (*BMRP*)).

66.5 If different Expert(s) or Arbitrator(s) have been appointed in respect of Connected Disputes prior to their being consolidated in accordance with the Dispute Resolution Procedure and those Expert(s) or Arbitrator(s) give a notice, in accordance with Clause 66.3(B)(i), that the Connected Disputes shall be consolidated, the Parties shall agree in writing, within five (5) Business Days after the giving of that notice (but subject as provided in Clause 66.4), which of the Experts or Arbitrators shall be the Expert or Arbitrator(s) for the consolidated Connected Disputes. If no such agreement can be reached, the parties to the Connected Dispute shall request that the president or vice-president of the LCIA Court selects, within five (5) Business Days after such request, which of those Expert(s) or Arbitrator(s) shall be the Expert(s) or Arbitrator(s) for the consolidated Connected Disputes.

66.6 If the Expert(s) or Arbitrator(s) of consolidated Connected Disputes is or are unable to give his or her (or their) award in respect of the consolidated Connected Disputes at the same time then the awards shall be given in such order as the Expert(s) or Arbitrator(s) may determine.

67. NO OTHER PROCEEDINGS

67.1 Any and all Disputes are to be finally resolved in accordance with the Dispute Resolution Procedure, and neither Party shall commence any Proceedings other than in accordance with the Dispute Resolution Procedure. If either Party commences any Proceedings in breach of the Dispute Resolution Procedure, it shall not oppose an application for strike-out, termination, discontinuance or stay of such Proceedings. This Clause 67.1 shall not prejudice the right of a Party to bring Proceedings under any other Transaction Document to which it is a party.

67.2 Notwithstanding any other provision of the Dispute Resolution Procedure, either Party may at any time:

(A) commence or prosecute Proceedings against the other Party in the courts of England and Wales:

(i) for an order to obtain urgent injunctive or other relief, including specific performance; and/or

(ii) for judgment to enforce a Senior Representatives Settlement, the determination of an Expert, or an Arbitral Award; and/or

(iii) for the Courts of England and Wales to decide any matter of jurisdiction, terms of reference or enforcement arising out of an Expert Dispute; and/or

(iv) in connection with any independent firm's or cost consultants' opinion obtained by the CfD Counterparty pursuant to Clause 15.1(C) (*Preliminary Construction Costs Report*) or Clause 16.1(B) (*Preliminary Opex Reports*); and/or

(v) in connection with any business rates advisers' opinion obtained by the CfD Counterparty pursuant to Clause 18.2(B) (*Preliminary Business Rates Report*); and

(B) give a notice of arbitration to the other Party so as to prevent the expiry of any applicable period of limitation or prescription, or the application of the equitable doctrine of laches.

68. METERING AND BMRP DISPUTES

68.1 Metering Disputes shall be resolved solely as a Trading Dispute in accordance with the BSC pursuant to Clauses 24.3(D) to 24.3(F) (*Billing Statement disputes*) and the Dispute Resolution Procedure shall not apply to any such Metering Disputes.

68.2 Notwithstanding any Metering Dispute and save to the extent inconsistent with any order or judgment of a type referred to in Clause 67.2(A)(i) or (ii) (*No Other Proceedings*), the Parties shall continue to comply with all of their respective obligations under this Agreement.

68.3 BMRP Disputes shall be resolved in accordance with Annex 3 (*BMRP*).

Part 20
General Provisions Regarding Liabilities, Remedies and Waivers

69. GENERAL MITIGATION AND COMPENSATION

69.1 **General**

(A) Any and all compensation, or any associated period of time (such as, without limitation, the duration of an Adjusted Output Period), in respect of any event to be calculated, agreed or determined and paid, commenced or effected pursuant to this Agreement shall be reduced to the extent that the Generator has not:

(i) complied, or there is no reasonable prospect of the Generator complying, with the general mitigation obligation set out in Clause 69.2 (*Mitigation*);

(ii) complied, or there is no reasonable prospect of the Generator complying, with the Reasonable and Prudent Standard, including with respect to the incurrence of costs in relation to the Project; and

(iii) incurred, or there is no reasonable prospect of the Generator incurring, costs economically and efficiently.

(B) Any notification by the Generator to the CfD Counterparty of the mitigating steps that the Generator has taken, or proposes to take, in order to comply with the general mitigation obligation set out in Clause 69.2 (*Mitigation*), or the Reasonable and Prudent Standard, shall be of indicative value only and, as such, shall not be determinative of whether it has complied, or will comply, with such general mitigation obligation or Reasonable and Prudent Standard.

(C) A determination by the Generator not to take any action or step to implement or comply with a Qualifying Change in Law prior to the QCiL Effective Date for such Qualifying Change in Law shall not in and of itself constitute a failure by the Generator to comply with sub-paragraph (i), (ii) or (iii) of paragraph (A) above or Clause 69.2 (*Mitigation*) with respect to the period prior to the QCiL Effective Date only and without prejudice to the application of the matters referenced in paragraph (A) above or Clause 69.2 (*Mitigation*) to the period on and after the QCiL Effective Date, irrespective of whether or not the Generator has made such a determination.

69.2 **Mitigation**

(A) The Generator shall promptly take all reasonable steps to mitigate any loss or, as the case may be, maximise any benefit, in respect of which a claim could be brought under this Agreement or any other Transaction Document to which it is a party, provided that this obligation to mitigate shall not be construed as relieving the Generator from complying in full with its obligations under this Agreement or any other Transaction Document.

(B) The Generator shall give notice promptly to the CfD Counterparty of the mitigating steps that it has taken or procured, is taking or procuring and proposes to take or

procure and shall promptly provide such Supporting Information regarding such mitigation as the CfD Counterparty may reasonably request.

(C) For the avoidance of doubt, the obligation to minimise any loss or maximise any benefit in this Clause 69.2 shall not require the Generator to:

(i) alter the level at which, or manner in which, the Facility is operated; or

(ii) change its trading strategy for the purpose of selling electricity at or above the Baseload Market Reference Price.

70. NO DOUBLE RECOVERY

(A) The Generator may recover only once in respect of the same loss. The CfD Counterparty shall not be liable to pay any compensation under any term of this Agreement to the extent that the same loss has been compensated for under any other term of this Agreement or any other Transaction Document.

(B) If the Generator is at any time entitled to recover from a third party any sum (whether under a power purchase agreement, an electricity sale contract, insurance policy or otherwise) in respect of any matter or circumstance giving rise to a claim under this Agreement or any other Transaction Document, the Generator shall take all necessary steps to enforce such recovery.

(C) If the Generator (or its nominee) recovers (x) any amount from the CfD Counterparty as a consequence of any other FiT Contract for Difference to which it is a party or (y) any amount from a third party referred to in Clause 70(B) (such amount to be calculated net of any associated reconciliation payments to such third party):

(i) such amount shall be taken into account in the calculation of any compensation payable pursuant to this Agreement or any other Transaction Document;

(ii) no claim shall be made by the Generator pursuant to this Agreement or any other Transaction Document in respect of the amounts so recovered; and

(iii) if the Generator has previously received compensation in relation to the same claim, it shall pay promptly to the CfD Counterparty an amount equal to the lesser of (a) the amount so recovered; and (b) the amount so previously received.

71. EXCLUDED LOSSES AND LIABILITIES

71.1 General limitation on liability

(A) Subject to Clause 71.1(B), a Party shall not be liable to the other Party pursuant to this Agreement, in tort (including negligence and/or breach of statutory duty) or otherwise at law for:

(i) any loss, damage, cost or other expense to the extent that the same does not arise naturally from the breach and cannot reasonably be supposed to have been in the contemplation of the Parties at the Agreement Date as the probable result of such breach; or

(ii) any special, indirect or consequential loss including any such loss which constitutes loss of use, loss of goodwill, loss of profit or loss of revenue,

in each case incurred by the other Party in respect of any breach of the terms of this Agreement.

(B) Clause 71.1(A) shall not operate so as to prejudice or override:

(i) the express terms of any obligation to pay or indemnity or costs reimbursement provision set out in this Agreement;

(ii) the express terms relating to the calculation of any QCiL Compensation or the obligation of either Party to pay any QCiL Compensation to the other Party (or to commence or effect such compensation) in each case in accordance with Part 10 (*Changes in Law*);

(iii) the express terms relating to the calculation of any Termination Default Amount, or the obligation of the Generator to pay any Termination Default Amount to the CfD Counterparty, in each case in accordance with Clause 58.3(C) (*Consequences of Default termination*), it being agreed that the Termination Default Amount is reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages upon early termination of this Agreement; and

(iv) the express terms relating to the calculation of any QC Compensation, or to the obligation of the CfD Counterparty to pay any QC Compensation to the Generator, in each case in accordance with Part 13 (*Curtailment*).

71.2 **Transmission System Operator, Transmission Licensee or Licensed Distributor actions**

Without prejudice to the payment of QC Compensation in accordance with Part 13 (*Curtailment*), and to payment of any QCiL Compensation, payments to the Generator in respect of or pursuant to:

(A) instructions issued by any Transmission System Operator, Transmission Licensee or Licensed Distributor, as the case may be; or

(B) directions given or actions taken pursuant to the Fuel Security Code (as such term is defined in any Transmission Licence),

shall not be calculated or made pursuant to the terms of this Agreement, and the CfD Counterparty shall have no liability pursuant to this Agreement to pay or compensate the Generator in respect of any resulting lost output.

72. NO WAIVER

72.1 No waiver by either Party of any breach by the other Party of this Agreement shall operate unless expressly made in writing, and no such waiver shall be construed as a waiver of any other breach.

72.2 No delay or omission by either Party in exercising any right, power or remedy provided by law or pursuant to this Agreement shall:

(A) affect that right, power or remedy; or

(B) operate as a waiver of it.

72.3 The single or partial exercise by either Party of any right, power or remedy provided by law or pursuant to this Agreement shall not, unless otherwise expressly stated, preclude any other or further exercise of it or the exercise of any other right, power or remedy.

72.4 Any legal privilege attaching to information or documents that are:

(A) made available by the Generator or its Representatives to the CfD Counterparty or its Representatives remains for the benefit of the Generator; or

(B) made available by the CfD Counterparty or its Representatives to the Generator or its Representatives remains for the benefit of the CfD Counterparty,

and, in each case, disclosure is not intended to amount to a waiver of legal privilege.

73. CONSENTS

73.1 Any consents, confirmations, approvals, waivers or agreements to be given by the CfD Counterparty pursuant to this Agreement:

(A) shall be effective only if given in writing; and

(B) except as otherwise expressly provided in this Agreement, may be given or withheld by the CfD Counterparty in its sole and absolute discretion and, if given, may be given on and subject to such terms and/or conditions as the CfD Counterparty may in its sole and absolute discretion determine.

73.2 The exercise of discretion by the CfD Counterparty (including in respect of the grant or withholding of any consent, confirmation, approval, waiver or agreement) shall in no way limit the manner in or extent to which that discretion may be exercised in future or give rise to any amendment or modification to this Agreement or any other Transaction Document.

74. ENTIRE AGREEMENT

74.1 This Agreement, together with the other Transaction Documents, constitutes the entire agreement, understanding and representations of the Parties in respect of its subject matter and supersedes and extinguishes any agreements, understandings and/or

representations previously given or made in respect thereof other than those included in this Agreement and the other Transaction Documents.

74.2 Each Party acknowledges that in entering into this Agreement it has not relied on, and shall have no right or remedy in respect of, any draft, agreement, undertaking, representation, warranty, promise, assurance, arrangement or public statement of any nature whatsoever, whether or not in writing, relating to the subject matter of this Agreement or any other Transaction Document made or given by or on behalf of either Party, the Secretary of State or the Delivery Body at any time prior to the Agreement Date (whether made negligently or innocently) other than as expressly set out in this Agreement or any other Transaction Document.

74.3 Nothing in this Clause 74 shall limit or exclude liability for fraud.

75. PAYMENT DISRUPTION EVENT

75.1 Relief due to Payment Disruption Event

Subject to Clause 75.2 (*Conditions to Payment Disruption Event relief*), a Party affected by a Payment Disruption Event (a "**PDE Affected Party**") shall be relieved from liability, and deemed not to be in breach of this Agreement, for:

(A) any failure to pay (or delay in paying) to the other Party any sum due and payable pursuant to this Agreement (whether pursuant to an obligation to pay, an indemnity, a costs reimbursement provision or otherwise); and

(B) (in the case of the Generator) any failure to transfer, deliver, extend, renew or replace (or procure the transfer, delivery, extension, renewal or replacement of) Acceptable Collateral in accordance with Part 18 (*Credit Support*), or any delay in doing so,

(such obligations, "**PDE Obligations**") in each case if and to the extent that such failure or delay is directly attributable to the occurrence and continuance of such Payment Disruption Event.

75.2 Conditions to Payment Disruption Event relief

The PDE Affected Party's relief from liability pursuant to Clause 75.1 (*Relief due to Payment Disruption Event*) is subject to and conditional upon:

(A) the PDE Affected Party giving notice promptly to the other Party of the nature and extent of the Payment Disruption Event causing its failure or delay in performance; and

(B) the PDE Affected Party using reasonable endeavours:

(i) to mitigate the effects of the Payment Disruption Event;

(ii) to carry out and perform its obligations under this Agreement in any way that is reasonably practicable; and

(iii) to pay the sum due and payable or transfer, deliver, extend, renew or replace (or procure the transfer, delivery, extension, renewal or replacement of) Acceptable Collateral in accordance with Part 18 (*Credit Support*) (as relevant) immediately upon cessation of the Payment Disruption Event.

76. FORCE MAJEURE

76.1 Relief due to Force Majeure

(A) Subject to the provisions of this Clause 76, a Party affected by Force Majeure (a "**FM Affected Party**") shall be relieved from liability, and deemed not to be in breach of this Agreement, for any failure or delay in the performance of any of its obligations under this Agreement if and to the extent such failure or delay is directly attributable to the occurrence and continuance of such Force Majeure.

(B) Nothing in this Clause 76 shall relieve either Party from its obligations to perform or comply with any PDE Obligations.

76.2 Conditions to Force Majeure relief

The FM Affected Party's relief from liability pursuant to Clause 76.1(A) (*Relief due to Force Majeure*) is subject to and conditional upon:

(A) the FM Affected Party giving notice promptly to the other Party upon becoming aware of the nature and extent of the Force Majeure causing its failure or delay in performance; and

(B) the FM Affected Party using reasonable endeavours to mitigate the effects of the Force Majeure, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations under this Agreement as soon as reasonably practicable.

76.3 Provision of Force Majeure information

(A) In addition to its notification obligation pursuant to Clause 76.2 (*Conditions to Force Majeure relief*), the FM Affected Party shall give notice promptly to the other Party (to the extent that such Information is available to the FM Affected Party) of:

(i) the steps being taken by the FM Affected Party to remove or mitigate the effect of the Force Majeure and to carry out its obligations under this Agreement;

(ii) the anticipated date of resumption of performance of its obligations under this Agreement; and

(iii) such other details relating to the Force Majeure and its effects as may be reasonably requested by the other Party,

and, to the extent that such Information is not available at the time a notice is given, the FM Affected Party shall provide such Information to the other Party as soon as it becomes available to it.

(B) The FM Affected Party shall give notice to the other Party every twenty (20) Business Days after any update to the Information provided pursuant to Clause 76.3(A) and shall give notice promptly to the other Party upon it becoming aware of any material developments or additional material Information relating to the Force Majeure and its effects.

77. SEVERABILITY

77.1 Invalidity

If any provision or part of a provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction, that shall not affect or impair:

(A) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or

(B) the legality, validity or enforceability in other jurisdictions of that or any other provision of this Agreement.

77.2 Lack of authority

Without prejudice to any right or remedy which any other Party may otherwise have, if a Party's performance of this Agreement or any other Transaction Document or any obligation under this Agreement or any other Transaction Document is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction for want of capacity, power or authority:

(A) this shall not affect the performance by the relevant Party of its other obligations under this Agreement or any other Transaction Document; and

(B) no other member of its Group shall be relieved from performing its obligations under this Agreement or any other Transaction Document.

78. LIMITED RECOURSE ARRANGEMENTS AND UNDERTAKINGS

78.1 CfD Counterparty payment undertakings

(A) For the purpose of this Clause 78, references in Clauses 78.1(B) to 78.1(F) (inclusive) to "liabilities" or to moneys being "due" and/or "owing" shall be construed as if the limited recourse provisions set out in Clause 78.2 (*Limited recourse*) do not apply.

(B) The CfD Counterparty shall make appropriate requests to Electricity Suppliers on the basis provided for by the Supplier Obligation Regulations for the purpose of ensuring that it is in sufficient funds to meet its liabilities in full pursuant to this Agreement.

(C) The CfD Counterparty shall, to the extent consistent with the CfD Counterparty's proper exercise of its functions and duties pursuant to the EA 2013 or any other statutory function or duty, promptly:

(i) take such steps as are necessary to recover from an Electricity Supplier any sum which the Electricity Supplier is required by virtue of the Supplier Obligation Regulations to pay to the CfD Counterparty and which has not been paid by the date on which it is required by virtue of the Supplier Obligation Regulations to be paid and which is necessary to ensure the CfD Counterparty can meet its liabilities in full pursuant to this Agreement;

(ii) at the times and otherwise in the manner prescribed by the Supplier Obligation Regulations, issue and enforce notices to Electricity Suppliers requiring the provision and/or payment of financial collateral to ensure the CfD Counterparty can meet its liabilities in full pursuant to this Agreement;

(iii) take such action (including the taking and prosecution of legal proceedings) against Electricity Suppliers as is necessary to ensure that the CfD Counterparty can meet its liabilities in full pursuant to this Agreement;

(iv) pursue any Electricity Supplier which has defaulted in making payment pursuant to the Supplier Obligation Regulations as a civil debtor unless, acting reasonably, the CfD Counterparty considers that there are more appropriate means of pursuing the defaulting Electricity Supplier or securing payment due to the Generator;

(v) take such action (including the taking and prosecution of legal proceedings) to recover and receive from other sources of funds (if any) available to the CfD Counterparty, including:

(a) moneys standing to the credit of any designated risk, reserve or shortfall fund; and/or

(b) moneys available by reason of any 'make whole', loss mutualisation or similar arrangements among Electricity Suppliers or others in respect of any shortfall in amounts due and owing but not paid by Electricity Suppliers to the CfD Counterparty for the purposes of enabling the CfD Counterparty to make payments pursuant to FiT Contracts for Difference,

as is necessary for the purpose of meeting its liabilities in full pursuant to this Agreement; and

(vi) notify the Secretary of State if the CfD Counterparty has reason to believe that it will have insufficient funds available to make when due the totality of the payments to generators that are required pursuant to FiT Contracts for Difference.

(D) The CfD Counterparty shall notify the Generator if it is of the opinion that it will have insufficient funds to meet its liabilities in full pursuant to this Agreement.

(E) The CfD Counterparty agrees that in circumstances where the CfD Counterparty has failed to pay an amount on the due date therefor pursuant to this Agreement:

(i) damages alone would not be an adequate remedy for any breach by it of its obligations set out in Clause 78.1(C)(i) to (v) (inclusive);

(ii) accordingly, the Generator will be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach by the CfD Counterparty of its obligations set out in Clause 78.1(C)(i) to (v) (inclusive); and

(iii) it will not raise any objection to an application by the Generator for any such remedies.

(F) Without prejudice to Clause 78.2 (*Limited recourse*), the maximum liability of the CfD Counterparty in respect of breach by it of Clause 78.1(B), 78.1(C) or 78.1(D) shall be limited to an amount equivalent to the Default Interest on the amount which has not been paid by the CfD Counterparty to the Generator pursuant to this Agreement by reason of the relevant breach for the period from what would have been the date of payment but for such breach to the date of actual payment, provided that the limit of liability in this Clause 78.1(F) shall not apply where the breach is caused by the gross negligence or wilful misconduct of the CfD Counterparty.

78.2 **Limited recourse**

Notwithstanding any other provision of this Agreement:

(A) the liability of the CfD Counterparty pursuant to this Agreement shall not exceed the aggregate of:

(i) the amounts from time to time received and held by the CfD Counterparty, and allocated to this Agreement, pursuant to the Supplier Obligation Regulations; and

(ii) any other funds of the type referred to in Clause 78.1(C)(v) (*CfD Counterparty payment undertakings*) from time to time received and held by the CfD Counterparty, and allocated to this Agreement, whether pursuant to the Supplier Obligation Regulations or otherwise; and

(B) the CfD Counterparty shall not be in default pursuant to this Agreement in not making any payment that would otherwise be due and owing if and to the extent that it shall not have received the amounts and other funds referred to in Clause 78.2(A) which are necessary to make such payment but, if and to the extent that such payment is not made, the CfD Counterparty shall continue to owe an amount equal to the amount of the payment that would otherwise be due and owing, but is not paid and shall make such payment promptly (and in any

event within two (2) Business Days) after and to the extent of its receipt of such corresponding and allocated amounts and other funds.

78.3 **Damages for breach**

The Parties acknowledge and agree that:

(A) the CfD Counterparty shall have full right and liberty to recover from the Generator any loss, damage, cost or expense suffered or incurred by the CfD Counterparty as a result of a breach by the Generator of this Agreement and for this purpose no regard shall be had to the right or ability (if any) of the CfD Counterparty to recover such loss, damage, cost or expense from all or any Electricity Suppliers or any other person pursuant to any regulations made pursuant to the EA 2013 (including the Supplier Obligation Regulations); and

(B) to the extent that any such loss, damage, cost or expense is recovered by the CfD Counterparty from the Generator, it is the intent that the CfD Counterparty will not keep those amounts but will pursuant to the regulations made pursuant to the EA 2013 (including the Supplier Obligation Regulations):

(i) use such amounts to make good any loss, damage, cost or expense suffered or incurred by the CfD Counterparty;

(ii) pass or return those amounts to the Electricity Supplier(s) or other persons entitled thereto pursuant to such regulations; and/or

(iii) use such amounts for the benefit of such Electricity Supplier(s) or other person(s).

Part 21
Confidentiality, Announcements and Freedom of Information

79. CONFIDENTIALITY

79.1 Confidentiality restrictions: application to the terms of this Agreement

Subject to Clause 80 (*Announcements*), the Parties agree that the provisions of this Agreement shall not be treated as Confidential Information (save for the Information to be redacted pursuant to Annex 6 (*Redacted Terms*), which shall be treated as Confidential Information) and may be disclosed without restriction, provided that the provisions of this Agreement are redacted in accordance with Annex 6 (*Redacted Terms*).

79.2 Contracts for Difference Regulations

(A) The Parties acknowledge and agree that the CfD Counterparty must publish this Agreement in accordance with Regulation 60 of The Contracts for Difference (Allocation) Regulations 2014.

(B) For the purposes of Regulation 60 of The Contracts for Difference (Allocation) Regulations 2014, the information set out in Annex 6 (*Redacted Terms*) is information to which paragraph 4 of Regulation 60 of The Contracts for Difference (Allocation) Regulations 2014 applies.

(C) For the avoidance of doubt, the publication of this Agreement in accordance with Regulation 60 of The Contracts for Difference (Allocation) Regulations 2014 and the provisions of this Clause 79.2 shall not be subject to or constrained or restricted by Clause 79.1 (*Confidentiality restrictions: application to the terms of this Agreement*) or the following provisions of this Clause 79 or Clause 80 (*Announcements*).

79.3 Publication

The Parties acknowledge and agree that a copy of this Agreement and the Secretary of State Investor Agreement redacted, in the case of this Agreement, for the information set out in Annex 6 (*Redacted Terms*) and, in the case of the Secretary of State Investor Agreement, for the information set out in annex 13 (*Redacted Terms*) of the Secretary of State Investor Agreement, will be published and may be laid before either or both Houses of Parliament and this shall not be subject to or constrained or restricted by Clause 79.1 (*Confidentiality restrictions: application to the terms of this Agreement*) or the following provisions of this Clause 79 or Clause 80 (*Announcements*).

79.4 Generator Confidential Information: obligations of the CfD Counterparty

(A) The CfD Counterparty shall keep all Generator Confidential Information confidential and shall not disclose Generator Confidential Information without the prior written consent of the Generator, other than as permitted by Clause 79.4(D).

(B) The CfD Counterparty shall not have the right to disclose to any third party technical information covering the design, construction, installation, commission,

operation, maintenance or decommissioning of either or both of the Reactors owned or controlled by or licensed to the Generator, except if (and then only to the extent that) access to, and/or disclosure of, such technical information is necessary for the exercise of rights or the performance of obligations of the CfD Counterparty contained in, or for the purposes of, this Agreement or any other Transaction Document in relation to the Project, in which case, disclosure shall be made on a confidential and strict need-to-know basis and the CfD Counterparty shall keep such technical information confidential in accordance with Clause 79.4(A) to the extent that such technical information also constitutes Generator Confidential Information.

(C) The CfD Counterparty shall not disclose or make use of any Generator Confidential Information otherwise than to fulfil the CfD Counterparty Permitted Purposes, except with the prior written consent of the Generator.

(D) Without prejudice to Clauses 79.2 (*Contracts for Difference Regulations*) and 79.3 (*Publication*), Clause 79.4(A) shall not prevent the disclosure of Generator Confidential Information by the CfD Counterparty:

(i) on a confidential and strict need-to-know basis and without prejudice to Clause 79.4(B):

(a) to its Representatives to enable or assist the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes;

(b) to any Transferee to fulfil the CfD Counterparty Permitted Purposes;

(c) to any person engaged in providing services to the CfD Counterparty to enable or assist the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes;

(d) to any Government Entity (or to its Representatives or to any person engaged in providing services to such Government Entity) where the CfD Counterparty considers such disclosure is required to enable or assist:

(1) the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes;

(2) such person to: (i) fulfil any of its functions arising out of or for the purposes of this Agreement, any other Transaction Document or any Finance Document; (ii) perform any function in connection with its functions arising out of or for the purposes of this Agreement, any other Transaction Document or any Finance Document; or (iii) fulfil any functions, duties or obligations arising by virtue of or pursuant to the EA 2013; or

(3) any transfer involving the Project, this Agreement or any other Transaction Document under a Transfer Scheme; or

(e) to any Transmission System Operator, Transmission Licensee or Licensed Distributor, the CfD Settlement Services Provider, the Delivery Body, any BSC Company or any BSC Agent (or to their respective Representatives) to the extent that the CfD Counterparty considers such disclosure is required to enable or assist: (i) the CfD Counterparty to fulfil the CfD Counterparty Permitted Purposes; or (ii) such person to fulfil or perform any of its functions, duties or obligations arising out of or for the purposes of this Agreement, any other Transaction Document or any Finance Document or to fulfil or perform any connected function, duty or obligation (including any such functions, duties or obligations arising by virtue of or pursuant to the EA 2013),

provided that: (1) the CfD Counterparty shall use reasonable endeavours to inform the recipient of the Generator Confidential Information of the CfD Counterparty's obligations pursuant to Clause 79.4(A) and Clause 79.4(C); (2) in the case of disclosure of Generator Confidential Information pursuant to Clause 79.4(D)(i)(a), Clause 79.4(D)(i)(b) or Clause 79.4(D)(i)(c), the CfD Counterparty shall ensure that the recipient of the Generator Confidential Information shall be subject to substantially the same obligation of confidentiality as contained in Clauses 79.4(A) and 79.4(C); and (3) this Clause 79.4(D)(i) shall not permit the disclosure of Generator Confidential Information to any person to whom the Generator objects in writing to the CfD Counterparty before the disclosure is made, on the basis that it reasonably considers such person to be a Competitor (and if the Generator and the CfD Counterparty are not able to agree on whether such proposed recipient is a Competitor, either the Generator or the CfD Counterparty may refer the Dispute for resolution by an Expert in accordance with the Expert Determination Procedure) and, if any such objection is raised, no such further disclosure shall be permitted until the matter has been resolved pursuant to the Expert Determination Procedure or otherwise settled;

(ii) on a confidential and strict need-to-know basis, to enable a Dispute to be instigated, progressed, consolidated with other disputes, settled or determined pursuant to and in accordance with the Dispute Resolution Procedure (except where the relevant Generator Confidential Information has been provided to the CfD Counterparty on a "without prejudice" or "without prejudice save as to costs" basis, in which case such Generator Confidential Information shall not be disclosed by the CfD Counterparty);

(iii) on a confidential and strict need-to-know basis, to enable a Metering Dispute to be instigated, progressed, settled or determined in accordance with the provisions of the BSC;

(iv) (subject to Clause 79.4(E)) to Parliament or to any Parliamentary committee, but only if and to the extent that the CfD Counterparty, acting reasonably, considers such disclosure is required to enable or assist it to fulfil any CfD Counterparty Permitted Purpose;

(v) (subject to Clause 79.4(E)) to any Secretary of State to enable or assist the Secretary of State to make a disclosure to Parliament or to any Parliamentary committee, but only if and to the extent that the Secretary of State has notified the CfD Counterparty that such disclosure is required to enable or assist the Secretary of State to fulfil its functions;

(vi) (subject to Clause 79.4(E)) to any Secretary of State to enable or assist the Secretary of State to make a disclosure to the European Commission or other Competent Authority, but only if and to the extent that the CfD Counterparty considers (or the Secretary of State has notified the CfD Counterparty that) such disclosure is required in connection with the application of the State Aid Rules or in connection with any European Commission decision relating to those rules;

(vii) (subject to Clause 79.4(E)):

(a) which is required to comply with any Law or Directive (including the rules of any securities exchange, clearing system or regulatory body) having the force of law, provided that the Generator may object to any such disclosure in accordance with the terms of the relevant Law or Directive; or

(b) which is required to comply with any requirement of any court of competent jurisdiction or any other competent judicial, governmental or regulatory body;

(viii) (subject to Clause 81 (*Freedom of Information*)) which is required:

(a) by the FoIA; or

(b) by the EIR;

(ix) to which the Generator has agreed in writing in advance, provided that where such agreement is conditional, those conditions are complied with;

(x) to the National Audit Office for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the CfD Counterparty has used its resources;

(xi) on a confidential and strict need-to-know basis and only to the extent that the Generator owns or has the right to make such disclosure and the Generator has used all reasonable endeavours to have any restrictions on disclosure removed for this purpose, to an expert under another FiT Contract for Difference for other UK nuclear generating facilities, provided

that (a) the CfD Counterparty reasonably considers such Generator Confidential Information to be relevant in the context of benchmarking the costs of such other generators which are broadly comparable with the Eligible Opex Costs in a process similar to that used in order to determine the Opex Reopener Adjustment under this Agreement as set out in Clause 16 (*Opex Reopener Adjustment*); and (b) such Generator Confidential Information shall not be disclosed to any other generator, whether through the CfD Counterparty or otherwise, save that such Generator Confidential Information may be disclosed by the CfD Counterparty or the expert to external professional advisers of such other generators involved in a dispute similar to that set out in Clause 16.2 (*Disputes in relation to an Opex reopener*), where the relevant adviser has signed a non-disclosure agreement on terms whereby that adviser is subject to substantially the same obligation of confidentiality as contained in Clauses 79.4(A) and 79.4(C) to the extent relevant to that adviser;

(xii) that forms part of, and was used in the computation of, any publicly published forecast of the supplier obligation that was produced or commissioned by the CfD Counterparty; or

(xiii) that is otherwise expressly permitted pursuant to the terms, or strictly required for the operation or fulfilment, of this Agreement or any other Transaction Document,

provided that Sensitive Nuclear Information may only be disclosed by the CfD Counterparty to the extent required to comply with Law.

(E) Prior to any disclosure of Generator Confidential Information by the CfD Counterparty pursuant to any of Clause 79.4(D)(iv), Clause 79.4(D)(v), 79.4(D)(vi) and Clause 79.4(D)(vii), the CfD Counterparty shall use reasonable endeavours to give notice to the Generator of the Generator Confidential Information to be disclosed, provided that:

(i) it is lawful and reasonably practicable in the circumstances to do so; and

(ii) in the case of any disclosure pursuant to Clause 79.4(D)(iv) or Clause 79.4(D)(v), it is not inconsistent with Parliamentary convention,

provided further that this Clause 79.4(E) shall not apply in the case of any disclosure pursuant to Clause 79.2 (*Contracts for Difference Regulations*) or Clause 79.3 (*Publication*).

(F) The CfD Counterparty shall have in place and maintain appropriate security measures and procedures designed to protect the confidentiality of the Generator Confidential Information (having regard to its form and nature).

(G) The CfD Counterparty shall immediately notify the Generator in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Generator Confidential Information.

79.5 **CfD Counterparty: insider dealing and market abuse**

The Generator, acting honestly and diligently, shall consult the CfD Counterparty from time to time upon request by the CfD Counterparty, in relation to whether Generator Confidential Information held by the CfD Counterparty (or its Representatives) constitutes at that time Inside Information. Nothing in this Clause 79.5 is intended to or shall result in the Generator or its Representatives:

(A) incurring any liability whatsoever under or in respect of the CfD Counterparty's (or any of its Representatives') obligations and responsibilities pursuant to the FSMA or the CJA; or

(B) being obliged to consult the CfD Counterparty on Generator Confidential Information to be provided to the CfD Counterparty which constitutes (or may constitute) "inside information" (within the meaning of section 118C of the FSMA or section 56 of the CJA) in respect of any person other than the Generator or any other members of the NNB HoldCo Group.

79.6 **CfD Counterparty: liability for Representatives and service providers**

The CfD Counterparty shall be responsible for:

(A) any failure by its current or former Representatives or any person to whom Generator Confidential Information is disclosed pursuant to Clause 79.4(D)(i)(b) or 79.4(D)(i)(c) to comply with Clause 79.4(A) (*Generator Confidential Information: obligations of the CfD Counterparty*) as if they were subject to it; and

(B) any use by its current or former Representatives or any person to whom Generator Confidential Information is disclosed pursuant to Clause 79.4(D)(i)(b) or 79.4(D)(i)(c) of any Generator Confidential Information in breach of Clause 79.4(B) (*Generator Confidential Information: obligations of the CfD Counterparty*) or Clause 79.4(C) (*Generator Confidential Information: obligations of the CfD Counterparty*) as if they were subject to it.

79.7 **CfD Counterparty Confidential Information: obligations of the Generator**

(A) The Generator shall keep all CfD Counterparty Confidential Information confidential and shall not disclose CfD Counterparty Confidential Information without the prior written consent of the CfD Counterparty, other than as permitted by Clause 79.7(C).

(B) The Generator shall not disclose or make use of any CfD Counterparty Confidential Information otherwise than to fulfil the Generator Permitted Purposes except with the prior written consent of the CfD Counterparty.

(C) Without prejudice to Clauses 79.2 (*Contracts for Difference Regulations*) and 79.3 (*Publication*), Clause 79.7(A) shall not prevent the disclosure of CfD Counterparty Confidential Information by the Generator:

(i) on a confidential and strict need-to-know basis:

(a) to its Representatives to enable or assist the Generator to fulfil the Generator Permitted Purposes;

(b) to members of the NNB HoldCo Group (and their respective Representatives) to enable or assist the Generator to fulfil the Generator Permitted Purposes;

(c) to any Transferee to fulfil the Generator Permitted Purposes;

(d) to providers or prospective providers to any member of the NNB HoldCo Group of debt or equity financing, refinancing or credit support and their professional advisers, provided that such disclosure is restricted to Information necessary for the purposes of assessing the provision or potential provision of such financing, refinancing or credit support;

(e) to bona fide prospective purchasers of the Facility, provided that such disclosure is restricted to Information necessary for the purpose of assessing such potential purchase;

(f) to any Transmission System Operator, Transmission Licensee or Licensed Distributor, the CfD Settlement Services Provider, the Delivery Body, any BSC Company or any BSC Agent (or to their respective Representatives) to the extent that the Generator considers such disclosure is required to enable or assist: (i) the Generator to fulfil the Generator Permitted Purposes; or (ii) such person to fulfil or perform any of its functions, duties or obligations arising out of or for the purposes of this Agreement, any other Transaction Document or any Finance Document or to fulfil or perform any function, duty or obligation (including any such functions, duties or obligations arising by virtue of or pursuant to the EA 2013);

(g) for the purposes of:

(1) the examination and certification by its auditors of the accounts of any member of the NNB HoldCo Group; or

(2) complying with a request from the insurance adviser or insurer of any member of the NNB HoldCo Group on placing, renewing or complying with any current or future insurance policies,

provided that: (1) the Generator shall use reasonable endeavours to inform the recipient of the CfD Counterparty Confidential Information of the Generator's obligations pursuant to Clause 79.7(A) and Clause 79.7(B); and (2) in the case of disclosure of CfD Counterparty Confidential Information pursuant to Clause 79.7(C)(i)(a), Clause 79.7(C)(i)(b), Clause 79.7(C)(i)(c), Clause 79.7(C)(i)(d) or Clause 79.7(C)(i)(e), the Generator shall ensure that the recipient of the

CfD Counterparty Confidential Information shall be subject to substantially the same obligation of confidentiality as contained in Clause 79.7(A) and Clause 79.7(B);

(ii) on a confidential and strict need-to-know basis, to enable a Dispute to be instigated, progressed, consolidated with other disputes, settled or determined pursuant to and in accordance with the Dispute Resolution Procedure (except where the relevant CfD Counterparty Confidential Information has been provided to the Generator on a "without prejudice" or "without prejudice save as to costs" basis, in which case such CfD Counterparty Confidential Information shall not be disclosed by the Generator);

(iii) on a confidential and strict need-to-know basis, to enable a Metering Dispute to be instigated, progressed, settled or determined in accordance with the provisions of the BSC;

(iv) (subject to Clause 79.7(D)):

(a) which is required to comply with any Law or Directive (including the rules of any securities exchange, clearing system or regulatory body) having the force of law, provided that the CfD Counterparty may object to any such disclosure in accordance with the terms of the relevant Law or Directive; or

(b) which is required to comply with any requirement of any court of competent jurisdictions or any other competent judicial, governmental or regulatory body;

(v) to which the CfD Counterparty has agreed in writing in advance, provided that where such agreement is conditional, those conditions are complied with; or

(vi) that is otherwise expressly permitted pursuant to the terms, or strictly required for the operation or fulfilment, of this Agreement or any other Transaction Document.

(D) Prior to any disclosure of CfD Counterparty Confidential Information by the Generator pursuant to Clause 79.7(C)(iv), the Generator shall use reasonable endeavours to give notice to the CfD Counterparty of the CfD Counterparty Confidential Information to be disclosed, provided that it is lawful and reasonably practicable in the circumstances to do so.

(E) The Generator shall have in place and maintain appropriate security measures and procedures designed to protect the confidentiality of the CfD Counterparty Confidential Information (having regard to its form and nature).

(F) The Generator shall immediately notify the CfD Counterparty in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the CfD Counterparty Confidential Information.

79.8 **Generator: liability for Representatives and service providers**

The Generator shall be responsible for:

(A) any failure by its current or former Representatives or any person to whom CfD Counterparty Confidential Information is disclosed pursuant to Clause 79.7(C)(i)(b), Clause 79.7(C)(i)(c), Clause 79.7(C)(i)(d) or Clause 79.7(C)(i)(e) (*CfD Counterparty Confidential Information: obligations of the Generator*) to comply with Clause 79.7(A) (*CfD Counterparty Confidential Information: obligations of the Generator*) as if they were subject to it;

(B) any use by its current or former Representatives or any person to whom CfD Counterparty Confidential Information is disclosed pursuant to Clause 79.7(C)(i)(b) or Clause 79.7(C)(i)(c) (*CfD Counterparty Confidential Information: obligations of the Generator*) of any CfD Counterparty Confidential Information in breach of Clause 79.7(B) (*CfD Counterparty Confidential Information: obligations of the Generator*) as if they were subject to it; and

(C) any failure by any person to whom CfD Counterparty Confidential Information is disclosed pursuant to Clause 79.7(C)(i)(d) or Clause 79.7(C)(i)(e) (*CfD Counterparty Confidential Information: obligations of the Generator*) to comply with the restrictions on usage of CfD Counterparty Confidential Information provided for in such Clauses.

79.9 **No licence**

No right or licence is granted to any person in relation to any Confidential Information save as explicitly set out in this Clause 79 and Clause 82 (*Intellectual Property Rights*).

80. ANNOUNCEMENTS

80.1 **No announcements**

The Generator:

(A) shall not, and shall ensure that its directors, officers and employees do not; and

(B) shall use reasonable endeavours to ensure that each of its other current or former Representatives and each member of its Group (and their respective Representatives) do not,

make, publish, issue or release any announcement or public statement in relation to, or which refers to, this Agreement or any other Transaction Document or any Finance Document or any related or ancillary matter, without the express prior consent of the CfD Counterparty (such consent not to be unreasonably withheld or delayed).

80.2 **Generator: permitted announcements**

Notwithstanding Clause 80.1 (*No announcements*):

(A) the Generator (and its directors, officers and employees) may make, publish, issue or release any announcement or public statement in relation to, or which refers to, this Agreement or any related or ancillary matter if and to the extent required by any Law or Directive (including the rules of any securities exchange, clearing system or regulatory body) having the force of law or, if not having the force of law, compliance with which is in accordance with the general practice of the Generator, provided that:

(i) the Generator shall use (and shall procure that its directors, officers and employees shall use) reasonable endeavours to agree the contents of such announcement or public statement with the CfD Counterparty before it is made, published, issued or released (such consent not to be unreasonably withheld or delayed); or

(ii) if the contents of such announcement or public statement are not able to be agreed before the making, publishing, issuing or releasing of such announcement or public statement, notify the CfD Counterparty of such announcement or public statement immediately following its being made, published, issued or released; and

(B) the Generator (and its directors, officers or employees) shall not be precluded from making, publishing, issuing or releasing any announcement or publication in relation to, or which refers to, this Agreement or any related or ancillary matter if such announcement or publication:

(i) does not contain any CfD Counterparty Confidential Information;

(ii) will not hinder, preclude, prejudice or otherwise adversely affect or impact upon the CfD Counterparty Permitted Purposes or the CfD Counterparty's ability to fulfil the CfD Counterparty Permitted Purposes (whether in relation to this Agreement or any other FiT Contract for Difference);

(iii) does not relate or refer to any fact, matter or circumstance in respect of a Dispute or a Metering Dispute or which will, or is reasonably likely to, give rise to a Dispute or a Metering Dispute (whether in relation to this Agreement or any other FiT Contract for Difference); and

(iv) will not hinder, preclude, prejudice or otherwise adversely affect or impact upon:

(a) the allocation by the Secretary of State or the CfD Counterparty of FiT Contracts for Difference, including any auction process in relation thereto; or

(b) any application by any person for a FiT Contract for Difference,

provided that the Generator shall notify the CfD Counterparty of such announcement or public statement immediately following its being made, published, issued or released.

80.3 **CfD Counterparty permitted announcements**

The CfD Counterparty may make, publish, issue or release any announcement or public statement in relation to, or which refers to, this Agreement or any related or ancillary matter if and to the extent it considers such action is necessary, desirable or appropriate (acting reasonably), provided that, if and to the extent that such announcement or statement contains any Generator Confidential Information, the making, publication, issue or release of such announcement or public statement does not breach Clause 79.4(A), 79.4(B) or 79.4(C) (*Generator Confidential Information: obligations of the CfD Counterparty*).

81. FREEDOM OF INFORMATION

81.1 **Generator: acknowledgements and undertakings**

(A) The Generator acknowledges and agrees that the CfD Counterparty:

(i) is subject to the requirements of the FoIA and the EIR; and

(ii) shall be responsible for determining in its absolute discretion (subject to any decision of the Information Commissioner following an application under section 50 of the FoIA and the outcome of any subsequent appeal to the Tribunal if applicable) whether the FoIA Information it holds (or that is held on its behalf) that is the subject of a Request for Information:

(a) is exempt or excepted from disclosure pursuant to the FoIA or the EIR, as appropriate; or

(b) is to be disclosed in response to a Request for Information,

and, for the purposes of this Clause 81.1(A)(ii), any notification to the CfD Counterparty which identifies FoIA Information as being Generator Confidential Information is of indicative value only and the CfD Counterparty may nevertheless be obliged to disclose such FoIA Information in accordance with the requirements of the FoIA and the EIR.

(B) The Generator:

(i) shall not, and shall ensure that its directors, officers and employees do not; and

(ii) shall use reasonable endeavours to ensure that each of its other current or former Representatives and each member of its Group (and their respective Representatives) do not,

respond directly to a Request for Information unless:

(a) expressly authorised to do so in writing by the CfD Counterparty; or

(b) required by Law.

(C) The Generator undertakes to assist and co-operate with the CfD Counterparty to enable the CfD Counterparty to comply with its obligations pursuant to the FoIA and the EIR, provided that any such assistance or co-operation is always at the Generator's cost and is not prohibited by Law.

81.2 **Requests for Information: procedure**

(A) If the CfD Counterparty receives a Request for Information in relation to FoIA Information that the Generator is holding on behalf of the CfD Counterparty and which the CfD Counterparty does not hold itself, the CfD Counterparty shall notify the Generator as to the FoIA Information to which the Request for Information relates and the Generator shall:

(i) as soon as reasonably practicable (and in any event within ten (10) Business Days, or such other period as may be specified by the CfD Counterparty in order to comply with the requirements of FoIA), provide the CfD Counterparty with a copy of all such FoIA Information in the form that the CfD Counterparty requests; and

(ii) provide all assistance reasonably requested by the CfD Counterparty in respect of any such FoIA Information to enable the CfD Counterparty to respond to a Request for Information within the time limit for compliance set out in section 10 of the FoIA and/or regulation 5 of the EIR.

(B) Following notification under Clause 81.2(A) and until the Generator has provided the CfD Counterparty with all the FoIA Information specified in Clause 81.2(A)(i), the Generator may make representations to the CfD Counterparty as to whether or on what basis the FoIA Information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the FoIA Information requested.

(C) The Generator shall ensure that:

(i) all FoIA Information held on behalf of the CfD Counterparty is retained for disclosure for at least the minimum period required by Law (or, if there is no such minimum period, six (6) years from the date it is acquired); and

(ii) the CfD Counterparty shall be entitled to inspect such FoIA Information as requested by the CfD Counterparty from time to time.

(D) If the Generator receives a Request for Information in relation to the CfD Counterparty or in connection with this Agreement, the Generator shall, to the fullest extent permitted by Law, forward such Request for Information to the CfD Counterparty as soon as reasonably practicable after receipt and in any event within two (2) Business Days, and this Clause 81.2 shall apply as if the Request for Information had been received by the CfD Counterparty.

(E) (i) In the event of a request from the CfD Counterparty pursuant to Clause 81.2(A), the Generator shall as soon as reasonably practicable, and in any event within five (5) Business Days of receipt of such request, inform the CfD Counterparty of the Generator's estimated costs of complying with the request to the extent these would be recoverable under section 12(1) of the FoIA and the Fees Regulations and/or regulation 8 of the EIR if incurred by the CfD Counterparty.

(ii) Where such costs (either on their own or in conjunction with the CfD Counterparty's own such costs in respect of such Request for Information) will exceed the appropriate limit referred to in section 12(1) of the FoIA and as set out in the Fees Regulations and/or regulation 8(3) of the EIR, the CfD Counterparty shall inform the Generator in writing whether or not it still requires the Generator to comply with the request and where it does require the Generator to comply with the request, the ten (10) Business Day period for compliance shall be extended by such number of additional days for compliance as the CfD Counterparty is entitled to under section 10 of the FoIA and/or regulation 8 of the EIR. In such case, the CfD Counterparty shall notify the Generator of such additional days as soon as reasonably practicable after becoming aware of them.

(iii) The CfD Counterparty shall reimburse the Generator for the costs that the Generator incurs in complying with a Request for Information to the extent that the CfD Counterparty is itself entitled to reimbursement of such costs in accordance with the CfD Counterparty's FoIA or EIR policy, as the case may be, from time to time.

81.3 **Generator Confidential Information: procedure and disclosure**

(A) To the extent permitted by Law, the CfD Counterparty shall inform the Generator as soon as reasonably practicable after receiving notice of:

(i) any application for a decision of the Information Commissioner pursuant to section 50 of the FoIA; or

(ii) any appeal to the First Tier (Information Rights) Tribunal (or any subsequent appeal),

which relates to the Generator or any Generator Confidential Information held by the CfD Counterparty. The Generator may make representations to the CfD Counterparty in response as to (a) whether the information is commercially sensitive; (b) whether there is an obligation to disclose such Generator Confidential Information; (c) whether an exemption to disclosure under the FoIA and/or the EIR is applicable; and/or (d) the extent of any such required disclosure (including as to any redactions).

(B) The Generator acknowledges and agrees that the CfD Counterparty may be obliged under the FoIA or the EIR to disclose Generator Confidential Information:

(i) in certain circumstances without consulting or obtaining consent from the Generator; or

(ii) following consultation with the Generator and having taken their views into account,

provided that where Clause 81.3(B)(i) applies, the CfD Counterparty shall draw this to the attention of the Generator prior to any disclosure.

81.4 **Publication schemes**

Nothing in this Clause 81 shall restrict or prevent the publication by the CfD Counterparty of any FoIA Information in accordance with:

(A) any publication scheme (as defined in the FoIA) adopted and maintained by the CfD Counterparty in accordance with the FoIA; or

(B) any model publication scheme applicable to the CfD Counterparty as may be approved by the Information Commissioner,

provided that, in deciding whether to publish Generator Confidential Information in accordance with any such publication scheme or model publication scheme, the CfD Counterparty shall take account of whether such Generator Confidential Information would be exempt from disclosure pursuant to the FoIA.

Part 22
Intellectual Property Rights

82. INTELLECTUAL PROPERTY RIGHTS

82.1 Retention of Intellectual Property Rights

Nothing in this Agreement shall transfer any ownership of any Intellectual Property Rights acquired or developed by or on behalf of any Party, whether pursuant to or independently from (and whether before or during the term of) this Agreement or any other Transaction Document, any Finance Document or (in the case of the CfD Counterparty) any other FiT Contract for Difference.

82.2 Licence of Intellectual Property Rights

The Generator hereby grants to the CfD Counterparty and the CfD Counterparty hereby grants to the Generator, in each case with effect from the Agreement Date and subject to Clause 82.3 (*Licence terms*) for the duration of the Term, a licence of any Intellectual Property Rights that are created by it, or on its behalf, pursuant to the terms of this Agreement or any other Transaction Document, any Finance Document or (in the case of the CfD Counterparty) any other FiT Contract for Difference, or in connection with the Financial Model or FDP Tracker Tool, that:

(A) it owns; or

(B) is licensed to it (but only to the extent that it has the right to sub-license such Intellectual Property Rights),

on a non-exclusive, royalty-free, non-transferable basis (and, subject to Clause 82.3 (*Licence terms*)) solely for the CfD Counterparty Restricted Purposes (in the case of the CfD Counterparty as licensee) or the Generator Permitted Purpose (in the case of the Generator as licensee).

82.3 Licence terms

The licence granted pursuant to Clause 82.2 (*Licence of Intellectual Property Rights*) shall:

(A) not, for the avoidance of doubt, include a licence of any Intellectual Property Rights owned by, or licensed to, the Generator which relate to technical information covering the design, construction, installation, commissioning, operation, maintenance or decommissioning of either or both of the Reactors except if (and then only to the extent that) a licence of such Intellectual Property Rights is strictly necessary for the exercise of rights (other than those contained in Clause 82.2 (*Licence of Intellectual Property Rights*)), or the performance of the obligations, or the performance of roles and responsibilities, of the CfD Counterparty contained in, or for the purposes of, this Agreement or any other Transaction Document;

(B) permit each Party to sub-license to the extent required for the CfD Counterparty Restricted Purposes (in the case of the CfD Counterparty as licensee) or the Generator Permitted Purposes (in the case of the Generator as licensee), provided that (in the case of the CfD Counterparty as licensee) such right to sub-license does not permit the sub-licensing of such Intellectual Property Rights to other electricity generators; and

(C) permit each Party to use and sub-license the Intellectual Property Rights after expiry or termination of this Agreement, but only for the CfD Counterparty Restricted Purposes (in the case of the CfD Counterparty as licensee) or the Generator Permitted Purposes (in the case of the Generator as licensee), provided that (in the case of the CfD Counterparty as licensee) such right to sub-license does not permit the sub-licensing of such Intellectual Property Rights to other electricity generators.

82.4 **Indemnity for infringement of Intellectual Property Rights**

(A) The Generator shall promptly on demand from time to time indemnify the CfD Counterparty, and keep the CfD Counterparty fully and effectively indemnified, against all liabilities, costs, expenses, damages and losses (including legal costs) incurred in respect of any actual infringement of third party Intellectual Property Rights arising from the use by the CfD Counterparty (or any entity that is sub-licensed in accordance with Clause 82.3 (*Licence terms*)) of Intellectual Property Rights licensed to the CfD Counterparty by the Generator pursuant to Clause 82.2 (*Licence of Intellectual Property Rights*), provided that such infringement has arisen from the use of such Intellectual Property Rights in accordance with the CfD Counterparty Restricted Purposes.

(B) The CfD Counterparty shall promptly on demand from time to time indemnify the Generator, and keep the Generator fully and effectively indemnified, against all liabilities, costs, expenses, damages and losses (including legal costs) incurred in respect of any actual infringement of third party Intellectual Property Rights arising from the use by the Generator (or any entity that is sub-licensed in accordance with Clause 82.3 (*Licence terms*)) of Intellectual Property Rights licensed to the Generator by the CfD Counterparty pursuant to Clause 82.2 (*Licence of Intellectual Property Rights*), provided that such infringement has arisen from the use of such Intellectual Property Rights in accordance with the Generator Permitted Purposes.

Part 23
Miscellaneous

83. GENERATOR ACKNOWLEDGEMENTS: GENERAL PROVISIONS

83.1 Generator responsibility for advice and appraisal

The Generator acknowledges and agrees that none of the CfD Counterparty, the CfD Settlement Services Provider, the Delivery Body or the Secretary of State (or any of their respective Representatives):

(A) is:

(i) acting as a fiduciary of the Generator; or

(ii) advising the Generator (including as to any financial, legal, tax, investment, accounting or regulatory matters in any jurisdiction); or

(B) shall have any liability, duty, responsibility or obligation to the Generator with respect thereto.

83.2 CfD Counterparty contracting as principal

The Generator acknowledges and agrees that:

(A) the CfD Counterparty is contracting as principal and not on behalf of or as an agent for the Secretary of State or the Delivery Body;

(B) it shall not have or bring any claim or action against the Secretary of State or the Delivery Body (or their respective Representatives), or the Representatives of the CfD Counterparty, in respect of this Agreement or any other Transaction Document (save, in the case of the Secretary of State, under and as expressly provided in the Secretary of State Investor Agreement) or the other Transaction Documents to which the Secretary of State is party;

(C) nothing in this Agreement or any other Transaction Document shall impute or impose any liability, duty, responsibility or obligation upon the CfD Counterparty (other than pursuant to and in accordance with the express terms of this Agreement or any other Transaction Document); and

(D) it shall not hold itself out as having any authority to act for or represent the CfD Counterparty in any way, or act in any way which confers on it any express, implied or apparent authority to incur any obligation or liability on behalf of the CfD Counterparty.

83.3 Generator's relationship with the CfD Settlement Services Provider

The Generator acknowledges and agrees that it shall not have or bring any claim or action against the CfD Settlement Services Provider in respect of any breach of this Agreement or any other Transaction Document or any loss, damage, cost or expense suffered or

incurred thereunder and that its sole recourse for any breach of this Agreement or any loss, damage, cost or expense suffered or incurred hereunder shall be against the CfD Counterparty.

84. CONNECTED AGREEMENTS

The Parties shall be obliged by the terms of this Clause 84 to enter into each of the Connected Agreements to which they are expressed to be a party (in the case of the Secretary of State Investor Agreement and the State Aid Side Letter, immediately following execution and delivery of this Agreement, and, in the case of each other Connected Agreement, when requested by the Generator) to the intent that each such agreement shall be a connected agreement for the purposes of the Supplier Obligation Regulations.

85. NO PARTNERSHIP

Nothing in this Agreement and no action taken by the Parties pursuant to this Agreement shall constitute a partnership, joint venture or agency relationship between the Parties.

86. TRANSFERS

86.1 Restriction on Transfers

Subject to, and save as expressly permitted by, this Clause 86, neither Party may:

(A) assign to any person all or any of its rights or benefits under this Agreement;

(B) make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any person all or any of its rights or benefits under this Agreement; or

(C) transfer (whether by way of novation, subcontract, delegation or otherwise) to any person or enter into an arrangement whereby any person is to perform any or all of its obligations under this Agreement,

(each, a "**Transfer**", and "**Transferee**", which expression shall, where the context so requires, be deemed to include any transferee under a Transfer Scheme) without the prior written consent of the other Party (which, in the case of Clause 86.3(A) (*Permitted delegation by the Generator*), shall not be unreasonably withheld).

86.2 Permitted Transfers by the CfD Counterparty

Notwithstanding Clause 86.1 (*Restriction on Transfers*), a Transfer of the CfD Counterparty's rights or obligations may be effected, without the consent of the Generator, to any person by or by virtue of a Transfer Scheme.

86.3 Permitted delegation by the Generator

(A) The Generator shall not, without the prior written consent of the CfD Counterparty (such consent not to be unreasonably withheld), subcontract or delegate to any

person, or enter into an arrangement whereby any person is to perform any of the Generator's obligations under this Agreement.

(B) If the CfD Counterparty gives its written consent under Clause 86.3(A), the Generator shall not be relieved of any of its obligations under this Agreement and shall be liable for the acts and omissions of any person to whom it subcontracts or delegates or with whom it enters into an arrangement to perform any or all of its obligations under this Agreement.

86.4 **Permitted delegation by the CfD Counterparty**

Notwithstanding Clause 86.1 (*Restriction on Transfers*), the CfD Counterparty shall be entitled, without the consent of the Generator, to subcontract or delegate to any person, or enter into an arrangement whereby any person is to perform, any or all of its obligations under this Agreement on such terms as the CfD Counterparty considers appropriate provided that the CfD Counterparty shall not be relieved of any of its obligations under this Agreement and shall be liable for the acts and omissions of any person to whom it subcontracts or delegates or with whom it enters into an arrangement to perform any or all of its obligations under this Agreement.

86.5 **General provisions relating to Permitted Transfers**

(A) If the CfD Counterparty effects or proposes to effect a Transfer referred to in Clause 86.2 (*Permitted Transfers by the CfD Counterparty*) or 86.4 (*Permitted delegation by the CfD Counterparty*), the Generator shall enter into such further agreements and do all such other things as are necessary to substitute the relevant Transferee for the CfD Counterparty in respect of the rights, benefits, obligations or liabilities that are, or are to be, the subject of the Transfer (the "**Transferring Rights and Obligations**") and to give effect to any consequential amendments to this Agreement that are necessary to give effect to such Transfer.

(B) To the extent practicable, the CfD Counterparty shall give the Generator not less than ten (10) Business Days' prior written notice specifying the identity of the Transferee and the Transferring Rights and Obligations, provided that no such prior written notice shall be required in respect of any Transfer: (i) by or by virtue of a Transfer Scheme; or (ii) pursuant to Clause 86.4 (*Permitted delegation by the CfD Counterparty*).

86.6 **Permitted assignment by the Generator**

(A) Notwithstanding Clause 86.1 (*Restriction on Transfers*), the Generator shall be entitled, without the consent of the CfD Counterparty, to assign and/or charge all (but not part) of its rights and benefits under this Agreement by way of security to or in favour of:

(i) any Lender or the Account Bank;

(ii) in respect of liabilities of the Generator under the FDP and the Waste Transfer Contracts, the Secretary of State and the FDP Implementation Company;

(iii) any parent undertaking of the Generator which provides funding in relation to the Facility; or

(iv) any agent or security trustee on behalf of any person referred to in Clause 86.6(A)(i) to (iii) (inclusive).

(B) The Generator shall give the CfD Counterparty not less than ten (10) Business Days' written notice prior to effecting an assignment and/or charge pursuant to Clause 86.6(A) and shall specify in such notice the identity of the assignee and provide such details in relation to such assignee as the CfD Counterparty may reasonably request having received such notification, provided that such notice shall not be required for an assignment and/or charge consented to by the CfD Counterparty in the Direct Agreement.

(C) The CfD Counterparty shall enter into a Direct Agreement with, and at the request of, any person (or with any agent or security trustee on the relevant person's behalf):

(i) who is a Lender with the benefit of first ranking security or security ranking first only behind the FDP Implementation Company's security over all or substantially all of the assets of the Generator (including its rights in respect of the Facility and under this Agreement); or

(ii) who is the Secretary of State or the FDP Implementation Company,

in each case, in whose favour or for whose benefit the Generator has assigned and/or charged its rights under this Agreement in accordance with Clause 86.6(A).

86.7 **Other Transfers by the Generator: stapling obligation**

If the consent of the CfD Counterparty to the transfer by the Generator of all or substantially all of the Generator's rights, benefits and obligations under this Agreement and any other Connected Agreements to a Transferee is required and is given, the Generator shall transfer ownership of the Facility to the same Transferee contemporaneously with the Transfer. Any Transfer effected, or purported to be effected, in breach of this Clause 86.7 shall be ineffective and void.

86.8 **Costs**

The CfD Counterparty shall promptly on demand from time to time indemnify the Generator, and keep the Generator fully and effectively indemnified, against any out-of-pocket costs properly incurred by the Generator and which would not have been incurred but for a Transfer of the rights and obligations of the CfD Counterparty being effected by or by virtue of a Transfer Scheme.

87. NOTICES

87.1 Form of notices

Any notice to be given pursuant to this Agreement, shall be effective only if it is in writing and is in English. For the purposes of this Agreement, faxes are not permitted and, unless otherwise expressly stated, emails and website publication are not permitted.

87.2 Notice details

The address and (where such communication is expressly permitted by email) email address, and the department or officer (if any) for whose attention the notice is to be made, of each Party for any notice to be given under this Agreement is:

(A) in the case of the Generator, that identified with its name below:

NNB Generation Company (HPC) Limited,
The Qube,
90 Whitfield Street,
London W1T 4EZ

Attention: Institutional Contracts Management team
with a copy to the Company Secretary

Email: institutional.contracts@edf-energy.com
with a copy to chris.hamill@edf-energy.com and
sara.davison@edf-energy.com; and

(B) in the case of the CfD Counterparty, that identified with its name below:

Low Carbon Contracts Company Ltd,
Fleetbank House,
2-6 Salisbury Square,
London EC4Y 8JX

Attention: Head of Commercial

Email: hpc.cm@lowcarboncontracts.uk

87.3 Changes to notice details

A Party may change its notice details on giving notice to the other Party in accordance with this Clause 87. Such notice shall be effective only from:

(A) the date specified in such notice (being not less than three (3) Business Days after the date of delivery or deemed delivery of such notice); or

(B) if no date is specified in such notice or the date specified is less than three (3) Business Days after the date or delivery or deemed delivery of such notice, the date falling three (3) Business Days after the notification has been received.

87.4 **Deemed delivery**

Any notice given pursuant to this Agreement shall, without evidence of earlier receipt, be deemed to have been received:

(A) if delivered by hand, on the Business Day of delivery or, if delivered on a day other than a Business Day, on the next Business Day after the date of delivery;

(B) if sent by first class post within the United Kingdom, on the third Business Day after the day of posting;

(C) if sent from one country to another, on the fifth Business Day after the day of posting; or

(D) if sent by email (where such notice is expressly permitted by email), when sent except that an email shall be deemed not to have been sent if the sender receives a delivery failure notification,

provided that any notice given or received outside Working Hours in the place to which it is addressed (or, in the case of a notice sent by email, the location of the person to whom it is addressed) shall be deemed not to have been given or received until the start of the next period of Working Hours in such place. References in this Agreement to delivery or receipt of any notice given pursuant to this Agreement shall include deemed delivery or receipt, as the case may be, under this Clause 87.4.

87.5 **Notice requirements**

Except where expressly stated to the contrary, each notice given by one Party to the other Party pursuant to this Agreement must be duly signed:

(A) in the manner, and by or on behalf of the person, specified in the relevant provision of this Agreement; or

(B) (where no such requirement is specified) by an authorised signatory of the relevant Party.

87.6 **Disapplication of notice provisions**

This Clause 87 shall not apply in relation to any document relating to service of process (including in respect of the service of Service Documents).

87.7 **Emails permitted**

Each Party may deliver any notice or report by email save for those set out at Clause 87.8 (*Website publication*).

87.8 **Website publication**

(A) The CfD Counterparty may deliver any Balancing System Charge Report to the Generator pursuant to Clause 42.1 (*Balancing System Charge Reports*) by publishing such report on its website.

(B) The CfD Counterparty may deliver any TLM(CFD) Charges Report to the Generator pursuant to Clause 43.1 (*TLM(CFD) Charges Reports*) by publishing such report on its website.

(C) The CfD Counterparty may deliver any Generation Tax Report to the Generator pursuant to Clause 38.5 (*Generation Tax Reports*) by publishing such report on its website.

88. COSTS

(A) Each Party shall bear all costs and expenses incurred by it in connection with the entry into this Agreement, including all costs and expenses incurred in connection with the negotiation, preparation, execution, performance and carrying into effect of, and compliance with, this Agreement.

(B) Clause 88(A) is subject to any provision of this Agreement or any other Transaction Document to which the Generator is a party which expressly provides for the Generator to bear the costs and expenses of the CfD Counterparty (or to pay or reimburse or indemnify the CfD Counterparty in respect of such costs and expenses) in respect of which such costs and expenses shall comprise all out-of-pocket costs and expenses (including all legal and other advisory and consultants' fees) properly incurred by the CfD Counterparty in relation to the relevant matter (for the avoidance of doubt excluding amounts payable by the CfD Counterparty under this Agreement or any other Transaction Document). Where such costs and expenses are required to be apportioned between the Generator and one or more other CfD Generators, the CfD Counterparty shall apportion such costs between the Generator and such other CfD Generators in such proportion as the CfD Counterparty (acting reasonably) deems fair and equitable (for this purpose ignoring the proviso in the definition of "CfD Generators" in Clause 1.1 (*Definitions*)).

89. FURTHER ASSURANCE

Each Party shall at its own cost do or procure the doing of all things and execute or procure the execution of all further documents necessary to give full force and effect to, and securing to the other Party the full benefit of, the rights, powers and benefits conferred upon such other Party under or pursuant to all Transaction Documents to which the Parties are parties save that the CfD Counterparty shall not be required pursuant to this Clause 89 to exercise or perform any statutory power or duty.

90. THIRD PARTY RIGHTS

90.1 Third Party Provisions

(A) The following Clauses confer benefits on those who are not a party to this Agreement (each, a "**Third Party**"):

(i) Clauses 83.1 (*Generator responsibility for advice and appraisal*), 83.2 (*CfD Counterparty contracting as principal*) and 83.3 (*Generator's relationship with the CfD Settlement Services Provider*) confer benefits on certain persons named therein; and

(ii) Clauses 83.1 (*Generator responsibility for advice and appraisal*) and 83.2 (*CfD Counterparty contracting as principal*) confer benefits on the Secretary of State,

such provisions being "**Third Party Provisions**".

(B) Subject to the remaining provisions of this Clause 90, the Third Party Provisions are intended to be enforceable by the relevant Third Parties by virtue of the C(RTP) Act.

(C) The Parties do not intend that any term of this Agreement, other than the Third Party Provisions, should be enforceable, by virtue of the C(RTP) Act, by any person who is not a Party.

(D) Notwithstanding this Clause 90, this Agreement may be varied in any way and at any time by the Parties without the consent of any Third Party.

91. NO VARIATION

(A) Without prejudice to Clause 37 (*Change in Applicable Law: General Provisions*), Clauses 64.5(B)(iii) and 64.10 (*Expert Determination Procedure*) and Clause 65.2 and paragraphs 1.7, 2.2, 3.2, 4.6, 4.7 and 4.8 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*), any provision of this Agreement may be amended if in writing and signed by each Party.

(B) The Parties agree that it is their intention that in the absence of their ability to agree any required amendment to this Agreement, this Agreement should continue and should not come to an end or be deemed void or voidable in accordance with the doctrine of frustration, or any other legal theory.

92. COUNTERPARTS

This Agreement may be executed in any number of counterparts and by the Parties to it on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original but all of the counterparts together shall constitute one and the same instrument.

93. GOVERNING LAW AND JURISDICTION

(A) This Agreement and any matter, claim or dispute arising out of or in connection with it (including any Dispute) shall be governed by and construed in accordance with English law.

(B) Any Dispute shall be finally determined or resolved in accordance with the Dispute Resolution Procedure.

(C) Any Metering Dispute shall be finally determined or resolved in accordance with Clause 68 (*Metering and BMRP Disputes*).

(D) Any BMRP Dispute shall be finally determined or resolved in accordance with Annex 3 (*BMRP*).

94. LANGUAGE

94.1 English language

All Information provided by the Generator to the CfD Counterparty pursuant to this Agreement or any other Transaction Document shall be in English unless otherwise agreed by the CfD Counterparty.

94.2 Translations

(A) In the case of any Information which is translated into English, prior to its being delivered to the CfD Counterparty pursuant to this Agreement the Generator shall ensure that any such translation is carried out (at the Generator's cost) by a recognised and appropriately qualified and skilled translation agent.

(B) The CfD Counterparty shall be entitled to assume the accuracy of and rely upon the English translation of any information provided pursuant to Clause 94.2(A).

IN WITNESS whereof this Agreement has been duly executed and delivered as a deed on the date first stated on page 1 above.

Schedule 1
Conditions Precedent

Part A
Initial Conditions Precedent

Delivery by the Generator to the CfD Counterparty of the following:

1. a copy of the constitutional documents, the certificate of incorporation and any certificate of incorporation on change of name of each member of the NNB HoldCo Group, each Original Investor, each Original Investor Super TopCo, each Original Investor TopCo and each Ultimate Investor;

2. a copy of a resolution or resolutions of the board or, if applicable, a committee of the board of directors of each member of the NNB HoldCo Group, each Original Investor, each Original Investor Super TopCo, each Original Investor TopCo and each Ultimate Investor:

   (A) approving the terms of, and the transactions contemplated by the Transaction Documents (excluding any direct agreement referred to in paragraph (E) of the definition of "Transaction Documents" in Clause 1.1 (*Definitions*) to the extent not in force on the Agreement Date) to which it is a party (and, in the case of EDF SA, the EDF SA Letters and the commitments therein) and resolving that it execute, deliver and perform the Transaction Documents to which it is a party (and additionally, in the case of EDF SA, the EDF SA Letters);

   (B) authorising a specified person or persons to execute the Transaction Documents (excluding any direct agreement referred to in paragraph (E) of the definition of "Transaction Documents" in Clause 1.1 (*Definitions*) to the extent not in force on the Agreement Date) to which it is a party (and additionally, in the case of EDF SA, the EDF SA Letters); and

   (C) authorising a specified person or persons, on its behalf, to sign and/or dispatch all documents and notices to be signed and/or dispatched by it under or in connection with the Transaction Documents (excluding any direct agreement referred to in paragraph (E) of the definition of "Transaction Documents" in Clause 1.1 (*Definitions*) to the extent not in force on the Agreement Date) to which it is a party (and additionally, in the case of EDF SA, the EDF SA Letters);

3. if applicable, a copy of a resolution of the board of directors of the relevant company, establishing the committee referred to in paragraph 2 above;

4. a specimen of the signature of each person authorised by the resolution referred to in paragraph 2 above in relation to the Transaction Documents to which it is a party (and additionally, in the case of EDF SA, the EDF SA Letters);

5. a legal opinion addressed to the CfD Counterparty from the legal advisers to each member of the NNB HoldCo Group, each Original Investor, each Original Investor Super TopCo, each Original Investor TopCo and each Ultimate Investor confirming that each

such member, Original Investor, Original Investor Super TopCo, Original Investor TopCo and Ultimate Investor:

(A) is duly formed and validly existing under the laws of its jurisdiction of incorporation; and

(B) has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of the Transaction Documents to which it is a party;

6. copies of each of the Transaction Documents (other than this Agreement and, in each case to the extent not in force on the Agreement Date, the Direct Agreement and any direct agreement referred to in paragraph (E) of the definition of "Transaction Documents" in Clause 1.1 (*Definitions*)) and of the EDF SA Letters executed by each of the parties to them;

7. a copy of the share register of each member of the NNB HoldCo Group as of the Agreement Date, evidencing (i) that NNB HoldCo holds the entire issued share capital of each of the Generator and NNB FinCo and (ii) that the entire issued share capital of NNB HoldCo is held by the Original Investor TopCos;

8. a copy of the group structure chart showing the shareholding or equivalent relationship between the Generator, NNB FinCo, NNB HoldCo, each Original Investor, each Original Investor TopCo and each Original Investor Super TopCo;

9. a copy of the latest audited financial statements and latest management accounts of each member of the NNB HoldCo Group (consolidated in the case of NNB HoldCo);

10. a Directors' Certificate for each member of the NNB HoldCo Group evidencing that the relevant company does not hold any assets or carry on a trade other than:

(A) its entry into and performance of the Transaction Documents to which it is a party;

(B) in the case of the Generator only, that or those commensurate with it being a Single Purpose Company;

(C) in the case of NNB FinCo only, that or those commensurate with it being a special purpose company which raises financing for the purposes of the Project; and

(D) in the case of NNB HoldCo only, its holding of shares in each of the Generator and NNB FinCo;

11. copies of relevant extracts from the board minutes of the board of directors of the Generator approving the final investment decision with respect to the development of the Project;

12. an electronic copy, together with a copy on an electronic storage device formatted ready for printing, of the Original Base Case Financial Model audited by KPMG LLP, together with (i) an electronic and printed copy of the Original Assumptions Book, audited by KPMG, (ii) an electronic and printed copy of the Original Model User Guide, audited by

KPMG LLP, together with unaudited, illustrative worked examples, and (iii) a Directors' Certificate from the Generator certifying at a date no earlier than the Agreement Date that, so far as the Generator is aware, there is no information which would make the Original Base Case Financial Model untrue or misleading to an extent which would materially adversely prejudice the interests of the CfD Counterparty;

13. an electronic copy, together with a copy on an electronic storage device formatted ready for printing, of the FDP Tracker Tool (including instructions for its operation) audited by KPMG LLP with information therein consistent with that in the Original Base Case Financial Model;

14. a copy of (i) the data room index for the Data Room Documentation, and the Generator shall make available to the CfD Counterparty copies of that data room index, the Data Room Documentation, the audited Original Base Case Financial Model, the audited Original Assumptions Book, the audited Original Model User Guide and the audited FDP Tracker Tool by uploading the relevant information to the virtual data room or equivalent storage facility which the Generator is required to establish, maintain and administer under Clause 22 (*Virtual Data Room*); and (ii) the protocol relating to the administration of, and access to (including downloading, where relevant, from), the virtual data room or equivalent storage facility;

15. copies of:

    (A) the following documents in each case duly executed (where relevant) by each of the parties thereto (including all written amendments, waivers and consents thereunder), provided that in the case of the documents referred to in paragraph 15(A)(ix), the Generator shall make available to the CfD Counterparty copies of such documents by uploading the relevant information to the virtual data room or equivalent storage facility which the Generator is required to establish, maintain and administer under Clause 22 (*Virtual Data Room*):

    FDP and related documents

    (i) the articles of association of the FDP Implementation Company;

    (ii) the FAP;

    (iii) the DWMP;

    (iv) the Section 46 Agreement and the Deed of Undertaking;

    (v) the Waste Transfer Contracts;

    (vi) the Budget and Services Agreement;

    (vii) the shareholders' agreement relating to the FDP Implementation Company between the Generator, the FDP Implementation Company and the independent directors of the FDP Implementation Company;

(viii) any direct agreement entered into by the Generator in relation to (i) to (vii), inclusive, above;

Related Party Transactions and other documents

(ix) all agreements which constitute a Related Party Transaction including the NSSS Contract, the Fuel Contract, the Intellectual Property Licence Agreements, the Technical Services Agreements and the Responsible Designer Contract (as each term is defined in the Contracting Policy) and the Intra-Project Services Agreement;

(x) the Turbine Contract (as defined in the Contracting Policy);

Equity CP Documents

(xi) each Equity CP Document;

Financing CP Documents

(xii) each Initial CP Finance Document; and

Security Documents

(xiii) each Security Document entered into by an Original Investor Super TopCo pursuant to clause 11.1 (*Security*) of the Secretary of State Investor Agreement together with all share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Original Investor Super TopCo in blank in relation to the assets subject to or expressed to be subject to the security created or constituted by each Security Document; and

(B) the following Required Authorisations (including all written amendments, waivers and consents thereunder or substitutes thereto):

(i) the Generator's Generation Licence in relation to the Facility;

(ii) the Nuclear Site Licence;

(iii) the Hinkley Point C (Nuclear Generating Station) Order 2013 (as amended); and

(iv) the environmental permits issued to the Generator by the Environment Agency under regulation 13 of the Environmental Permitting (England and Wales) Regulations 2010 with the following permit numbers:

(a) SW/EPRJP3122GM/003, issued on 12 February 2015 to the Generator for water discharge activity at the Site;

(b) EPR/HP3228XT, issued on 13 March 2013 to the Generator to operate a water discharge activity at the Site;

(c) EPR/ZP3238FH, issued on 13 March 2013 to the Generator to operate an installation at the Site; and

(d) EPR/ZP3690SY, issued on 13 March 2013 to the Generator to carry on radioactive substance activities at the Site;

16. copies of all cover notes and insurance policies (including endorsements) in respect of the insurances in relation to the Project at the Agreement Date together with evidence that they are in full force and effect, and details of any other Insurance Arrangements made by or on behalf of the Generator in respect of the Facility or the Site;

17. a copy of the Site Plan, delineating the Site and identifying Unit 1 and Unit 2;

18. a Directors' Certificate for each member of the NNB HoldCo Group, each Original Investor, each Original Investor Super TopCo, each Original Investor TopCo and each Ultimate Investor certifying that each copy document relating to it specified in this Part A of Schedule 1 is a correct, complete and true copy of the original and that the original is in full force and effect and has not been amended or superseded, in each case as at a date no earlier than the Agreement Date;

19. evidence of the equity investments made in the Generator;

20. evidence of compliance by the Generator with "know your customer" or similar identification procedures or checks under all applicable laws and regulations pursuant to the transactions contemplated by this Agreement and the other Transaction Documents;

21. evidence that the Generator has sold, transferred or otherwise disposed of its single shareholding of €1 in Scintilla Ré, a dormant reinsurance captive company, to another person other than an Investor Super TopCo, an Investor TopCo or another member of the NNB HoldCo Group; and

22. a legal opinion addressed to the CfD Counterparty and the Secretary of State from:

    (A) Gide Loyrette Nouel, EDF SA's French legal advisers retained to advise on the CCE Proceedings, as to the likely outcome and consequences of those proceedings; and

    (B) Freshfields Bruckhaus Deringer LLP, EDF SA's French legal advisers retained to advise on the legal proceedings brought by certain of EDF SA's employee-representative directors regarding the board meeting of EDF SA held on 28 July 2016 approving, amongst other things, the final investment decision with respect to the development of the Project, as to the likely outcome and consequences of those proceedings,

in each case (other than as regards the documents referred to in paragraph 15(A)(i) to (xii), 16 and 19 (inclusive)), in form and content satisfactory to the CfD Counterparty, acting reasonably.

Part B
Start Date Conditions Precedent

In respect of the Reactor in question, delivery to the CfD Counterparty of:

1. written confirmation from the CfD Settlement Services Provider that:

   (A) it has received the CfD Settlement Required Information which is required from the Generator prior to the Start Date; and

   (B) the Generator has in place the systems and processes which are necessary for the continued provision of the CfD Settlement Required Information;

2. evidence that the Generator is complying in full with the Metering Compliance Obligations in respect of the Reactor;

3. a date and time stamped copy of the electrical schematic diagram, certified as being correct and up-to-date by a director or company secretary of the Generator and showing the locations of the Metering Equipment associated with all assets comprised within or relating to the Reactor (including details of the type of BSC-approved metering and Communications Equipment installed in compliance with the Metering Compliance Obligation and any relevant MSID);

4. evidence that all Communications Equipment relating to the Metering Equipment for the Reactor is satisfactorily installed, commissioned, configured, operational, maintained and tested and is fully compliant with the BSC;

5. a Directors' Certificate for the Generator, together with Supporting Information, evidencing (i) that the Reactor installed by the Generator is using UK EPR Technology and (ii) the Installed Capacity;

6. a copy of the "Consent to First Criticality" in respect of the Reactor under the Nuclear Site Licence or, if this consent is not required by the ONR prior to First Criticality of the Reactor, a Directors' Certificate for the Generator, together with Supporting Information, confirming that the Generator is not required to obtain "Consent to First Criticality" in respect of the Reactor from the ONR and that First Criticality in respect of the Reactor has been achieved;

7. a Directors' Certificate for the Generator confirming that there is no obstacle to First Criticality of the Reactor;

8. a copy of the "Consent to first synchronisation" to the Transmission System in respect of the Reactor under the Nuclear Site Licence or, if this consent is not required by the ONR prior to first synchronisation of the Reactor to the Transmission System, a Directors' Certificate for the Generator, together with Supporting Information, confirming that the Generator is not required to obtain "Consent to first synchronisation" in respect of the Reactor from the ONR;

9. a Directors' Certificate for the Generator confirming that there is no obstacle to the Reactor's first synchronisation to the Transmission System;

10. a Directors' Certificate for the Generator confirming that there is no obstacle to the Reactor starting commercial operations; and

11. a Directors' Certificate for the Generator certifying that each copy document specified in this Part B of Schedule 1 is a correct, complete and true copy of the original and that the original is in full force and effect and has not been amended or superseded, in each case as at a date no earlier than the date of the Start Date Notice for the Reactor,

in each case, in form and content satisfactory to the CfD Counterparty, acting reasonably.

EXECUTION PAGE

NNB GENERATION COMPANY (HPC) LIMITED

EXECUTED as a	)	
DEED by **NNB GENERATION COMPANY**	)	
(HPC) LIMITED	)	
acting by	)	
…….....		…….....
(Name of authorised director / duly appointed attorney)		**(Signature of authorised director / duly appointed attorney)** Director / Attorney

in the presence of:

Witness's signature: …….....

Name (print): …….....

Address: …….....

…….....

…….....

Occupation: …….....

LOW CARBON CONTRACTS COMPANY LTD

EXECUTED and delivered as a **DEED** by	)	
LOW CARBON CONTRACTS COMPANY	)	
LTD	)	
acting by its director(s)	)	……..... Director(s)

in the presence of:

Witness's signature: …….....

Name (print): …….....

Address: …….....

…….....

…….....

…….....

Occupation: …….....

Annex 1
Calculation of Termination Default Amount

1. DEFINITIONS

1.1 In this Annex 1:

"**Specified Expiry Date**" means, in respect of the Facility, the last day of the applicable Term or, if earlier, the date projected by the CfD Counterparty, acting reasonably, to be the date on which the Contracted Generation Cap is reduced to zero, taking into account the Estimated Facility Generation (but for this purpose disregarding the Contracted Generation Cap referred to in the definition of "Estimated Facility Generation" in Clause 1.1 (*Definitions*));

"**The Green Book**" means "The Green Book: Appraisal and Evaluation in Central Government" published by HM Treasury, as updated or reissued from time to time; and

"**Updated Energy and Emissions Projections**" means the regular updated projections of energy demand, supply and greenhouse gas emissions produced and published by DECC.

2. TERMINATION DEFAULT AMOUNT CALCULATION

2.1 The "**Termination Default Amount**" shall be calculated in accordance with the following formula:

$$\textit{Termination Default Amount} = MAX\left[0, \sum_{i=1}^{n}\left\{(RP_i - SP)\cdot\frac{Gen_i}{(1+d)^{i-1}}\right\}\right]$$

where:

i is a whole number integer from 1 to n; such integers referring to distinct time periods as follows:

(i) the 1st period (i = 1) covers the period from the Termination Date to 31 December in the year of termination;

(ii) the 2nd to the (n-1)th periods (2 ≤ i < n) are consecutive periods of one (1) calendar year length each; and

(iii) the nth period (i = n) is the period starting on 1 January in the year in which the Specified Expiry Date falls and ending on the Specified Expiry Date;

RP_i is the estimate (expressed in £/MWh in the Money of the Year for the year in which the Termination Date falls) of the energy prices for period *(i)*, determined by the CfD Counterparty as at the Termination Date, having regard to the matters set out in paragraph 2.2;

SP is the Strike Price as at the Termination Date;

Gen_i is the Estimated Facility Generation in period *(i)*; and

d is the Social Time Preference Rate (a real discount rate) as set out or recommended in The Green Book.

2.2 Without prejudice to its right to determine RP_i, the CfD Counterparty shall, when determining RP_i, have regard to:

(A) the market price for energy in the system into which electricity is delivered by the Facility;

(B) nuclear technology operating at baseload;

(C) the liquidity of the market referred to in paragraph 2.2(A);

(D) the level of quoted wholesale energy prices on the Termination Date for delivery for a period of up to two (2) years following the Termination Date;

(E) the wholesale electricity price projections corresponding to the central scenario of the most recently issued Updated Energy and Emissions Projections (or equivalent), if available; and

(F) any recent changes or announced changes in the electricity market which are reasonably likely to have a material effect on the estimate of the wholesale market energy prices.

Annex 2
Form of Direct Agreement

DATED [●]

LOW CARBON CONTRACTS COMPANY LTD
as CfD Counterparty

and

[●]
as Security Trustee

and

NNB GENERATION COMPANY (HPC) LIMITED
as Generator

DIRECT AGREEMENT
in relation to a Contract for Difference for Hinkley Point C

THIS DIRECT AGREEMENT (this "**Deed**") is dated [●] and made as a deed

BETWEEN:

(1) **LOW CARBON CONTRACTS COMPANY LTD**, a company incorporated under the laws of England and Wales whose registered office is at Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX and whose company number is 08818711 (the "**CfD Counterparty**");

(2) [●] as security trustee for and on behalf of the Finance Parties acting in the capacity described in the definition of Security Trustee below; and

(3) **NNB GENERATION COMPANY (HPC) LIMITED**, a company incorporated under the laws of England and Wales whose registered office is at 40 Grosvenor Place, London SW1X 7EN and whose company number is 06937084 (the "**Generator**").

BACKGROUND

(A) The CfD Counterparty has entered into the Contract with the Generator.

(B) It is a condition precedent to the availability of funding and/or the issuance of exposure under a guarantee and/or otherwise making available financial accommodation under the Finance Documents that the Parties enter into this Deed.

(C) The Parties intend this document to take effect as a deed.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed, unless otherwise defined herein or the context requires otherwise:

"**Affiliate**" means, in relation to a Party, any holding company or subsidiary company of the relevant Party from time to time or any company which is a subsidiary company of a holding company of that Party from time to time (and the expressions "holding company" and "subsidiary" shall have the meanings respectively ascribed to them by section 1159 of the Companies Act 2006);

"**Appointed Representative**" means the Representative identified in the Step-In Notice;

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

"**CfD Counterparty Enforcement Action**" means:

(A) the termination (in whole or in part) or revocation of the Contract by the CfD Counterparty, including the giving of any notice under or pursuant to clause 57.1

(*Pre-Start Date termination*) or 57.3 (*Default termination*) of the Contract by the CfD Counterparty to the Generator terminating the Contract;

(B) the commencement by the CfD Counterparty of any proceedings for, or the petitioning by the CfD Counterparty for, the winding-up, administration, receivership, dissolution or liquidation of the Generator or any of its assets (or the equivalent procedure under the law of the jurisdiction in which the Generator is incorporated, domiciled or resident or carries on business or has assets);

(C) the commencement by the CfD Counterparty of any enforcement action with respect to the Contract against the Generator or any part of its property, undertaking or assets, including execution, distress or attachment; or

(D) the commencement by the CfD Counterparty of any legal proceedings against the Generator arising out of the Contract,

except that the following shall not constitute CfD Counterparty Enforcement Action:

(i) (a) the termination or revocation of the Contract under or pursuant to clause 57.2 (*State aid termination*) of the Contract and the giving of any notice under or pursuant to clause 56.2(B) (*State Aid Suspension*) of the Contract; and

(b) the giving by the CfD Counterparty to the Generator of any QCiL Compensation Termination Notice (as defined in the Contract) under or pursuant to clause 57.4 (*QCiL Compensation termination*) of the Contract;

(ii) actions or proceedings taken by the CfD Counterparty to recover State aid granted or paid in relation to the Contract under or pursuant to clause 55(B) (*State Aid Undertakings*) of the Contract;

(iii) the taking of any action which is necessary to preserve the validity, existence or priority of claims, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods;

(iv) proceedings for the purpose of:

(a) obtaining injunctive relief to restrain any actual or putative breach of the Contract;

(b) obtaining specific performance of any obligation under the Contract (other than specific performance of an obligation to make a payment) with no claim for damages; or

(c) requesting judicial interpretation of any provision of the Contract with no claim for damages;

(v) proceedings against any person in respect of common law fraud; [and

(vi) *[other conditions to be agreed]*];

"**CfD Counterparty Enforcement Notice**" means a notice given by the CfD Counterparty to the Security Trustee specifying the CfD Counterparty Enforcement Action which the CfD Counterparty intends to take and, in reasonable detail, the grounds for such intended action;

"**CfD Settlement Required Information**" has the meaning given to that term in the Contract;

"**CfD Settlement Services Provider**" has the meaning given to that term in the Contract;

["**Common Terms Agreement**" has the meaning given to that term in the Contract;]

"**Contract**" means the contract for difference in relation to the Facility dated [*date to be inserted*] 2016 and made between the CfD Counterparty and the Generator;

"**Contract Default**" has the meaning given to "Default" in the Contract;

"**Event of Default**" means any event or circumstance the occurrence of which is treated as an Event of Default under (and as defined in) the [Common Terms Agreement];

"**Facility**" has the meaning given to that term in the Contract;

"**Finance Documents**" means the [Common Terms Agreement and the other] documents defined as Finance Documents in the [Common Terms Agreement] as at the date of this Deed;

"**Finance Parties**" means the parties with the benefit of security under the Security Documents (including any interest in any trust on which such security is held by the Security Trustee) and "**Finance Party**" means any of them;

"**Finance Party Discharge Date**" means the date on which all of the Finance Party Obligations have been fully and irrevocably paid or discharged and no further Finance Party Obligations are capable of becoming outstanding;

"**Finance Party Obligations**" means any obligations owed to the Finance Parties in connection with the Finance Documents;

"**Generator's Proceeds Account**" means the account [called "[●]"] held by the Generator at [*insert name of bank*] with the account number [●] and sort code [●] or such other account of the Generator in England at such bank as the Security Trustee may notify to the CfD Counterparty from time to time;

"**Insolvency Official**" means an administrator, administrative receiver, receiver, receiver and manager or any other insolvency official appointed under or pursuant to any Finance Document;

"**Novation Agreement**" means a novation agreement entered into pursuant to Clause 9.3 (*Substitution Procedure*) between the CfD Counterparty, the Generator and the Substitute substantially in the form set out in Annex 2 (*Form of Novation Agreement*);

"**Novation Date**" has the meaning given to that term in Clause 9.3(B) (*Substitution Procedure*);

"**Novation Notice**" means a notice given by the Security Trustee to the CfD Counterparty pursuant to Clause 9.1 (*Proposed Substitution*) specifying:

(A) the identity of the proposed Substitute; and

(B) the Proposed Novation Date;

"**Party**" means a party to this Deed;

"**Proposed Novation Date**" means the date proposed by the Security Trustee in a Novation Notice for the novation to a Substitute of the Generator's rights and obligations under the Contract;

"**Proposed Step-In Date**" means the date proposed by the Security Trustee in a Step-In Notice upon which the Appointed Representative shall give a Step-In Undertaking as contemplated by Clause 6.2 (*Step-In Undertaking*) or, where relevant, the date on which the designation of an Insolvency Official appointed in accordance with Clause 6.3 (*Insolvency Official Appointed*) is proposed to become effective;

"**Representative**" means:

(A) the Security Trustee, any Finance Party and/or any of their respective Affiliates;

(B) an Insolvency Official of the Generator and/or any or all of its assets;

(C) a person directly or indirectly owned or controlled by the Security Trustee and/or one or more of the Finance Parties; or

(D) any other person approved by the CfD Counterparty;

"**Security Documents**" means any documents creating or evidencing any existing or future security interest granted to the Security Trustee to secure the payment and discharge of any or all Finance Party Obligations;

"**Security Trustee**" means [the Security Trustee as defined in the Common Terms Agreement];

"**Step-In Date**" means the date on which a Step-In Undertaking given by the Appointed Representative to the CfD Counterparty as contemplated by Clause 6.2 (*Step-In Undertaking*) becomes effective or, where relevant, the date on which the designation of an Insolvency Official appointed in accordance with Clause 6.3 (*Insolvency Official Appointed*) becomes effective;

"**Step-In Decision Period**" means a period commencing on the date of receipt by the Security Trustee from the CfD Counterparty of any CfD Counterparty Enforcement Notice or, as applicable, the date of issue by the Security Trustee to the CfD Counterparty of any notice in accordance with Clause 4.1 (*Notice of Event of Default*), and ending on the first to occur of the Step-In Date, the Novation Date and the date falling three hundred and sixty-five (365) days after the commencement of that Step-In Decision Period;

"**Step-In Notice**" has the meaning given to that term in Clause 6.1 (*Step-In Notice*);

"**Step-In Period**" means the period from the Step-In Date to and including the first to occur of:

(A) the expiry of the notice period in any notice given under Clause 8 (*Step-Out*);

(B) the Novation Date;

(C) the Finance Party Discharge Date; and

(D) the date of any termination or revocation of the Contract by the CfD Counterparty in accordance with this Deed and the Contract;

"**Step-In Undertaking**" means an undertaking substantially in the form set out in Annex 1 (*Form of Step-In Undertaking*) given by the Appointed Representative;

"**Step-Out Date**" means the date upon which a Step-In Period ends;

"**Step-Out Notice**" has the meaning given to that term in Clause 8(A) (*Step-Out*);

"**Substitute**" means a person nominated by the Security Trustee pursuant to Clause 9.1 (*Proposed Substitution*) or Clause 9.2 (*Objection to Substitute*), as the case may be, as the transferee of the Generator's rights and obligations under the Contract; and

"**Supplier Obligation Regulations**" has the meaning given to that term in the Contract.

1.2 **Interpretation**

(A) Unless a contrary indication appears, any reference in this Deed to:

(i) the "**CfD Counterparty**", the "**Security Trustee**", the "**Generator**", any "**Finance Party**" or any "**Appointed Representative**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

(ii) an agreement includes a deed and instrument;

(iii) an agreement is a reference to it as amended, supplemented, restated, novated or replaced from time to time;

(iv) a provision of law is a reference to that provision as amended, extended or re-enacted and includes all laws and official requirements made under or deriving validity from it;

(v) any "**obligation**" of any person under this Deed or any other agreement or document shall be construed as a reference to an obligation expressed to be assumed by or imposed on it under this Deed or, as the case may be, that other agreement or document (and "**due**", "**owing**" and "**payable**" shall be similarly construed);

(vi) a "**Clause**", "**paragraph**" or "**Annex**" is a reference to a clause or paragraph of, or an annex to, this Deed;

(vii) a "**person**" includes any individual, firm, company, corporation, unincorporated organisation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any other entity;

(viii) time is a reference to time in London, England; and

(ix) words in the singular shall be interpreted as including the plural, and *vice versa*.

(B) The words "**include**" and "**including**" shall be construed without limitation to the generality of the preceding words.

(C) Headings are for ease of reference only.

2. CONSENT TO SECURITY AND PAYMENT INSTRUCTIONS

2.1 Consent to Security

(A) The Generator hereby gives notice to the CfD Counterparty that, under or pursuant to the Security Documents, the Generator has charged by way of security to the Security Trustee its rights, title and interest in and to the Contract.

(B) The CfD Counterparty acknowledges receipt of notice of, and consents to, the grant of the security interests referred to in paragraph (A) above.

(C) The CfD Counterparty acknowledges that neither the Security Trustee nor any Finance Party shall have any obligations or liabilities to the CfD Counterparty (whether in place of the Generator or otherwise) in respect of the Contract as a result of any security interest created under the Security Documents except to the extent that such obligations or liabilities are incurred pursuant to Clause 6 (*Step-In*), Clause 7 (*Step-In Period*), Clause 8 (*Step-Out*) or Clause 9 (*Novation*).

2.2 No other Security Interests

The CfD Counterparty confirms that, as at the date of this Deed, it has not received notice of any other security interest granted to someone other than a Party over the Generator's

rights, title and interest in and to the Contract [other than [●]].[1] The CfD Counterparty agrees to notify the Security Trustee as soon as reasonably practicable if it receives any such notice.

2.3 **Payment of Monies**

(A) Each of the Generator and the Security Trustee irrevocably authorises and instructs the CfD Counterparty, and the CfD Counterparty agrees, to pay the full amount of each sum which it is obliged at any time to pay to the Generator under or in respect of the Contract (whether before or after termination of the Contract) to the Generator's Proceeds Account or, following the occurrence of an Event of Default, to such other account in England that the Security Trustee may direct in writing to the CfD Counterparty on not less than ten (10) Business Days' notice.

(B) Each payment made in accordance with paragraph (A) above shall constitute a good discharge *pro tanto* of the obligation of the CfD Counterparty to make the relevant payment to the Generator.

(C) The authority and instructions set out in paragraph (A) above shall not be revoked or varied by the Generator without the prior written consent of the Security Trustee, copied to the CfD Counterparty.

2.4 **Contract**

The Parties agree and acknowledge that the exercise of the rights of the Security Trustee or the Appointed Representative, as the case may be (a) under the Contract during the Step-in Period; and (b) in connection with the security interests granted by the Generator shall not amend, waive or suspend the provisions of the Contract and the rights of the CfD Counterparty under the Contract, except to the extent expressly provided under this Deed and/or any Step-In Undertaking.

2.5 **Statement as to Event of Default conclusive**

The CfD Counterparty may treat any statement or notice from the Security Trustee or any Finance Party that an Event of Default has occurred as conclusive evidence of the occurrence of the Event of Default.

3. NOTIFICATION BY CFD COUNTERPARTY

3.1 **Notification of Default**

The CfD Counterparty shall, as soon as reasonably practicable, send to the Security Trustee a copy of any notice of default under the Contract served by the CfD Counterparty on the Generator.

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[1] Note to draft: to be included if this is in fact the case.

3.2 **Cure Right**

The Security Trustee or any Finance Party or a designated representative on its behalf may, at any time, outside a Step-In Period, take or procure the taking of any action on behalf of the Generator in circumstances where:

(A) the Generator's failure to take such action would be a breach of the Contract or would be or could reasonably be expected to contribute towards the occurrence of a Contract Default; or

(B) the Generator has breached the Contract or a Contract Default has arisen,

and any such action will be deemed to have been taken by the Generator for the purposes of the Contract and any breach or Contract Default will be cured, remedied, mitigated or will not arise (as appropriate) if such breach or Contract Default would have been cured or remedied or mitigated or would not have arisen (as appropriate) if the Generator had taken such action itself.

3.3 **CfD Counterparty Enforcement Action**

Subject to Clause 7.2 (*CfD Counterparty Enforcement Action during a Step-In Period*), the CfD Counterparty shall not take any CfD Counterparty Enforcement Action without first giving a CfD Counterparty Enforcement Notice to the Security Trustee.

3.4 **No Waiver**

The provisions of this Clause 3 shall not constitute any waiver as against the Generator of the grounds for the intended exercise of the CfD Counterparty's rights to take any CfD Counterparty Enforcement Action or any of its other rights regarding such CfD Counterparty Enforcement Action and the giving of a CfD Counterparty Enforcement Notice shall not release the Generator from its obligations or liabilities under the Contract, except in each case to the extent expressly provided under this Deed and/or any Step-In Undertaking.

4. NOTIFICATION BY THE SECURITY TRUSTEE

4.1 **Notice of Event of Default**

The Security Trustee shall, as soon as reasonably practicable, send to the CfD Counterparty notice of the existence of an Event of Default.

4.2 **Notices from the Security Trustee**

Without prejudice to the rights of the Security Trustee and the Finance Parties under the Security Documents, after receiving notification of an Event of Default from the Security Trustee, the CfD Counterparty shall accept as validly given by the Generator any notices or demands pursuant to and in accordance with the Contract given or made by the Security Trustee or Appointed Representative, as the case may be, provided, in each case, such notice or demand would have been validly given had it been given by the Generator itself. The Generator consents to the giving of such notices or demands and

acknowledges and agrees that the service of such notices or demands by the Security Trustee or Appointed Representative, as the case may be, shall not affect the rights and remedies of the CfD Counterparty under the Contract, except to the extent expressly provided under this Deed and/or any Step-In Undertaking.

5. STEP-IN DECISION PERIOD

5.1 Suspension of Rights and Remedial Action

During a Step-In Decision Period the CfD Counterparty shall not take any CfD Counterparty Enforcement Action (other than any CfD Counterparty Enforcement Action taken pursuant to Clause 5.3 (*Revival of Remedies*) in relation to any prior Step-In Decision Period).

5.2 Statement of Amounts Due

(A) As soon as reasonably practicable, and in any event within thirty (30) days after the commencement of a Step-In Decision Period, the CfD Counterparty shall give the Security Trustee a statement of any amounts owed by the Generator to the CfD Counterparty and any outstanding performance obligations of the Generator under the Contract as at the date of the Step-In Decision Period and any amounts or obligations which have subsequently become due or will become due up to the date thirty (30) days after the end of the Step-In Decision Period, in each case of which the CfD Counterparty is aware.

(B) The CfD Counterparty may update the statement of amounts and obligations referred to in paragraph (A) above as relevant to reflect any changes of which the CfD Counterparty becomes aware.

(C) For the avoidance of doubt, a failure by the CfD Counterparty to include in any such statement an amount owed or a performance obligation outstanding under the Contract shall not limit in any way the obligations or liabilities of the Generator under the Contract or the obligations or liabilities of the Security Trustee or any Appointed Representative or Substitute under or pursuant to this Deed.

5.3 Revival of Remedies

If a CfD Counterparty Enforcement Notice has been given and:

(A) neither the Step-In Date nor the Novation Date has occurred before expiry of the Step-In Decision Period; or

(B) the Step-In Date has occurred before expiry of the Step-In Decision Period but a Step-Out Date has subsequently occurred without there being a Novation Date,

the CfD Counterparty shall be entitled to take CfD Counterparty Enforcement Action without serving a further CfD Counterparty Enforcement Notice if the default, event or circumstance in respect of which the CfD Counterparty gave the CfD Counterparty Enforcement Notice is subsisting or has not been remedied or cured (whether by the Generator, Security Trustee or any other person).

6. STEP-IN

6.1 Step-In Notice

(A) At any time during a Step-In Decision Period, the Security Trustee may give notice to the CfD Counterparty (a "**Step-In Notice**") specifying:

(i) the Appointed Representative who (other than in the case of an Insolvency Official appointed in accordance with Clause 6.3 (*Insolvency Official Appointed*)) will give a Step-In Undertaking to the CfD Counterparty; and

(ii) the Proposed Step-In Date (which shall be a date no earlier than five (5) Business Days after the date of the Step-In Notice).

(B) The Proposed Step-In Date must fall on or prior to the expiry of the Step-In Decision Period.

(C) The Security Trustee may revoke a Step-In Notice at any time prior to the Step-In Date by notice to the CfD Counterparty.

6.2 Step-In Undertaking

If a Step-In Notice is issued and is not revoked before the Proposed Step-In Date, and unless otherwise agreed by the CfD Counterparty in its sole and absolute discretion, the Security Trustee shall procure that the Appointed Representative gives a Step-In Undertaking to the CfD Counterparty or an Insolvency Official is appointed in accordance with Clause 6.3 (*Insolvency Official Appointed*) on the Proposed Step-In Date.

6.3 Insolvency Official Appointed

(A) If an Insolvency Official is appointed in accordance with the provisions of paragraph (B) below, and is specified as the Appointed Representative in a Step-In Notice which has been issued and not revoked, there shall be no requirement for that Insolvency Official to provide a Step-In Undertaking and that Insolvency Official shall have the rights of the Appointed Representative under this Deed with effect from the Proposed Step-In Date.

(B) The provisions referred to in paragraph (A) above in relation to the appointment of an Insolvency Official are that the Insolvency Official is appointed over the Generator or any of its assets.

7. STEP-IN PERIOD

7.1 Step-In Period

During the Step-In Period:

(A) the CfD Counterparty shall deal only with the Appointed Representative and not the Generator and the CfD Counterparty shall have no liability to the Generator

for compliance with the instructions of the Appointed Representative or the Security Trustee in priority to those of the Generator;

(B) the CfD Counterparty agrees that payment by the Appointed Representative to the CfD Counterparty of any sums due under the Contract, or performance by the Appointed Representative of any other of the Generator's obligations under the Contract, shall comprise good discharge *pro tanto* of the Generator's payment and other obligations under the Contract; and

(C) the CfD Counterparty shall owe its obligations under the Contract to the Generator and the Appointed Representative jointly but performance by the CfD Counterparty in favour of the Appointed Representative alone shall be a good discharge *pro tanto* of its obligations under the Contract.

7.2 **CfD Counterparty Enforcement Action during a Step-In Period**

(A) During the Step-In Period, the CfD Counterparty shall only be entitled to take CfD Counterparty Enforcement Action if:

(i) the Appointed Representative breaches the terms of the Step-In Undertaking (or there is an act or omission of an Insolvency Official appointed in accordance with Clause 6.3 (*Insolvency Official Appointed*) that would be equivalent to such breach had it given such Step-In Undertaking); and

(ii) such breach (or equivalent) would, save for the terms of Clause 5.1 (*Suspension of Rights and Remedial Action*), entitle the CfD Counterparty to take the relevant CfD Counterparty Enforcement Action under or in connection with the Contract.

(B) The provisions of Clause 3.3 (*CfD Counterparty Enforcement Action*) shall not apply to any CfD Counterparty Enforcement Action taken pursuant to this Clause 7.2.

8. STEP-OUT

(A) The Appointed Representative or the Security Trustee shall give the CfD Counterparty at least ten (10) Business Days' prior written notice of the date on which the Appointed Representative will step out (a "**Step-Out Notice**").

(B) Upon the Step-Out Date (howsoever occurring):

(i) all of the Appointed Representative's obligations and liabilities to the CfD Counterparty under the Step-In Undertaking (or equivalent) will be cancelled, other than those obligations for which the Appointed Representative is liable under the Step-In Undertaking (or equivalent) and which arose or accrued prior to the Step-Out Date;

(ii) all of the Appointed Representative's rights against the CfD Counterparty under the Step-In Undertaking (or equivalent) will be cancelled, other than those which arose or accrued prior to the Step-Out Date; and

(iii) without prejudice to sub-paragraph (i) above, the Appointed Representative will be released from all obligations and liabilities to the CfD Counterparty under the Contract and this Deed.

(C) The Generator shall continue to be bound by the terms of the Contract notwithstanding the occurrence of the Step-Out Date and the CfD Counterparty shall continue to be entitled to exercise and enforce all of its rights and remedies under the Contract as against the Generator, except to the extent expressly provided under this Deed.

9. NOVATION

9.1 Proposed Substitution

(A) Subject to paragraphs (B) and (C) below, at any time:

(i) during a Step-In Decision Period or a Step-In Period; or

(ii) during which an Event of Default is subsisting (and the CfD Counterparty may treat as conclusive evidence that an Event of Default is subsisting any notice served by the Security Trustee pursuant to this paragraph (A)),

the Security Trustee may give a Novation Notice to the CfD Counterparty.

(B) The Security Trustee shall give the CfD Counterparty not less than fifteen (15) Business Days' prior notice of the Proposed Novation Date.

(C) The Security Trustee may revoke a Novation Notice at any time prior to the Novation Date by notice to the CfD Counterparty.

9.2 Objection to Substitute

The CfD Counterparty may only object to a proposed Substitute if the entry into a Novation Agreement or the Contract with the proposed Substitute would be unenforceable or illegal (including where entry is not in accordance with any European Commission State aid approval decision and/or the State Aid Rules (as defined in the Contract) in relation to the Contract) and the CfD Counterparty gives notice of its objection to the Security Trustee within ten (10) Business Days of receipt by the CfD Counterparty of the Novation Notice, in which case the Security Trustee may propose an alternative Substitute.

9.3 Substitution Procedure

(A) On the Proposed Novation Date or such later date (if any) as the identity of the Substitute is determined pursuant to Clause 9.2 (*Objection to Substitute*) the CfD Counterparty and the Generator shall each enter into a Novation Agreement with the Substitute.

(B) The novation of the Generator's rights and obligations under the Contract pursuant to a Novation Agreement shall be effective from the date (the "**Novation Date**") which is the latest of the Proposed Novation Date, such later date (if any) as the identity of the Substitute is determined pursuant to Clause 9.2 (*Objection to Substitute*) and the date upon which each of the following conditions is satisfied, namely:

(i) the CfD Counterparty having received, in form and content satisfactory to the CfD Counterparty acting reasonably:

(a) a certified copy of the constitutional documents and certificate of incorporation and any certificate of incorporation on change of name of the Substitute; and

(b) evidence of compliance by the Substitute with "know your customer" or similar identification procedures or checks under all applicable laws and regulations;

(ii) the CfD Counterparty having received a legal opinion addressed to the CfD Counterparty, in form and content reasonably satisfactory to the CfD Counterparty, from the legal advisers to the Substitute confirming that the Substitute:

(a) is duly formed and validly existing under the laws of the jurisdiction of its formation; and

(b) has the power to enter into and perform, and has taken all necessary action to authorise its entry into, the Contract;

(iii) the CfD Counterparty having received written confirmation from the CfD Settlement Services Provider that:

(a) it has received the CfD Settlement Required Information which is required from the Substitute prior to the Proposed Novation Date or such later date, as the case may be; and

(b) the Substitute has in place the systems and processes which are necessary for the continued provision of the CfD Settlement Required Information;

(iv) the Substitute being or having become the legal and beneficial owner of the Facility, subject only to any third party rights arising by reason of any security interest created or subsisting over or in respect of the Facility;

(v) any collateral required to be in place under clause 60 (*Collateral Requirement*) or 61 (*Acceptable Collateral*) of the Contract having been provided by or on behalf of the Substitute;

(vi) arrangements for the continuation of the determination and payment of any Project Gain Share or Sale Gain Share under and in accordance with

the Secretary of State Investor Agreement being in place, supported by security documents or other security arrangements, each in form and content reasonably satisfactory to the CfD Counterparty; and

(vii) [*others to be agreed*].

(C) The CfD Counterparty shall notify the Security Trustee and the Substitute as soon as reasonably practicable after each of the conditions referred to in paragraph (B) above has occurred and whether it considers that the Novation Date has occurred.

(D) At the Security Trustee's cost, the CfD Counterparty shall, subject to and in accordance with clause 86.6(C) (*Permitted assignment by the Generator*) of the Contract, enter into a direct agreement with the Security Trustee (or such other representative of the lenders lending to such Substitute) and the Substitute on substantially the same terms as this Deed and effective from the Novation Date.

10. DURATION

This Deed shall commence on the date hereof and shall continue in full force and effect until the first to occur of:

(A) the Finance Party Discharge Date;

(B) expiry of the term of the Contract; and

(C) the termination or revocation of the Contract (in accordance with the Contract and this Deed),

in each case without prejudice to any accrued rights and obligations arising pursuant to this Deed existing at the date of termination. The Security Trustee shall promptly notify the CfD Counterparty of the occurrence of the Finance Party Discharge Date.

11. CHANGES TO PARTIES

11.1 Benefit of Deed

This Deed shall benefit and be binding on the Parties, their respective successors and any permitted assignee or transferee of all or some of a Party's rights and obligations under this Deed.

11.2 Assignment

Save as provided in Clause 9 (*Novation*) or Clause 11.3 (*Transfers under a Transfer Scheme*), no Party may assign, transfer, novate or otherwise dispose of all or any of their respective rights, benefits or obligations under this Deed (other than, in the case of the Generator, to the same person to whom its corresponding rights, benefits and obligations under the Contract concerned have been validly assigned or transferred in accordance with that Contract and this Deed) without the prior consent of the other Parties.

11.3 **Transfers under a Transfer Scheme**

Notwithstanding Clause 11.2 (*Assignment*), a transfer of the CfD Counterparty's rights or obligations under this Deed may be effected, without the consent of the other Parties, to any person by or by virtue of a Transfer Scheme (as defined in the Contract).

11.4 **Assignment by the Security Trustee**

The Security Trustee may assign or transfer its rights under this Deed to any successor Security Trustee without the consent of the CfD Counterparty or the Generator.

11.5 **Generator's Acknowledgement**

The Generator joins in this Deed to acknowledge and consent to the arrangements set out in it and agrees not knowingly to do or omit to do anything that may prevent any of the other Parties from enforcing its rights under this Deed.

12. NOTICES

12.1 **Communications in Writing**

Any communications to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

12.2 **Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is as follows:

(A) **CfD Counterparty**

Address: [●]

Fax No: [●]

Attention: [●]

(B) **Security Trustee**

Address: [●]

Fax No: [●]

Attention: [●]

(C) **Generator**

Address: [●]

Fax No: [●]

Attention: [●]

or any substitute address, fax number or department or officer as the Party may notify to the other Parties on not less than five (5) Business Days' notice.

12.3 **Delivery**

Any communication or document made or delivered to a Party under or in connection with this Deed will only be effective:

(A) if by way of fax, when received in legible form; or

(B) if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post (postage prepaid) in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 12.2 (*Addresses*), if addressed to that department or officer.

13. MISCELLANEOUS

13.1 **Limited Recourse**

Notwithstanding any other provision of this Deed:

(A) the liability of the CfD Counterparty pursuant to this Deed shall not exceed the aggregate of:

(i) the amounts from time to time received and held by the CfD Counterparty, and allocated to the Contract, pursuant to the Supplier Obligation Regulations; and

(ii) any other funds of the type referred to in clause 78.1(C)(v) (*CfD Counterparty payment undertakings*) of the Contract from time to time received and held by the CfD Counterparty, and allocated to the Contract, whether pursuant to the Supplier Obligation Regulations or otherwise; and

(B) the CfD Counterparty shall not be in default pursuant to this Deed in not making any payment that is due and owing if and to the extent that it shall not have received the amounts and other funds referred to in paragraph (A) above which are necessary to make such payment, but if and to the extent that such payment is not made, the CfD Counterparty shall continue to owe an amount equal to the amount of the payment due and owing but not paid and shall make such payment promptly (and in any event within two (2) Business Days) after and to the extent of its receipt of such corresponding and allocated amounts and other funds.

13.2 **Further Assurance**

The Parties shall take whatever action may be reasonably required for perfecting any arrangements to be carried out pursuant to this Deed.

13.3 **Amendments**

This Deed may not be amended, waived, supplemented or otherwise varied unless in writing and signed by or on behalf of all of the Parties.

13.4 **Remedies and Waivers**

No failure to exercise, or any delay in exercising, any power, right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

13.5 **Partial Invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

13.6 **No Partnership**

Neither this Deed nor any other agreement or arrangement of which it forms part, nor the performance by the Parties of their respective obligations under any such agreement or arrangement, shall constitute a partnership between the Parties.

13.7 **Counterparts**

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

13.8 **Third Party Beneficiaries**

(A) Save as provided in paragraph (B) below, this Deed is intended for the sole and exclusive benefit of the Parties.

(B) The Contracts (Rights of Third Parties) Act 1999 is expressly excluded save for:

(i) any rights of any Appointed Representative on and after the issue of a Step-In Undertaking by that Appointed Representative or any rights of an Insolvency Official appointed in accordance with Clause 6.3 (*Insolvency Official Appointed*) on or after the date on which the designation of that Insolvency Official appointed in accordance with Clause 6.3 (*Insolvency Official Appointed*) becomes effective; or

(ii) any rights of any Substitute on and after any Novation Date under or in connection with Clause 9 (*Novation*),

in each case, as if they were a party to this Deed.

(C) This Deed may be varied in any way and at any time by the Parties without the consent of any third party.

13.9 **Entire Agreement**

This Deed and the Contract constitute the entire agreement between the Parties with respect to the subject matter of this Deed.

13.10 **Effect of this Deed**

(A) The Parties acknowledge and agree that the express or implied terms and conditions of this Deed shall, in the event of any inconsistency or conflict with the express or implied terms and conditions of the Contract, prevail over the relevant terms and conditions of the Contract.

(B) Nothing in this Deed or the arrangements contemplated hereby shall prejudice the rights of any of the Finance Parties under the Finance Documents or any Security Documents or shall be construed as obliging the Security Trustee to exercise any of its rights under the Security Documents or under this Deed.

14. GOVERNING LAW AND JURISDICTION

(A) This Deed and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England.

(B) The Parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligations arising out of or in connection with this Deed).

IN WITNESS WHEREOF this Deed has been duly executed and delivered as a deed on the date stated at the beginning of this Deed.

CfD Counterparty

EXECUTED and delivered as a **DEED** by	)	
LOW CARBON CONTRACTS COMPANY LTD	)	
acting by its director / duly appointed attorney	)	.....
		Director / Attorney

in the presence of:

Signature: ……...

Print Name: ……

Address: ……

Occupation: ……

Security Trustee

EXECUTED and delivered as a **DEED** by	)	
[●]	)	
acting by its director / duly appointed attorney	)	.....
		Director / Attorney

in the presence of:

Signature: ……...

Print Name: ……

Address: ……

Occupation: ……

Generator

EXECUTED as a **DEED** by)
NNB GENERATION COMPANY (HPC))
LIMITED)
acting by

....
(Name of authorised director) **(Signature of authorised director)**
Director

in the presence of:

Signature: ……...

Print Name: ……

Address: …….

Occupation: ……

Annex 1
Form of Step-In Undertaking

[From the Appointed Representative]

Low Carbon Contracts Company Ltd
[***insert address***]

For the attention of: the Directors

[***Date***]

Dear Sirs,

DIRECT AGREEMENT in relation to the Contract for Difference for Hinkley Point C (the "Agreement")

1. In accordance with clause 6 (*Step-In*) of the Agreement, we undertake to you that we will:

   (A) pay, or procure payment, to you within three (3) Business Days of the date hereof (or in the case of disputed sums of the date of the resolution of the dispute) any sum that is due and payable to you by the Generator but unpaid as of the date hereof;

   (B) pay, or procure payment, to you within three (3) Business Days of such amount becoming due and payable, any sum which becomes due and payable by the Generator to you pursuant to the terms of the Contract during the Step-In Period which is not paid by the Generator on the due date;

   (C) perform or discharge, or procure the performance or discharge of, all outstanding performance obligations of the Generator owed to you which have arisen or fallen due prior to the date hereof:

      (i) within ten (10) Business Days of the date hereof or if such performance obligation is not reasonably capable of being performed or discharged within that ten (10) Business Day period by such later date as it is reasonably capable of being so performed or discharged; or

      (ii) if the performance or discharge of any obligation is being disputed pursuant to the provisions of the Contract, within ten (10) Business Days of the same being agreed or finally determined or if such performance obligation is not reasonably capable of being performed or discharged within that ten (10) Business Day period by such later date as it is reasonably capable of being so performed or discharged; and

   (D) perform or discharge, or procure the performance or discharge of, any performance obligations of the Generator owed to you under the Contract which arise during the Step-In Period,

in each case in accordance with and subject to the terms of the Contract as if we were a party to the Contract in place of the Generator.

2. This Step-In Undertaking may be terminated by the giving of a Step-Out Notice to you in accordance with clause 8 (*Step-Out*) of the Agreement and shall automatically terminate upon the Step-Out Date, save that we shall continue to be liable to you for outstanding obligations and liabilities owed to you under this Step-In Undertaking arising or accruing prior to termination in accordance with clause 8(B) (*Step-Out*) of the Agreement.

3. All capitalised terms used in this letter shall have the meanings given them in the Agreement.

4. This Step-In Undertaking and any non-contractual obligations arising out or in connection with it are governed by and shall be construed in accordance with the laws of England and the courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with it.

Yours faithfully,

……
For and on behalf of
[Appointed Representative]

Annex 2
Form of Novation Agreement

THIS NOVATION AGREEMENT is dated [●] and made as a deed

BETWEEN:

(1) **LOW CARBON CONTRACTS COMPANY LTD**, a company incorporated under the laws of England and Wales whose registered office is at Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX and whose company number is 08818711 (the "**CfD Counterparty**");

(2) [***insert name and details of the generator***], a company incorporated under the laws of [England and Wales] whose registered office is at [●] and whose company number is [●] (the "**Generator**"); and

(3) [***insert name and details of the substitute***], a company incorporated under the laws of [England and Wales] whose registered office is at [●] and whose company number is [●] (the "**Substitute**"),

(together referred to as the "**Parties**").

BACKGROUND

(A) The Generator, the CfD Counterparty and the Security Trustee have entered into an agreement (the "**Direct Agreement**") dated [●] pursuant to which the Security Trustee has the right to require the rights and obligations of the Generator under the Contract to be novated to a Substitute.

(B) The Substitute has been identified as the Substitute for the purposes of clause 9 (*Novation*) of the Direct Agreement.

(C) This is the Novation Agreement referred to in clause 9.3 (*Substitution Procedure*) of the Direct Agreement.

IT IS AGREED as follows:

1. Definitions and Interpretation

Unless a contrary indication appears, words and expressions defined, or defined by reference, in the Direct Agreement have the same meanings in this Agreement.

2. CfD Counterparty Release and Discharge

With effect from the Novation Date, the CfD Counterparty releases and discharges the Generator from all liabilities, duties and obligations of every description, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or disputed, owing to the CfD Counterparty and arising out of or in respect of the Contract, save for the Generator's obligations under clauses 55 (*State Aid Undertakings*) and 79 (*Confidentiality*) of the Contract.

3. Generator Release and Discharge

With effect from the Novation Date, the Generator releases and discharges the CfD Counterparty from all liabilities, duties and obligations of every description, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or disputed, owing to the Generator and arising out of or in respect of the Contract.

4. Substitute Assumption of Liabilities

The Substitute undertakes to assume all the liabilities, duties and obligations of the Generator of every description contained in the Contract, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or unascertained or disputed, and agrees to perform all the duties and to discharge all the liabilities and obligations of the Generator under the Contract and to be bound by their terms and conditions in every way as if the Substitute were named in the Contract as a party in place of the Generator from the date of the Contract.

5. CfD Counterparty Agreement to Perform

The CfD Counterparty agrees to perform all its duties and to discharge all its obligations under the Contract and to be bound by all the terms and conditions of the Contract in every way as if the Substitute were named in the Contract as a party in place of the Generator from the date of the Contract.

6. Replacement of Generator by Substitute

As from the Novation Date, reference to the Generator (by whatsoever name known) in the Contract shall be deleted and replaced by reference to the Substitute.

7. Outstanding CfD Counterparty Claims

The CfD Counterparty shall not take any CfD Counterparty Enforcement Action by reason of any event notified in a CfD Counterparty Enforcement Notice or any act or omission by the Security Trustee, any Appointed Representative and/or the Generator occurring prior to the Novation Date provided that the foregoing shall be without prejudice to the CfD Counterparty's remedies (including without limitation the right to take CfD Counterparty Enforcement Action) in respect of:

(A) outstanding amounts properly due and payable to the CfD Counterparty on the Novation Date and which remain unpaid on the expiry of three (3) Business Days' notice from the CfD Counterparty to the Substitute that such amounts are due and payable; and

(B) to the extent not covered by paragraph (A) above, any breach of a Step-In Undertaking or the Contract by an Appointed Representative, the Generator or the Security Trustee occurring prior to the Novation Date which has not been remedied upon the expiry of ten (10) Business Days' notice from the CfD Counterparty to the Substitute that such breach has not been remedied or if such breach is not reasonably capable of remedy within that ten (10) Business Day

period by such later date as it is reasonably capable of being so performed or discharged.

8. Continuance of the Contract

It is hereby agreed and declared that the Contract shall continue in full force and effect and that, as from the Novation Date, the terms and conditions of the Contract have only changed to the extent set out in this Agreement.

9. Further Assurance

The Parties shall perform such further acts and execute and deliver such further documents as may be required by law or reasonably requested by each other to implement the purposes of and to perfect this Agreement.

10. Contract (Rights of Third Parties) Act 1999

This Agreement does not create any rights under the Contract (Rights of Third Parties) Act 1999 enforceable by any person who is not a party to it.

11. Variations

No variation of this Agreement shall be effective unless it is in writing and is signed by or on behalf of each of the parties to this Agreement.

12. Notices

Any notices to be served on the Substitute pursuant to the Contract shall be served in accordance with clause 87 (*Notices*) of the Contract and to:

[*insert Substitute contact details*]

13. Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original but all the counterparts together shall constitute one and the same instrument.

14. Governing Law and Jurisdiction

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by and shall be construed in accordance with the laws of England and the Parties hereby submit to the exclusive jurisdiction of the courts of England.

IN WITNESS WHEREOF this Agreement has been executed and delivered as a deed on the date first stated above.[2]

CfD Counterparty

EXECUTED and delivered as a **DEED** by	)	
LOW CARBON CONTRACTS COMPANY LTD	)	
acting by its director / duly appointed attorney	)	.....
		Director / Attorney

in the presence of:

Signature: ……...

Print Name: ……

Address: ……

Occupation: ……

[2] Note to draft: execution blocks to be amended as appropriate.

Generator

EXECUTED and delivered as a **DEED** by)
[●])
acting by its director / duly appointed attorney) .....
Director / Attorney

in the presence of:

Signature: ……...

Print Name: ……

Address: ……

Occupation: ……

Substitute

EXECUTED and delivered as a **DEED** by)
[●])
acting by its director / duly appointed attorney) .....
Director / Attorney

in the presence of:

Signature: ……...

Print Name: ……

Address: ……

Occupation: ……

Annex 3
BMRP

1. DEFINITIONS

1.1 In this Annex 3 (*BMRP*):

"**5-TD Sample Period**" means a period of five (5) consecutive Trading Days;

"**5-TD Trade Number Percentage**" means, in respect of a price source, the number of Baseload Forward Season Contracts in respect of electricity to be delivered within Great Britain conducted on or reported by such price source in a 5-TD Sample Period expressed as a percentage of the total number of Baseload Forward Season Contracts in respect of electricity to be delivered within Great Britain conducted on or reported by all of the Calculation Price Sources during such 5-TD Sample Period and, where such price source conducts or reports Baseload Forward Season Contracts less frequently than every Trading Day, the number of Baseload Forward Season Contracts attributable to each Trading Day shall be the number of Baseload Forward Season Contracts conducted or reported on each Price Source Live Day allocated equally to each Trading Day from and including each Price Source Live Day to and excluding the next occurring Price Source Live Day;

"**5-TD Volume Percentage**" means, in respect of a price source, the volume (expressed in MWh) of Baseload Forward Season Contracts in respect of electricity to be delivered within Great Britain conducted on or reported by such price source in a 5-TD Sample Period expressed as a percentage of the volume (expressed in MWh) of Baseload Forward Season Contracts in respect of electricity to be delivered within Great Britain conducted on or reported by all of the Calculation Price Sources during such 5-TD Sample Period and, where such price source conducts or reports Baseload Forward Season Contracts less frequently than every Trading Day, the volume of Baseload Forward Season Contracts attributable to each Trading Day shall be the volume of Baseload Forward Season Contracts conducted or reported on each Price Source Live Day allocated equally to each Trading Day from and including each Price Source Live Day to and excluding the next occurring Price Source Live Day;

"**Baseload CfD**" means:

(A) this Agreement; and

(B) a FiT Contract for Difference to which Part 5(A) (*Payment Calculations: Baseload Technologies*) of the standard terms and conditions issued by the Secretary of State in accordance with section 11(1) of the EA 2013 is expressed to apply and "**Baseload CfDs**" shall be construed accordingly;

"**Baseload Contract Period**" has the meaning given to that term in paragraph (C)(i) of Part B (*BMRP Principles*);

"**Baseload Forward Season Contract**" means a contract relating to the delivery of a firm volume of energy in each Settlement Unit within the Season immediately following the Season in which such contract is entered into (whether physically or cash settled);

"**Baseload Forward Season Index**" means an index or other source of prices of Baseload Forward Season Contracts from which the Baseload Forward Season Trading Day Price can be calculated and "**Baseload Forward Season Indices**" shall be construed accordingly;

"**Baseload Forward Season Trading Day Price**" means the volume-weighted average price for all Baseload Forward Season Contracts reported by a Baseload Price Source in respect of Trading Day (i) calculated, subject to Clause 12.3 (*Baseload Market Reference Price*) (where applicable), in accordance with the following formula:

$$\textit{Baseload Forward Season Trading Day Price} = \frac{\sum_{n=1}^{t} (P_n \cdot V_n)}{\sum_{n=1}^{t} (V_n)}$$

where:

n is a whole number integer representing a Baseload Forward Season Contract on the relevant Trading Day (i);

t is the total number of Baseload Forward Season Contracts entered into on the relevant Trading Day (i), as reported by the relevant Baseload Price Source;

P_n is the price (expressed in £/MWh) of Baseload Forward Season Contract (n); and

V_n is the volume (expressed in MWh) of Baseload Forward Season Contract (n);

"**Baseload Generator**" means, at the relevant time, an eligible generator party to a Baseload CfD and "**Baseload Generators**" shall be construed accordingly;

"**Baseload Market Reference Price**" has the meaning given to that term in Clause 12.2 (*Baseload Market Reference Price*);

"**Baseload Price Sources**" means the Baseload Forward Season Indices to be used in the calculation of the Baseload Market Reference Price, being the Initial BMRP Indices or such other replacement or supplementary Baseload Forward Season Indices which are required to be so used as a result of the operation of the provisions of Part A (*BMRP Review Procedures*), and "**Baseload Price Source**" shall be construed accordingly;

"**BMRP Annual Review**" means a review of the BMRP Review Price Sources conducted by the CfD Counterparty pursuant to, and within the parameters specified in, paragraph 1 (*BMRP Annual Reviews*) of Part A (*BMRP Review Procedures*);

"**BMRP Annual Review Cut-Off Date**" means, in relation to each BMRP Annual Review, 20 September in the calendar year in which the BMRP Review Commencement Date occurs;

"**BMRP Annual Review Dispute Notice**" has the meaning given to that term in paragraph 4.1(A) of Part A (*BMRP Review Procedures*);

"**BMRP Annual Review Implementation Date**" has the meaning given to that term in paragraph 1.6(D) of Part A (*BMRP Review Procedures*);

"**BMRP Annual Review Outcome Notice**" has the meaning given to that term in paragraph 1.6 of Part A (*BMRP Review Procedures*);

"**BMRP Dispute**" means a BMRP Price Source Dispute or a BMRP Principles Review Dispute (as the case may be);

"**BMRP Dispute Generator**" has the meaning given to that term in paragraph 4.1 of Part A (*BMRP Review Procedures*);

"**BMRP Dispute Notice**" has the meaning given to that term in paragraph 4.1 of Part A (*BMRP Review Procedures*);

"**BMRP Dispute Threshold Criterion**" has the meaning given to that term in paragraph 4.13 of Part A (*BMRP Review Procedures*);

"**BMRP Dispute Validity Notice**" has the meaning given to that term in paragraph 4.3 of Part A (*BMRP Review Procedures*);

"**BMRP Expert Appointment Threshold**" has the meaning given to that term in paragraph 4.9 of Part A (*BMRP Review Procedures*);

"**BMRP Inclusion Criteria**" in respect of a price source, means that:

(A) the 5-TD Trade Number Percentage in respect of such price source in each 5-TD Sample Period during the BMRP Review Calculation Period is at least five per cent. (5%);

(B) the 5-TD Volume Percentage in respect of such price source in each 5-TD Sample Period during the BMRP Review Calculation Period is at least five per cent. (5%);

(C) such price source has, at all times during the BMRP Review Calculation Period, no fewer than ten (10) registered market participants; and

(D) such price source reports prices of Baseload Forward Season Contracts at least once per calendar month during the BMRP Review Calculation Period,

and "**BMRP Inclusion Criterion**" shall be construed accordingly;

"**BMRP Mechanism Amendment**" has the meaning given to that term in paragraph 2.6 of Part A (*BMRP Review Procedures*);

"**BMRP Price Source Dispute**" means a Dispute relating to the outcome of a BMRP Annual Review;

"**BMRP Principles**" means the principles set out in paragraph 1 (*BMRP Principles*) of Part B (*BMRP Principles*);

"**BMRP Principles Prioritisation**" means the prioritisation of the BMRP Principles provided for in paragraph 2 (*Prioritisation of BMRP Principles*) of Part B (*BMRP Principles*);

"**BMRP Principles Request Criterion**" has the meaning given to that term in paragraph 2.3 of Part A (*BMRP Review Procedures*);

"**BMRP Principles Request Notice**" has the meaning given to that term in paragraph 2.2 of Part A (*BMRP Review Procedures*);

"**BMRP Principles Request Validity Notice**" has the meaning given to that term in paragraph 2.5 of Part A (*BMRP Review Procedures*);

"**BMRP Principles Review**" means a review conducted by the CfD Counterparty pursuant to, and within the parameters specified in, paragraph 2 (*BMRP Principles Reviews*) of Part A (*BMRP Review Procedures*);

"**BMRP Principles Review Dispute**" means a Dispute in relation to the outcome of a BMRP Principles Review;

"**BMRP Principles Review Dispute Notice**" has the meaning given to that term in paragraph 4.1(B) of Part A (*BMRP Review Procedures*);

"**BMRP Principles Review Implementation Date**" has the meaning given to that term in paragraph 2.12(C) of Part A (*BMRP Review Procedures*);

"**BMRP Principles Review Notice**" has the meaning given to that term in paragraph 2.8 of Part A (*BMRP Review Procedures*);

"**BMRP Principles Review Outcome Notice**" has the meaning given to that term in paragraph 2.12 of Part A (*BMRP Review Procedures*);

"**BMRP Principles Review Proposals**" has the meaning given to that term in paragraph 2.12(B) of Part A (*BMRP Review Procedures*);

"**BMRP Principles Review Response Deadline**" has the meaning given to that term in paragraph 2.8(C) of Part A (*BMRP Review Procedures*);

"**BMRP Principles Review Response Notice**" has the meaning given to that term in paragraph 2.9 of Part A (*BMRP Review Procedures*);

"**BMRP Principles Review Trigger**" has the meaning given to that term in paragraph 2.1 of Part A (*BMRP Review Procedures*);

"**BMRP Quality Criteria**" in respect of a price source, means the CfD Counterparty having determined that, as at the BMRP Review Commencement Date (in the case of a BMRP Annual Review) or as at the BMRP Principles Review Response Deadline (in the case of a BMRP Principles Review):

(A) the underlying data used to compile or prepare such price source:

(i) is subject to reasonable procedures to ensure its accuracy and completeness;

(ii) is subject to reasonable procedures to ensure its retention by the administrator for a period of at least two (2) years such that it is capable of audit; and

(iii) consists only of verifiable transaction data and does not include data which is the product of a subjective judgment;

(B) the methodology used by the administrator to prepare and compile such price source:

(i) is appropriately documented;

(ii) is not subject to subjective judgment; and

(iii) may only be changed in accordance with documented change control procedures which provide adequate protection against conflicts of interest which exist or are reasonably likely to arise in connection with such methodology; and

(C) the administrator of such price source and the submitters to such price source have effective organisational and administrative arrangements in place to identify and manage conflicts of interest and to protect commercial confidentiality,

and "**BMRP Quality Criterion**" shall be construed accordingly;

"**BMRP Review**" means a BMRP Annual Review or a BMRP Principles Review (as the context requires) and "**BMRP Reviews**" shall be construed accordingly;

"**BMRP Review Calculation Period**" means:

(A) in respect of each BMRP Annual Review, the twelve (12) month period ending on (and including) the day immediately prior to the BMRP Review Commencement Date; and

(B) in respect of each BMRP Principles Review, the twelve (12) month period ending on (and including) the day immediately prior to the BMRP Principles Review Response Deadline;

"**BMRP Review Commencement Date**" has the meaning given to that term in paragraph 1.2 of Part A (*BMRP Review Procedures*);

"**BMRP Review Price Sources**" has the meaning given to that term in paragraph 1.8 of Part A (*BMRP Review Procedures*);

"**Calculation Price Source**" means a price source which is determined pursuant to a BMRP Review to have met the BMRP Quality Criteria;

"**Calculation Season**" means a Season for which the Baseload Market Reference Price is calculated;

"**Excluded 5-TD Sample Period**" has the meaning given to that term in paragraph 1.6(C)(ii)(b) of Part A (*BMRP Review Procedures*);

"**Fallback Baseload Price**" means a price calculated in accordance with the methodology contained in Part C (*Fallback Baseload Price Methodology*);

"**Initial BMRP Indices**" means the LEBA Baseload Index and the NASDAQ Baseload Index;

"**LEBA Baseload Index**" means the Baseload Forward Season Index reported by the London Energy Brokers' Association;

"**NASDAQ Baseload Index**" means the Baseload Forward Season Index reported by NASDAQ OMX Commodities A.S.;

"**Price Source Live Day**" means, in respect of a price source, a day where Baseload Forward Season Contracts are conducted or reported;

"**Proposed BMRP Expert**" has the meaning given to that term in paragraph 4.3(B) of Part A (*BMRP Review Procedures*);

"**Reference Price Sample Period**" means the Season before the Calculation Season;

"**Trading Day**" means any day on which trading on the markets from which the Baseload Price Sources are derived ordinarily takes place;

"**Year-Ahead Basis**" has the meaning given to that term in paragraph 3.1(A) of Part A (*BMRP Review Procedures*);

"**Year-Ahead Switch Effective Date**" has the meaning given to that term in paragraph 3.1(B)(ii) of Part A (*BMRP Review Procedures*); and

"**Year-Ahead Switch Notice**" has the meaning given to that term in paragraph 3.1 of Part A (*BMRP Review Procedures*).

Part A
BMRP Review Procedures

1. BMRP ANNUAL REVIEWS

Requirement to undertake BMRP Annual Reviews

1.1 Subject to paragraphs 1.3 and 1.4, the CfD Counterparty shall conduct a BMRP Annual Review in each year during the Term.

1.2 Subject to paragraph 1.3, the CfD Counterparty shall commence each BMRP Annual Review on 1 October (or, if such date is not a Business Day, the first Business Day thereafter) (the "**BMRP Review Commencement Date**").

1.3 The CfD Counterparty shall not be required to perform a BMRP Annual Review before 1 October 2015.

1.4 The CfD Counterparty shall not be required to conduct a BMRP Annual Review pursuant to paragraph 1.1 if, as at the BMRP Review Commencement Date, a BMRP Principles Review is being conducted.

Purpose of a BMRP Annual Review

1.5 The purpose of each BMRP Annual Review shall be for the CfD Counterparty to determine whether:

(A) the BMRP Quality Criteria are met in respect of each BMRP Review Price Source; and

(B) the BMRP Inclusion Criteria are met in respect of each BMRP Review Price Source which meets the BMRP Quality Criteria.

Notification of outcome of BMRP Annual Review

1.6 The CfD Counterparty shall, no later than 1 January in the year immediately following the relevant BMRP Review Commencement Date, notify the Generator of the outcome of the BMRP Annual Review (a "**BMRP Annual Review Outcome Notice**"). Each BMRP Annual Review Outcome Notice shall:

(A) be substantially in the form set out in Part A (*BMRP Annual Review Outcome Notice*) of Annex 4 (*Pro Forma Notices*);

(B) (i) identify each BMRP Review Price Source which is, subject to and in accordance with paragraphs 1.7(A) and 1.7(B), to be a Baseload Price Source; or (ii) if the CfD Counterparty has determined that no BMRP Review Price Source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria, contain a statement to that effect;

(C) set out:

(i) in respect of each BMRP Review Price Source, either:

(a) a statement that such price source meets the BMRP Quality Criteria; or

(b) a summary of the reasons for the CfD Counterparty having determined that such price source does not meet all or any of the BMRP Quality Criteria;

(ii) in respect of each BMRP Review Price Source that meets the BMRP Quality Criteria:

(a) a statement that such price source meets the BMRP Inclusion Criteria; or

(b) (i) a list of the 5-TD Sample Periods in respect of which such price source has not met all or any of the BMRP Inclusion Criteria (each such 5-TD Sample Period being an "**Excluded 5-TD Sample Period**"); (ii) (if such price source did not meet the BMRP Inclusion Criterion in paragraph (A) of the definition thereof) the 5-TD Trade Number Percentage in each Excluded 5-TD Sample Period; (iii) (if such price source did not meet the BMRP Inclusion Criterion in paragraph (B) of the definition thereof) the 5-TD Volume Percentage in each Excluded 5-TD Sample Period; and (iv) (if such price source did not meet the BMRP Inclusion Criterion in paragraph (C) or (D) of the definition thereof) a statement to that effect; and

(D) set out the date on which the results of the BMRP Annual Review shall be utilised to calculate the Baseload Market Reference Price, such date being the first day of the Season commencing immediately after the BMRP Review Commencement Date (a "**BMRP Annual Review Implementation Date**").

Implementation of outcome of BMRP Annual Review

1.7 Each BMRP Review Price Source which is, pursuant to a BMRP Annual Review, determined by the CfD Counterparty:

(A) to meet the BMRP Inclusion Criteria and the BMRP Quality Criteria shall, with effect from the relevant BMRP Annual Review Implementation Date, be a Baseload Price Source; or

(B) not to have met (or to have ceased to meet) the BMRP Inclusion Criteria or the BMRP Quality Criteria shall, with effect from the BMRP Annual Review Implementation Date, cease to be used as a Baseload Price Source, provided that if this paragraph 1.7(B) would result in there being no Baseload Price Source:

(i) (subject to paragraph (ii)) the Baseload Price Sources prior to the commencement of the relevant BMRP Annual Review shall remain unamended pending the outcome of a BMRP Principles Review; or

(ii) if a BMRP Principles Review Trigger falling within paragraph 2.1(A)(iii) has occurred, the Fallback Baseload Price shall be used as the Baseload Price Source for the purposes of calculating the Baseload Market Reference Price pending the outcome of a BMRP Principles Review.

The BMRP Review Price Sources

1.8 Subject to paragraph 1.9, the "**BMRP Review Price Sources**" shall be:

(A) the Baseload Price Sources as at the relevant BMRP Review Commencement Date; and

(B) all other Baseload Forward Season Indices of which the CfD Counterparty is aware at the BMRP Review Commencement Date (including any such index or price source notified by the Generator to the CfD Counterparty no later than the BMRP Annual Review Cut-Off Date).

1.9 The CfD Counterparty may elect to exclude any index or price source as a BMRP Review Price Source if:

(A) the Generator notifies the CfD Counterparty of a Baseload Forward Season Index which it wishes the CfD Counterparty to assess as part of a BMRP Annual Review but such notification is received by the CfD Counterparty after the BMRP Annual Review Cut-Off Date;

(B) the CfD Counterparty considers that the fees which would be payable by the CfD Counterparty to the person administering, maintaining, operating, producing or publishing such Baseload Forward Season Index, either:

(i) for the purposes of conducting the BMRP Annual Review (including in connection with the CfD Counterparty's assessment of whether such index or price source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria); or

(ii) (subject to the outcome of the BMRP Annual Review) for the utilisation of such index or price source as a Baseload Price Source,

are commercially unreasonable;

(C) the CfD Counterparty, having used reasonable endeavours to do so, is unable to access the data and information necessary to enable the CfD Counterparty to assess whether such Baseload Forward Season Index fulfils the BMRP Inclusion Criteria and the BMRP Quality Criteria; or

(D) the CfD Counterparty considers that it will not, using reasonable endeavours, be able to ensure that the CfD Settlement Services Provider has sufficiently robust, regular and timely access to the data of the Baseload Forward Season Index to permit its use in the calculation of the Baseload Market Reference Price.

BMRP Annual Review: Disputes

1.10 Paragraph 4 (*BMRP Reviews: Dispute Process*) shall apply to any Dispute relating to this paragraph 1.

2. BMRP PRINCIPLES REVIEWS

Requirement to undertake BMRP Principles Reviews

2.1 The CfD Counterparty:

(A) shall conduct a BMRP Principles Review if:

(i) either: (a) the CfD Counterparty determines as part of a BMRP Annual Review that no BMRP Review Price Source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria; or (b) (if there is a valid Dispute relating to the outcome of a BMRP Annual Review) an Expert determines that no BMRP Review Price Source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria;

(ii) the splitting of the GB electricity market has been proposed or effected by the relevant Competent Authority;

(iii) the volume (expressed in MWh) of Baseload Forward Season Contracts in respect of electricity to be delivered within Great Britain reflected in each Baseload Price Source is nil in any 5-TD Sample Period (excluding any 5-TD Sample Period falling wholly within the period 24 December to 1 January inclusive); or

(iv) the BMRP Principles Request Criterion is met; and

(B) may conduct a BMRP Principles Review if it determines that the Baseload Market Reference Price does not reflect the market price for the sale of electricity delivered within Great Britain,

(each, a "**BMRP Principles Review Trigger**").

2.2 If the Generator considers that the calculation of the Baseload Market Reference Price does not comply with all of the BMRP Principles, the Generator may give a notice to the CfD Counterparty on one or more occasions requesting the CfD Counterparty to undertake a BMRP Principles Review (a "**BMRP Principles Request Notice**"). A BMRP Principles Request Notice:

(A) shall be substantially in the form set out in Part B (*BMRP Principles Request Notice*) of Annex 4 (*Pro Forma Notices*);

(B) shall specify which of the BMRP Principles the Generator believes the calculation of the Baseload Market Reference Price does not comply with;

(C) may include proposals from the Generator with respect to the manner in which the non-compliance with the BMRP Principles should be addressed (including any proposals regarding BMRP Mechanism Amendments which the Generator considers should be effected); and

(D) shall include Supporting Information, in reasonable detail, which the Generator considers to be relevant to and supportive of the matters in paragraphs (B) and (C).

2.3 For the purposes of paragraph 2.1(A)(iv), the "**BMRP Principles Request Criterion**" is that thirty per cent. (30%) or more of Baseload Generators, by volume or number, have given the CfD Counterparty a BMRP Principles Request Notice in any period of ten (10) consecutive Business Days. For the purposes of determining whether the BMRP Principles Request Criterion is met, the CfD Counterparty shall calculate:

(A) the number of Baseload Generators which have given a BMRP Principles Request Notice as a percentage of the total number of Baseload Generators; and

(B) the volume attributable to Baseload CfDs to which Baseload Generators which have given a BMRP Principles Request Notice are party as a percentage of the total volume attributable to Baseload CfDs (and, for this purpose, "**volume**" shall be calculated by the CfD Counterparty using the Maximum Contract Capacity in each relevant Baseload CfD). For this purpose, the Maximum Contract Capacity in respect of this Agreement shall be deemed to be: (i) 3,277.2 MW; or (ii) in any of the circumstances set out in Clause 2.6(B) (*Single Reactor Protocol*), 1,638.6 MW; or (iii) if Reactor One has reached the end of the Reactor One Term but Reactor Two has not reached the end of the Reactor Two Term, 1,638.6 MW.

Validity of BMRP Principles Request Notices

2.4 The Generator acknowledges and agrees that all BMRP Principles Request Notices shall be invalid and of no effect if the BMRP Principles Request Criterion is not met.

2.5 The CfD Counterparty shall notify the Generator within ten (10) Business Days after the BMRP Principles Request Criterion has been met (a "**BMRP Principles Request Validity Notice**"). A BMRP Principles Request Validity Notice shall be substantially in the form set out in Part C (*BMRP Principles Request Validity Notice*) of Annex 4 (*Pro Forma Notices*).

Purpose of BMRP Principles Review

2.6 If the CfD Counterparty is required or elects to undertake a BMRP Principles Review pursuant to paragraph 2.1, then the purpose of such BMRP Principles Review shall be to assess the extent to which:

(A) the calculation of the Baseload Market Reference Price in accordance with Clause 12 (*Baseload Market Reference Price*) (including the components of the formula in Clause 12.2 (*Baseload Market Reference Price*)) is compliant with the BMRP Principles and, if the calculation of the Baseload Market Reference Price in accordance with Clause 12 (*Baseload Market Reference Price*) is not compliant with the BMRP Principles, the changes to Clause 12 (*Baseload Market*

Reference Price) which the CfD Counterparty considers to be necessary to ensure compliance with all of the BMRP Principles; and

(B) any of the following would ensure compliance with all of the BMRP Principles:

(i) an amendment or supplement to, or replacement or removal of, the Baseload Price Sources;

(ii) the application of any weighting (whether by volume or number of trades) with respect to any price sources used in the calculation of the Baseload Market Reference Price;

(iii) a change to the Season-ahead methodology for calculating the Baseload Market Reference Price; or

(iv) a change to the Reference Price Sample Period,

including any consequential changes to Part 6 (*Payment Calculations*) and this Annex 3 (*BMRP*) which are necessary to give effect to any of the foregoing,

(each such change, or any combination of such changes, a "**BMRP Mechanism Amendment**").

2.7 If the CfD Counterparty considers that it is not possible to effect any BMRP Mechanism Amendment in a manner which will be compliant with all of the BMRP Principles, the CfD Counterparty shall assess which BMRP Mechanism Amendment should be effected in order to comply with the greatest number of BMRP Principles in accordance with the BMRP Principles Prioritisation.

Notification of BMRP Principles Review

2.8 If the CfD Counterparty is required or elects to undertake a BMRP Principles Review pursuant to paragraph 2.1, the CfD Counterparty shall give a notice to the Generator (a "**BMRP Principles Review Notice**") and, if the CfD Counterparty has been required to undertake a BMRP Principles Review pursuant to paragraph 2.1(A)(iii), the CfD Counterparty shall give the BMRP Principles Review Notice within five (5) Business Days after such BMRP Principles Review Trigger has occurred. A BMRP Principles Review Notice shall:

(A) be substantially in the form set out in Part D (*BMRP Principles Review Notice*) of Annex 4 (*Pro Forma Notices*);

(B) specify the BMRP Principles Review Trigger which has occurred; and

(C) specify a deadline by which the Generator may provide a BMRP Principles Review Response Notice, such deadline to be no less than ten (10) Business Days after the date on which the BMRP Principles Review Notice is received by the Generator (the "**BMRP Principles Review Response Deadline**").

2.9 The Generator may, as soon as reasonably practicable and not later than the BMRP Principles Review Response Deadline, give a notice to the CfD Counterparty (the "**BMRP Principles Review Response Notice**"). A BMRP Principles Review Response Notice:

(A) shall be substantially in the form set out in Part E (*BMRP Principles Review Response Notice*) of Annex 4 (*Pro Forma Notices*);

(B) shall include all of the Supporting Information which the Generator wishes the CfD Counterparty to take account of in undertaking the BMRP Principles Review; and

(C) may include proposals from the Generator with respect to the manner in which the BMRP Principles Review Trigger should be addressed (including any proposals regarding BMRP Mechanism Amendments which the Generator considers should be effected).

2.10 The CfD Counterparty may disregard any BMRP Principles Review Response Notice received by the CfD Counterparty after the BMRP Principles Review Response Deadline.

Baseload Price Sources during BMRP Principles Review

2.11 From the date on which the BMRP Principles Review Notice is given:

(A) (subject to paragraph (B)) the Baseload Price Sources prior to the commencement of the relevant BMRP Principles Review shall remain unamended pending the outcome of a BMRP Principles Review; or

(B) if a BMRP Principles Review Trigger falling within paragraph 2.1(A)(iii) has occurred, the Fallback Baseload Price shall be used as the Baseload Price Source for the purposes of calculating the Baseload Market Reference Price and $BQ_{i,j}$ for all Trading Days from and including the BMRP Principles Review Trigger having occurred to and excluding the date on which the BMRP Principles Review Notice is given shall be deemed to be zero (0), pending the outcome of a BMRP Principles Review.

Notification of outcome of BMRP Principles Review

2.12 The CfD Counterparty shall give a notice to the Generator of the outcome of a BMRP Principles Review (a "**BMRP Principles Review Outcome Notice**") as soon as reasonably practicable following the conclusion of a BMRP Principles Review. A BMRP Principles Review Outcome Notice shall:

(A) be substantially in the form set out in Part F (*BMRP Principles Review Outcome Notice*) of Annex 4 (*Pro Forma Notices*);

(B) set out the outcome of the BMRP Principles Review (including the details of any BMRP Mechanism Amendments which the CfD Counterparty proposes to effect) (the "**BMRP Principles Review Proposals**") and, if paragraph 2.7 applies:

(i) a summary of the reasons for the CfD Counterparty having determined that it is not possible to effect any BMRP Mechanism Amendment in a manner which complies with all of the BMRP Principles; and

(ii) the BMRP Principles which the CfD Counterparty considers will be complied with by virtue of the BMRP Mechanism Amendments being effected; and

(C) specify the date from which any BMRP Mechanism Amendments are to take effect, such date being:

(i) no earlier than three (3) months after the date on which the BMRP Principles Review Outcome Notice is given (or such other earlier date as may be agreed by the Parties); and

(ii) in the case of BMRP Mechanism Amendments relating to a BMRP Principles Review Trigger pursuant to paragraph 2.1(A)(ii), not before such splitting of the GB electricity market occurs,

and where the CfD Counterparty considers it appropriate to do so, shall coincide with the start of a Season (the "**BMRP Principles Review Implementation Date**").

BMRP Principles Review: Disputes

2.13 Paragraph 4 (*BMRP Reviews: Dispute Process*) shall apply to any Dispute relating to this paragraph 2.

2.14 Subject to paragraph 4.12, the BMRP Mechanism Amendments set out in the BMRP Principles Review Outcome Notice shall take effect on the BMRP Principles Review Implementation Date.

3. BMRP YEAR-AHEAD MIGRATION

3.1 If:

(A) the Secretary of State has publicly announced that Baseload Generators will be able to enter into FiT Contracts for Difference pursuant to which the Baseload Market Reference Price is to be calculated using:

(i) prices quoted on Trading Days that fall before the six (6) month period immediately prior to the period in respect of which the market reference price is being calculated; and

(ii) contracts relating to the delivery of a firm volume of energy in each Settlement Unit within a Season or longer period,

(a "**Year-Ahead Basis**"); and

(B) the Baseload Market Reference Price is at that time not calculated on a Year-Ahead Basis,

then the Generator may at any time serve a notice on the CfD Counterparty (a "**Year-Ahead Switch Notice**"). A Year-Ahead Switch Notice shall:

(i) be substantially in the form set out in Part G (*Year-Ahead Switch Notice*) of Annex 4 (*Pro Forma Notices*); and

(ii) specify the date (which must be the first Trading Day of a Season and not less than twenty (20) Business Days after the date on which the Year-Ahead Switch Notice is given) from which the Generator wishes the calculation of the Baseload Market Reference Price to be conducted on a Year-Ahead Basis (the "**Year-Ahead Switch Effective Date**").

3.2 Upon receipt of a Year-Ahead Switch Notice:

(A) the Generator shall be deemed to unconditionally accept the provisions in the FiT Contracts for Difference referred to in paragraph 3.1(A) which effect the calculation of the Baseload Market Reference Price on a Year-Ahead Basis; and

(B) the Year-Ahead Basis shall apply to the calculation of the Baseload Market Reference Price in this Agreement with effect from the later of: (i) the Year-Ahead Switch Effective Date; and (ii) the first day of the first Season that immediately follows the date upon which the FiT Contracts for Difference set out in paragraph 3.1(A) come into effect.

4. BMRP REVIEWS: DISPUTE PROCESS

Procedure for raising a Dispute

4.1 The Generator may, on one or more occasions, within twenty (20) Business Days after receipt of:

(A) a BMRP Annual Review Outcome Notice, give a notice to the CfD Counterparty that it wishes to raise a Dispute in relation to the outcome of such BMRP Annual Review (a "**BMRP Annual Review Dispute Notice**"); or

(B) a BMRP Principles Review Outcome Notice, give a notice to the CfD Counterparty that it wishes to raise a Dispute in relation to the outcome of such BMRP Principles Review (a "**BMRP Principles Review Dispute Notice**"),

(a BMRP Annual Review Dispute Notice and a BMRP Principles Review Dispute Notice each being a "**BMRP Dispute Notice**" and any such Generator, a "**BMRP Dispute Generator**"). Each BMRP Dispute Notice shall:

(i) be substantially in the form set out in Part H (*BMRP Dispute Notice*) of Annex 4 (*Pro Forma Notices*); and

(ii) comply with the requirements of a Dispute Notice as specified in Clauses 62.3(A)(i) to 62.3(A)(vi) (*Outline of Dispute Resolution Procedure*) (inclusive).

Validity of BMRP Dispute Notices

4.2 The Generator acknowledges and agrees that all BMRP Dispute Notices shall be invalid and of no effect if the BMRP Dispute Threshold Criterion in respect of the relevant BMRP Dispute is not met.

4.3 The CfD Counterparty shall notify the Generator within ten (10) Business Days after the BMRP Dispute Threshold Criterion has been met (irrespective of whether or not the Generator is a BMRP Dispute Generator) (a "**BMRP Dispute Validity Notice**"). A BMRP Dispute Validity Notice shall:

(A) be substantially in the form set out in Part I (*BMRP Dispute Validity Notice*) of Annex 4 (*Pro Forma Notices*);

(B) include a proposal as to the identity, and terms of reference, of an Expert to determine the BMRP Dispute (the "**Proposed BMRP Expert**") and details of the relevant expertise that the CfD Counterparty considers qualifies him to determine such BMRP Dispute (being a person fulfilling the requirements of Clause 64.2 (*Expert Determination Procedure*) and having no conflict of interest which prevents him from determining the BMRP Dispute);

(C) comply with the requirements of an Expert Determination Notice as specified in Clause 64.1 (*Expert Determination Procedure*); and

(D) comply with the requirements of a Consolidation Notice as specified in Clause 66.2 (*Consolidation of Connected Disputes*).

Permitted bases of Dispute: BMRP Annual Review

4.4 For the purposes of paragraph 4.1(A), the Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any BMRP Annual Review if it considers there is a manifest error or fraud in any determination by the CfD Counterparty as to whether or not a BMRP Review Price Source meets the BMRP Quality Criteria or the BMRP Inclusion Criteria and that any BMRP Annual Review Dispute Notice which is based upon grounds other than those specified in this paragraph 4.4 shall be invalid and of no effect.

Permitted bases of Dispute: BMRP Principles Review

4.5 For the purposes of paragraph 4.1(B), the Generator acknowledges and agrees that it may only raise a Dispute with respect to the outcome of any BMRP Principles Review if:

(A) the CfD Counterparty has acted unreasonably in failing to pay due regard to the Supporting Information which the Generator requested the CfD Counterparty to take account of in undertaking the BMRP Principles Review (as set out in its BMRP Principles Review Response Notice);

(B) the CfD Counterparty has proposed to effect a BMRP Mechanism Amendment which was stated in the BMRP Principles Review Outcome Notice to be compliant with all of the BMRP Principles and the Generator considers that such BMRP Mechanism Amendment contravenes one (1) or more of the BMRP Principles; or

(C) the CfD Counterparty has proposed to effect a BMRP Mechanism Amendment on the basis contemplated by paragraph 2.7 and the Generator considers that either:

(i) one (1) or more of the proposed BMRP Mechanism Amendments contravenes one (1) of the BMRP Principles which the CfD Counterparty considers would be complied with by virtue of such BMRP Mechanism Amendment being effected; or

(ii) an alternative BMRP Mechanism Amendment complies with a greater number of BMRP Principles (in accordance with the BMRP Principles Prioritisation) than the BMRP Mechanism Amendments contained within the BMRP Principles Review Proposals,

and any BMRP Principles Review Dispute Notice which is based upon grounds other than those specified in this paragraph 4.5 shall be invalid and of no effect.

Resolution of valid BMRP Disputes

4.6 If:

(A) the BMRP Dispute Threshold Criterion is met in respect of the relevant BMRP Dispute; and

(B) the relevant BMRP Dispute complies with paragraph 4.4 (in respect of any BMRP Annual Review Dispute Notice) or 4.5 (in respect of any BMRP Principles Review Dispute Notice) (as the context requires),

then such BMRP Dispute shall be finally resolved in accordance with paragraphs 4.7 and 4.8.

4.7 If paragraph 4.6 applies to any BMRP Dispute:

(A) Clause 63 (*Resolution by Senior Representatives*) shall not apply to such BMRP Dispute;

(B) no agreement between the Generator and the CfD Counterparty to settle the relevant BMRP Dispute shall be valid and binding unless such resolution is agreed with all Baseload Generators;

(C) the Arbitration Procedure shall not apply to such BMRP Dispute;

(D) the Generator agrees not to raise any objection to the consolidation of such BMRP Dispute;

(E) the Expert Determination Procedure shall apply to such BMRP Dispute on the basis that:

(i) (if the BMRP Expert Appointment Threshold is met) the CfD Counterparty shall be deemed to have satisfied the requirements of, and have given an Expert Determination Notice pursuant to, Clause 64.1 (*Expert Determination Procedure*) and the Parties will be deemed to have agreed to both the identity and the terms of reference of the Proposed BMRP Expert;

(ii) (if the BMRP Expert Appointment Threshold is not met):

(a) the CfD Counterparty may within ten (10) Business Days, either:

(1) make an alternative proposal as to the identity of an Expert to determine the BMRP Dispute, in which case paragraphs 4.3(B) and 4.7(E)(i), and this paragraph 4.7(E)(ii)(a)(1), shall apply to such proposed Expert as if he were a Proposed BMRP Expert; or

(2) request the LCIA to nominate an Expert for the purposes of determining the BMRP Dispute in accordance with Clause 64.4 (*Expert Determination Procedure*); and

(b) the terms of reference of the Proposed BMRP Expert (or any Expert nominated by the LCIA pursuant to paragraph 4.7(E)(ii)(a)(2)) shall be determined by the CfD Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any Baseload Generator), and shall be binding on the Parties, provided that such terms of reference are sufficiently broad to enable the Expert to determine the BMRP Dispute;

(iii) if the CfD Counterparty and the Baseload Generators fail to agree on the terms of appointment of the Expert within ten (10) Business Days after the identity of the Expert having been agreed (or deemed to have been agreed) pursuant to paragraph 4.7(E)(i) or having been nominated by the LCIA pursuant to paragraph 4.7(E)(ii)(a)(2), such terms shall be determined by the CfD Counterparty in its sole and absolute discretion (having regard to any submissions made to it by any Baseload Generator), and shall be binding on the Parties, provided that the terms of appointment comply with the requirements of paragraph 4.7(E)(iv) and Clauses 64.5(B) and 64.5(C) (*Expert Determination Procedure*);

(iv) Clause 64.5 (*Expert Determination Procedure*) shall be deemed to have been modified such that the Parties shall use reasonable endeavours to procure that the terms of appointment of the Expert prohibit the Expert from disclosing any Supporting Information disclosed or delivered by:

(a) the Generator to the Expert in consequence of, or in respect of, his appointment as the Expert to any other Baseload Generator or the CfD Counterparty; or

(b) the CfD Counterparty in consequence of, or in respect of, his appointment as the Expert to any Baseload Generator (including the Generator);

(v) the Expert will be instructed, in establishing or modifying the procedure for the determination of the BMRP Dispute, to afford the Generator an opportunity to make submissions in respect of the BMRP Dispute irrespective of whether or not the Generator is a BMRP Dispute Generator;

(vi) if the circumstances described in Clause 64.8 (*Expert Determination Procedure*) arise, paragraphs 4.3(B), 4.7(E)(i) and 4.7(E)(ii) shall apply, with the necessary modifications, to the appointment of a replacement Expert;

(vii) for the purposes of Clause 64.11 (*Expert Determination Procedure*), the Expert shall be: (i) required to include in his determination provision for the allocation of his fees and the costs and expenses of the CfD Counterparty among each of the BMRP Dispute Generators in such manner as he, in his absolute discretion, determines is fair and equitable if he makes a determination against the BMRP Dispute Generators; and (ii) permitted to allocate his fees and the costs and expenses of the CfD Counterparty in such manner as he determines is fair and equitable if he makes a determination in favour of the BMRP Dispute Generators; and

(viii) the Expert shall, notwithstanding any other provision of the Expert Determination Procedure, be instructed to reach a determination which is to be applied to all Baseload CfDs; and

(F) the Generator acknowledges and agrees that the determination of the Expert in any BMRP Dispute shall be applied to all Baseload CfDs, irrespective of whether the Generator was a party to the BMRP Dispute giving rise to that determination.

4.8 If the BMRP Dispute is a BMRP Principles Review Dispute, the following additional provisions shall apply:

(A) If the BMRP Principles Review Dispute falls within paragraph 4.5(A), 4.5(B) or 4.5(C)(i), the Expert shall be instructed to determine whether the BMRP Mechanism Amendments contravene the BMRP Principles (or such of the BMRP Principles as were specified by the CfD Counterparty as being complied with by virtue of the proposed implementation of the BMRP Mechanism Amendments) and, if the Expert finds in favour of the Generator, to include within his determination: (i) a BMRP Mechanism Amendment which will comply with all of the BMRP Principles; or (ii) (if the Expert considers that it is not possible to effect any BMRP Mechanism Amendment in a manner which will be compliant with all of the BMRP Principles) the BMRP Mechanism Amendment which will comply

with the greatest number of BMRP Principles in accordance with the BMRP Principles Prioritisation.

(B) If the BMRP Principles Review Dispute falls within paragraph 4.5(C)(ii), the Expert shall be instructed to determine whether the BMRP Mechanism Amendments proposed by the Generator would result in compliance with a greater number of BMRP Principles (in accordance with the BMRP Principles Prioritisation) than the BMRP Mechanism Amendments contained within the BMRP Principles Review Proposals and, if the Expert finds in favour of the Generator, to stipulate the BMRP Mechanism Amendments which will comply with the greatest number of BMRP Principles in accordance with the BMRP Principles Prioritisation.

(C) Notwithstanding paragraphs 4.8(A) and 4.8(B), the Expert shall not be permitted to include within his determination any alternative BMRP Mechanism Amendments to those contained within the BMRP Principles Review Proposals unless such proposals contravene one (1) or more principles and the Expert has determined that there is a BMRP Mechanism Amendment which will comply with a greater number of BMRP Principles (in accordance with the BMRP Principles Prioritisation) than the BMRP Principles Review Proposals and, as such, the Expert's role shall not extend to an assessment of whether the BMRP Principles Review Proposals represent an optimal solution in the context of the parameters contemplated by the BMRP Principles.

BMRP Expert Appointment Threshold

4.9 For the purposes of paragraphs 4.7(E)(i) and 4.7(E)(ii), the "**BMRP Expert Appointment Threshold**" is that thirty per cent. (30%) or more of Baseload Generators, by volume or number, have consented, or not objected in writing, to both the identity and the terms of reference of the Proposed BMRP Expert. For the purposes of determining whether the BMRP Expert Appointment Threshold is met, the CfD Counterparty shall calculate:

(A) the number of Baseload Generators which have consented or have been deemed to have consented to the Proposed BMRP Expert as a percentage of the total number of Baseload Generators; and

(B) the volume attributable to Baseload CfDs to which Baseload Generators which have consented or have been deemed to have consented to the Proposed BMRP Expert are party as a percentage of the total volume attributable to Baseload CfDs (and, for this purpose, "**volume**" shall be calculated by the CfD Counterparty using the Maximum Contract Capacity in each relevant Baseload CfD). For this purpose, the Maximum Contract Capacity in respect of this Agreement shall be deemed to be: (i) 3,277.2 MW; or (ii) in any of the circumstances set out in Clause 2.6(B) (*Single Reactor Protocol*), 1,638.6 MW; or (iii) if Reactor One has reached the end of the Reactor One Term but Reactor Two has not reached the end of the Reactor Two Term, 1,638.6 MW.

Provisions applying pending resolution of a BMRP Dispute

4.10 If there is a valid BMRP Dispute requiring resolution in accordance with the provisions of paragraphs 4.6 to 4.8 then, pending resolution of such BMRP Dispute, paragraphs 4.11 and 4.12 shall apply.

4.11 If there is a valid BMRP Dispute relating to a BMRP Annual Review:

(A) the relevant BMRP Annual Review Outcome Notice shall be deemed to be valid and effective and paragraphs 1.7(A) and 1.7(B) shall be applied for the purposes of determining the Baseload Price Sources with effect from the BMRP Annual Review Implementation Date; and

(B) if the Expert determines that a BMRP Review Price Source:

(i) meets the BMRP Inclusion Criteria and the BMRP Quality Criteria, such BMRP Review Price Source shall be a Baseload Price Source with effect from the first day of the Season immediately following the date falling three (3) months after the date on which the Expert has made his determination; or

(ii) does not meet the BMRP Inclusion Criteria and the BMRP Quality Criteria, then (subject to the operation of the provisos contained in paragraphs 1.7(B)(i) and 1.7(B)(ii)), such BMRP Review Price Source shall not be used as a Baseload Price Source with effect from the first day of the Season immediately following the date falling three (3) months after the date on which the Expert has made his determination.

4.12 If there is a valid BMRP Dispute relating to a BMRP Principles Review:

(A) the relevant BMRP Principles Review Outcome Notice shall be deemed to be valid and effective and the BMRP Principles Review Proposals shall apply with effect from the BMRP Principles Review Implementation Date; and

(B) if the Expert finds in favour of the Generator, the BMRP Mechanism Amendments provided for in the determination of such Expert shall be implemented on a date falling no earlier than three (3) months after the date on which the Expert has made his determination and, where the Expert considers it appropriate to do so, shall coincide with the start of a Season.

BMRP Dispute Threshold Criterion

4.13 For the purposes of this paragraph 4 (*BMRP Reviews: Dispute Process*), the "**BMRP Dispute Threshold Criterion**" is that thirty per cent. (30%) or more of Baseload Generators, by volume or number, have given the CfD Counterparty a BMRP Dispute Notice in respect of any given BMRP Dispute prior to the date specified in paragraph 4.1. For the purposes of determining whether the BMRP Dispute Threshold Criterion is met, the CfD Counterparty shall calculate:

(A) the number of Baseload Generators which have given a BMRP Dispute Notice as a percentage of the total number of Baseload Generators; and

(B) the volume attributable to Baseload CfDs to which Baseload Generators which have given a BMRP Dispute Notice are party as a percentage of the total volume attributable to Baseload CfDs (and, for this purpose, "**volume**" shall be calculated by the CfD Counterparty using the Maximum Contract Capacity in each relevant Baseload CfD). For this purpose, the Maximum Contract Capacity in respect of this Agreement shall be deemed to be: (i) 3,277.2 MW; or (ii) in any of the circumstances set out in Clause 2.6(B) (*Single Reactor Protocol*), 1,638.6 MW; or (iii) if Reactor One has reached the end of the Reactor One Term but Reactor Two has not reached the end of the Reactor Two Term, 1,638.6 MW.

Part B
BMRP Principles

1. BMRP PRINCIPLES

The following are the "**BMRP Principles**":

(A) Save in respect of a BMRP Principles Review Trigger pursuant to paragraph 2.1(A)(ii) of Part A (*BMRP Review Procedures*), the calculation of the Baseload Market Reference Price shall be the same for all Baseload CfDs (provided that if the circumstances contemplated by paragraph 3.1(A) of Part A (*BMRP Review Procedures*) have arisen, the calculation of the Baseload Market Reference Price shall be the same for, on the one hand, all Baseload CfDs in respect of which the Baseload Market Reference Price is being calculated on a Year-Ahead Basis and, on the other hand, all other Baseload CfDs).

(B) The calculation of the Baseload Market Reference Price shall reflect the market price for the sale of electricity within Great Britain or, in the event of a BMRP Principles Review Trigger pursuant to paragraph 2.1(A)(ii) of Part A (*BMRP Review Procedures*), the relevant part of Great Britain.

(C) The Baseload Market Reference Price shall be calculated using price sources for baseload contracts relating to the delivery of energy over as long as possible a period up to a Season (or a year where the Baseload Market Reference Price is being calculated on a Year-Ahead Basis), provided that, for this purpose, the sample period for the Baseload Market Reference Price calculation:

(i) shall not be longer than the duration of delivery of the baseload contracts used in such calculation (the "**Baseload Contract Period**"); and

(ii) must commence no earlier than one (1) Baseload Contract Period prior to the start of the period in respect of which the calculation is being performed.

(D) The Baseload Market Reference Price shall be calculated so as to reflect a reasonable volume of trades from a reasonable number and diverse range of market participants.

(E) The Baseload Market Reference Price shall be calculated so as not to unduly dampen, dilute, disrupt or otherwise distort components of the energy market in Great Britain that would, absent the existence of FiT Contracts for Difference, contribute to the operational behaviour of the energy market in Great Britain and the pricing thereof.

(F) The calculation of the Baseload Market Reference Price shall be calculated using price sources for Baseload CfDs which are available to the CfD Counterparty on commercially reasonable terms.

(G) The Baseload Market Reference Price calculation is to utilise price sources which satisfy the BMRP Quality Criteria.

(H) The Baseload Market Reference Price calculation is to utilise price sources which satisfy the BMRP Inclusion Criteria.

(I) If a BMRP Principles Review Trigger falling within paragraph 2.1(A)(ii) of Part A (*BMRP Review Procedures*) occurs or has occurred, the Baseload Market Reference Price calculation shall pay regard to the physical location of the Facility and the extent to which such physical location and constraints on the delivery of energy into the market thereby imposed may have on the price for the sale of its electricity delivered within Great Britain or the relevant part of Great Britain.

2. PRIORITISATION OF BMRP PRINCIPLES

If:

(A) the application of any combination of the BMRP Principles gives rise to a conflict; or

(B) it is not possible for a methodology for calculating the Baseload Market Reference Price to satisfy all of the BMRP Principles,

the BMRP Principle first appearing in the list in paragraph 1 (*BMRP Principles*) shall be afforded priority.

Part C
Fallback Baseload Price Methodology

1. The CfD Counterparty will, in relation to each Trading Day, source five (5) arm's length quotes from five (5) brokers (each broker to be from a different broking house) for delivery of five (5) MWh in the Calculation Season pursuant to a Baseload Forward Season Contract.

2. The CfD Counterparty will, in relation to each quote, seek to obtain a bid and offer price.

3. If: (i) a broker supplies a bid and offer price, the mean of the bid price and offer price will be the input price; (ii) a broker supplies a bid price but not an offer price, such bid price will be used; and (iii) a broker does not supply a bid price, the input price will be zero (0).

4. The CfD Counterparty will use these prices to calculate the Baseload Market Reference Price in accordance with the formula at Clause 12.2 (*Baseload Market Reference Price*), having excluded any input price which is more than ten per cent. (10%) higher or lower than the median of the broker input prices (excluding, for the purposes of calculating such median, any brokers who do not supply a bid price).

Annex 4
Pro Forma Notices

Part A
BMRP Annual Review Outcome Notice

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

From: [●] (the "**CfD Counterparty**")
[**Address**]

Dated: [●]

CONTRACT FOR DIFFERENCE – BMRP ANNUAL REVIEW OUTCOME NOTICE

Dear Sirs,

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 between you as the Generator and us as the CfD Counterparty (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.

2. We further refer you to paragraph 1.6 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*).

3. This is a BMRP Annual Review Outcome Notice.

4. [The following BMRP Review Price Source[s] [is]/[are] to be [a] Baseload Price Source[s]: [●].]/[We have determined that no BMRP Review Price Source meets the BMRP Inclusion Criteria and the BMRP Quality Criteria.]

5. [BMRP Review Price Source [●] meets the BMRP Quality Criteria.]/[We [enclose a]/[set out the following] summary of the reasons for determining that BMRP Review Price Source [●] does not meet all or any of the BMRP Quality Criteria: [●].]

6. [BMRP Review Price Source [●] meets the BMRP Inclusion Criteria: [●].]/[BMRP Review Price Source [●] does not meet [all]/[any]of the BMRP Inclusion Criteria. [The Excluded 5-TD Sample Period[s] in respect of BMRP Review Price Source [●] [is]/[are] as follows: [●].]/[The 5-TD Trade Number Percentage in Excluded 5-TD Sample Period [●] was: [●].]/[The 5-TD Volume Percentage in Excluded 5-TD Sample Period [●] was: [●].]/[The BMRP Review Price Source [●] did not meet the BMRP Inclusion Criterion in paragraph (C) or (D) of the definition of BMRP Inclusion Criteria.]]

7. The BMRP Annual Review Implementation Date is: [●].

Yours faithfully,

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

Part B
BMRP Principles Request Notice

To: [●] (the "**CfD Counterparty**")
[**Address**]

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

Dated: [●]

CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REQUEST NOTICE

Dear Sirs,

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 between you as the CfD Counterparty and us as the Generator (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.

2. We further refer you to paragraph 2.2 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*).

3. This is a BMRP Principles Request Notice.

4. We believe the calculation of the Baseload Market Reference Price does not comply with the following BMRP Principle[s]: [●].

5. [We propose that the non-compliance with the BMRP Principle[s] should be addressed as follows: [●].]

6. We enclose the following Supporting Information, in reasonable detail, which we consider to be relevant to and supportive of the matters in paragraph[s] 4 [and 5] above.

Yours faithfully,

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

Part C
BMRP Principles Request Validity Notice

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

From: [●] (the "**CfD Counterparty**")
[**Address**]

Dated: [●]

CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REQUEST VALIDITY NOTICE

Dear Sirs,

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 between you as the Generator and us as the CfD Counterparty (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.

2. We further refer you to paragraph 2.5 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*).

3. This is a BMRP Principles Request Validity Notice.

4. The BMRP Principles Request Criterion has been met.

Yours faithfully,

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

Part D
BMRP Principles Review Notice

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

From: [●] (the "**CfD Counterparty**")
[**Address**]

Dated: [●]

CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REVIEW NOTICE

Dear Sirs,

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 between you as the Generator and us as the CfD Counterparty (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.

2. We further refer you to paragraph 2.8 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*).

3. This is a BMRP Principles Review Notice.

4. The following BMRP Principles Review Trigger has occurred: [●].

5. The BMRP Principles Review Response Deadline is: [●].

Yours faithfully,

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

Part E
BMRP Principles Review Response Notice

To: [●] (the "**CfD Counterparty**")
[**Address**]

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

Dated: [●]

CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REVIEW RESPONSE NOTICE

Dear Sirs,

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 between you as the CfD Counterparty and us as the Generator (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.

2. We further refer you to paragraph 2.9 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*).

3. This is a BMRP Principles Review Response Notice in relation to the BMRP Principles Review Notice dated [●].

4. We enclose the following Supporting Information which we wish you to take account of in undertaking the BMRP Principles Review: [●].

5. [We propose that the BMRP Principles Review Trigger should be addressed as follows: [●].]

Yours faithfully,

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

Part F
BMRP Principles Review Outcome Notice

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

From: [●] (the "**CfD Counterparty**")
[**Address**]

Dated: [●]

CONTRACT FOR DIFFERENCE – BMRP PRINCIPLES REVIEW OUTCOME NOTICE

Dear Sirs,

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 between you as the Generator and us as the CfD Counterparty (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.

2. We further refer you to paragraph 2.12 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*).

3. This is a BMRP Principles Review Outcome Notice.

4. We [enclose a]/[set out the following] summary of the outcome of the BMRP Principles Review[:[●]]. [The BMRP Principles Review Proposals are as follows: [●].]

5. [We enclose a summary of the reasons for determining that it is not possible to effect any BMRP Mechanism Amendment (or combination of BMRP Mechanism Amendments) in a manner which complies with all of the BMRP Principles. We consider that the following BMRP Principles will be complied with by virtue of the BMRP Mechanism Amendments being effected: [●].]

6. The BMRP Principles Review Implementation Date is: [●].

Yours faithfully,

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

Part G
Year-Ahead Switch Notice

To: [●] (the "**CfD Counterparty**")
[**Address**]

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

Dated: [●]

CONTRACT FOR DIFFERENCE – YEAR-AHEAD SWITCH NOTICE

Dear Sirs,

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 between you as the CfD Counterparty and us as the Generator (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.

2. We further refer you to paragraph 3.1 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*).

3. This is a Year-Ahead Switch Notice.

4. The Year-Ahead Switch Effective Date shall be: [●].

Yours faithfully,

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

Part H
BMRP Dispute Notice

To: [●] (the "**CfD Counterparty**")
[**Address**]

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

Dated: [●]

CONTRACT FOR DIFFERENCE – BMRP DISPUTE NOTICE

Dear Sirs,

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 between you as the CfD Counterparty and us as the Generator (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.

2. We further refer you to paragraph 4.1 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*).

3. This is a BMRP [Annual Review]/[Principles Review] Dispute Notice.

4. The subject matter of the Dispute is [●]. The issues to be resolved are [●].

5. The relevant [Clause]/[paragraph] to which the Dispute relates is [●].

6. We consider the correct position is [●]. Our reasons for believing this is the correct position are [●].

7. [We intend to rely on the following Supporting Information, copies of which we enclose: [●].]

8. The [relief]/[determination]/[remedy]/[recourse] which we seek in relation to the Dispute is [●].

Yours faithfully,

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

Part I
BMRP Dispute Validity Notice

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

From: [●] (the "**CfD Counterparty**")
[**Address**]

Dated: [●]

CONTRACT FOR DIFFERENCE – BMRP DISPUTE VALIDITY NOTICE

Dear Sirs,

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 between you as the Generator and us as the CfD Counterparty (the "**Agreement**"). Terms and expressions defined in or incorporated into the Agreement have the same meaning when used in this notice.

2. We further refer you to paragraph 4.3 of Part A (*BMRP Review Procedures*) of Annex 3 (*BMRP*).

3. This is a BMRP Dispute Validity Notice in relation to the BMRP Dispute Notice dated [●].

4. The BMRP Dispute Threshold Criterion has been met.

5. We propose that the Proposed BMRP Expert appointed be [●]. We propose that [s]he be appointed on the following terms: [●]. We believe that the Proposed BMRP Expert has the relevant expertise which qualifies [him]/[her] to determine the relevant BMRP Dispute for the following reasons: [●].

6. We enclose a Consolidation Notice in relation to the BMRP Dispute.

Yours faithfully,

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

Annex 5
HPC Properties

"**HPC Properties**" means all assets which are located within the Site and the Hinkley Point C hereditament(s) and that are required for the Project, including:

(i) land required for the operation and maintenance of Hinkley Point C or necessary for the purposes of the Nuclear Site Licence;

(ii) buildings required for the operation and maintenance of Hinkley Point C or necessary for the purposes of the Nuclear Site Licence;

(iii) systems that support the reactors within the nuclear island (including the primary and secondary cooling systems in relation to the Reactor building);

(iv) turbine halls and associated machinery required for the operation and maintenance of Hinkley Point C or necessary for the purposes of the Nuclear Site Licence;

(v) supporting buildings necessary to run and maintain the power station outside the nuclear island and turbine island;

(vi) electrical systems or fire protection systems, in respect of the power station and supporting buildings of Hinkley Point C;

(vii) buildings or infrastructure required for the transport or storage of nuclear waste generated by the Reactors, such as the spent fuel store, at Hinkley Point C; and

(viii) the Associated Facilities.

Annex 6
Redacted Terms

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Annex 7
Single Reactor Protocol and Protocol Reversal

Part A
Single Reactor Protocol

1. The amendments required by this Single Reactor Protocol to this Agreement, the Original Base Case Financial Model and the Original Model User Guide and the calculations and procedures in respect of this Agreement, the Original Base Case Financial Model and the Original Model User Guide are:

(A) in relation to the definitions:

(i) in respect of the definition in Clause 1.1 (*Definitions*) of **Contracted Generation Cap**:

(a) the reference to "nine hundred and ten million (910,000,000)" shall be deleted and replaced with an amount of MWh that is equal to the remaining Contracted Generation Cap (that is, as reduced as provided by that definition) calculated as at the date of the Single Reactor Scenario multiplied by zero point five (0.5); and

(b) there shall be added after the words "as reduced by the aggregate number of MWhs" the words "in respect of the Retained Reactor from the date of the Single Reactor Scenario";

(ii) in respect of the definition in Clause 1.1 (*Definitions*) of **Estimated Facility Generation**, the existing definition shall be deleted and replaced with the following:

""**Estimated Facility Generation**" means:

(A) the estimated generation from the Facility determined from the Original Base Case Financial Model and as described in the Original Model User Guide and following the generation profile for the Facility for the remainder of the Term as set out in the Original Base Case Financial Model, adjusted to take account of: (x) any prior Qualifying Changes in Law affecting generation by the Facility; and (y) the projected performance of the Facility for:

(i) the relevant Adjusted Output Period;

(ii) the remaining Term; or

(iii) the design life of the relevant asset, works or equipment,

as applicable and, in each case, taking into account the actual performance of the Facility from the Reactor One Start Date or, where there is insufficient data to form a reasonable judgment on

the performance of the Facility, the actual performance of Other EPR Reactors; and

(B) capped at the remaining Contracted Generation Cap,

unless, in respect of a relevant Adjusted Output Period, the output of the Facility, as reduced, is zero (0), in which case the Estimated Facility Generation for such Adjusted Output Period shall be deemed to be zero (0);";

(iii) in respect of the definition in Clause 1.1 (*Definitions*) of **Installed Capacity**, the reference to "the capacity of the Facility or, as the case may be, a Reactor" shall be treated as a reference to the capacity of the Retained Reactor; and

(iv) in respect of the definition in Clause 1.1 (*Definitions*) of **Original Base Case Financial Model**, this shall be amended to refer to such model as updated in accordance with Part A (*Single Reactor Protocol*) of Annex 7 (*Single Reactor Protocol and Protocol Reversal*);

(B) in respect of the Original Base Case Financial Model, the following amendments shall be made:

(i) the input assumptions to the model as regards commissioning, operating and lifecycle costs as set out in the Original Model User Guide will be set by reference to such costs as are reasonably and properly incurred or forecast to be incurred by the Generator with respect to the Project after taking into account the Single Reactor Scenario;

(ii) the input assumptions to the model as regards Construction Costs as described in the Original Model User Guide will be set by reference to the Generator's proposed Construction Costs as described in the Original Model User Guide after taking into account the Single Reactor Scenario; and

(iii) the input assumptions to the model as regards the forecast net export generation for the Facility will be reduced by fifty per cent. (50%); and

(C) in respect of the Original Model User Guide, the costs described as "Base Eligible Opex Costs" shall be updated to reflect the Original Base Case Financial Model amendments referred to in paragraph (B)(i) above.

2. On and from the date of the relevant Single Reactor Scenario, the Parties rights and obligations under this Agreement shall, subject to Clause 2.6(D) (*Single Reactor Protocol*), end with respect to the Removed Reactor, but, except where otherwise specified, without prejudice to any accrued rights and obligations in respect of the Removed Reactor.

3. For the avoidance of doubt and without limitation, this Single Reactor Protocol and the amendments required by this Single Reactor Protocol to this Agreement, the Original

Base Case Financial Model and the Original Model User Guide and the calculations and procedures in respect of this Agreement and the Original Base Case Financial Model and the Original Model User Guide will not, of itself or themselves, require any amendment to the Nominal Project IRR, the Post-Tax Project Rate of Return, the Strike Price or the Term of this Agreement, except to the extent resulting from the application of the principles set out in this Single Reactor Protocol.

Part B
Single Reactor Protocol Reversal

1. The amendments required by this Single Reactor Protocol Reversal to this Agreement, the Original Base Case Financial Model and the Original Model User Guide and the calculations and procedures in respect of this Agreement, the Original Base Case Financial Model and the Original Model User Guide are:

(A) in relation to the definitions:

(i) in respect of the definition in Clause 1.1 (*Definitions*) of **Contracted Generation Cap**:

(a) the reference to the number of MWhs shall be to that number of MWh that is equal to the remaining Contracted Generation Cap (that is, as reduced as provided by that definition) calculated as at the date of the notification from the CfD Counterparty to the Generator pursuant to Clause 2.6(D)(ii) (*Single Reactor Protocol*) multiplied by two (2); and

(b) the words "in respect of the Retained Reactor from the date of the Single Reactor Scenario" inserted as a result of the Single Reactor Protocol shall be deleted;

(ii) in respect of the definition in Clause 1.1 (*Definitions*) of **Estimated Facility Generation**, the definition inserted as a result of the Single Reactor Protocol shall be deleted and replaced with the following:

""**Estimated Facility Generation**" means:

(A) in relation to a Qualifying Change in Law that has affected, or is expected to affect, one Reactor (but not the other Reactor):

(i) the estimated generation from that Reactor determined from the Original Base Case Financial Model and as described in the Original Model User Guide and following the generation profile for that Reactor for the remainder of the Term as set out in the Original Base Case Financial Model, adjusted to take account of: (x) any prior Qualifying Changes in Law affecting generation by that Reactor; and (y) the projected performance of that Reactor, for:

(a) the relevant Adjusted Output Period;

(b) the remaining Term; or

(c) the design life of the relevant asset, works or equipment,

as applicable and, in each case, taking into account the actual performance of that Reactor from the Start Date of that Reactor or, where there is insufficient data to form a reasonable judgment on the performance of that Reactor, the actual performance of Other EPR Reactors; and

(ii) capped at fifty per cent. (50%) of the remaining Contracted Generation Cap,

unless, in respect of a relevant Adjusted Output Period, the output of that Reactor, as reduced, is zero (0), in which case the Estimated Facility Generation for such Adjusted Output Period for that Reactor shall be deemed to be zero (0); or

(B) in all other cases:

(i) the estimated generation from the Facility determined from the Original Base Case Financial Model and as described in the Original Model User Guide and following the generation profile for the Facility for the remainder of the Term as set out in the Original Base Case Financial Model, adjusted to take account of: (x) any prior Qualifying Changes in Law affecting generation by the Facility; and (y) the projected performance of the Facility, for:

(a) the relevant Adjusted Output Period;

(b) the remaining Term; or

(c) the design life of the relevant asset, works or equipment,

as applicable and, in each case, taking into account the actual performance of the Facility from the Reactor One Start Date or, where there is insufficient data to form a reasonable judgment on the performance of the Facility, the actual performance of Other EPR Reactors; and

(ii) capped at the remaining Contracted Generation Cap,

unless, in respect of a relevant Adjusted Output Period, the output of the Facility, as reduced, is zero (0), in which case the Estimated Facility Generation for such Adjusted Output Period shall be deemed to be zero (0);";

(iii) in respect of the definition in Clause 1.1 (*Definitions*) of **Installed Capacity**, the reference to "the capacity of the Facility or, as the case

may be, a Reactor" shall cease to be treated as a reference merely to the capacity of the Retained Reactor; and

(iv) in respect of the definition in Clause 1.1 (*Definitions*) of **Original Base Case Financial Model**, this shall be amended to refer to such model as updated in accordance with Part B (*Single Reactor Protocol Reversal*) of Annex 7 (*Single Reactor Protocol and Protocol Reversal*);

(B) in respect of the Original Base Case Financial Model, the following amendments shall be made:

(i) the input assumptions to the model as regards commissioning, operating and lifecycle costs as set out in the Original Model User Guide will be reset to the original assumptions as set out in the Original Model User Guide before the application of the Single Reactor Protocol;

(ii) the input assumptions to the model as regards Construction Costs as described in the Original Model User Guide will be reset by reference to the Generator's proposed Construction Costs as described in the Original Model User Guide to the original amounts before the application of the Single Reactor Protocol; and

(iii) the input assumptions to the model as regards the forecast net export generation for the Facility will be reset to one hundred per cent. (100%) (in other words, the original assumptions before the application of the Single Reactor Protocol); and

(C) in respect of the Original Model User Guide, the costs described as "Base Eligible Opex Costs" shall be updated to reflect the reset to the Original Base Case Financial Model referred to in paragraph (B)(i) above.

2. In addition to the amendments set out in paragraph 1 above, the Parties will agree any further amendments to this Agreement, the Original Base Case Financial Model and/or the Original Model User Guide and the calculations and procedures in respect of this Agreement, the Original Base Case Financial Model and/or the Original Model User Guide, which may be required as a consequence of the rights and obligations of the Parties under this Agreement (other than the Generator's rights under Clause 2.6(B)(i) (*Single Reactor Protocol*)) recommencing in respect of the Removed Reactor provided that any such amendments:

(A) do not change in any material respect the commercial terms of the Parties under this Agreement (as at the Agreement Date);

(B) preserve, to the extent reasonably possible, the Parties' rights and obligations under this Agreement (as at the Agreement Date);

(C) do not permit or require any compensation to be payable under this Agreement in respect of the Removed Reactor to the extent that such compensation relates to the period from (and including) the date a Single Reactor Scenario occurs to

(but excluding) the date the CfD Counterparty notifies the Generator pursuant to Clause 2.6(D)(ii) (*Single Reactor Protocol*); and

(D) provide for, if applicable, the recalculation of any compensation that has been paid by way of a Strike Price Adjustment in respect of the Retained Reactor to reflect the Estimated Facility Generation for the remainder of the Term as at the date the CfD Counterparty notifies the Generator pursuant to Clause 2.6(D)(ii) (*Single Reactor Protocol*).

3. The CfD Counterparty has the right to require the Generator to provide a report which has regard (so far as practicable) to the principles and matters set out in Clause 16.1(D) (*Preliminary Opex Reports*) and which takes account of the recommencement of the Removed Reactor.

4. For the avoidance of doubt and without limitation, the amendments required by this Single Reactor Protocol Reversal to this Agreement, the Original Base Case Financial Model and the Original Model User Guide and the calculations and procedures in respect of this Agreement and the Original Base Case Financial Model and the Original Model User Guide will not, of itself or themselves, require any amendment to the Nominal Project IRR, the Post-Tax Project Rate of Return, the Strike Price or the Term of this Agreement, except to the extent resulting from the application of the principles set out in this Single Reactor Protocol Reversal.

Annex 8
Form of State Aid Side Letter

PRIVATE AND CONFIDENTIAL

NNB Generation Company (HPC) Limited (the **Generator**)
The Qube,
90 Whitfield Street,
London W1T 4EZ

Attention: Institutional Contracts Management team
with a copy to the Company Secretary

-and-

Low Carbon Contracts Company Ltd (the **CfD Counterparty**)
Fleetbank House,
2-6 Salisbury Square,
London EC4Y 8JX

For the attention of the Directors

-and-

NNB Top Company HPC (B) Limited in its capacity as Lead Investor (for itself and for the benefit of Électricité de France S.A., EDF Energy (NNB) Limited (a Hong Kong company) and China General Nuclear Power Corporation and such other Investor(s) as the CfD Counterparty agrees, acting reasonably)

For the attention of the Directors

[*Date*]

Dear Sirs,

State Aid

1. We refer to the Contract for Difference for Hinkley Point C dated [*date to be inserted*] 2016 entered into between the Generator and the CfD Counterparty (the **HPC Contract for Difference**) and the Secretary of State Investor Agreement dated [*date to be inserted*] 2016 entered into between (among others) the Generator, EDF Energy, the Secretary of State and the CfD Counterparty (the **HPC Secretary of State Investor Agreement**). Unless the context otherwise requires, terms used but not defined in this letter shall have the meaning given to them in the HPC Contract for Difference.

2. This is the State Aid Side Letter referred to in the HPC Contract for Difference and the HPC Secretary of State Investor Agreement.

3. Nothing in this letter should be treated as pre-empting any decision by the Secretary of State or the CfD Counterparty as to the use of the powers available to the Secretary of

State or the CfD Counterparty from time to time. Nor shall this letter impose any obligations on the Secretary of State or the CfD Counterparty to the extent that such an obligation would:

(A) be a fetter on the discretion of the Secretary of State or the CfD Counterparty to decide if and how to exercise any power or duty which may be available to her or it;

(B) prevent the Secretary of State or the CfD Counterparty from taking proper account of representations received in the course of any consultation which it is necessary or appropriate for her or it to conduct before exercising any public law power; or

(C) impose any obligation on the Secretary of State or the CfD Counterparty to promote or make legislation.

4. Nothing in this letter is to be understood as requiring any Side Letter Party to do anything that would be unlawful (whether at common law, or contrary to any obligation arising under any European Commission State Aid approval decision in relation to the HPC Contract for Difference, the HPC Secretary of State Investor Agreement and/or the Initial CP Finance Documents (an **Approval Decision**), the State Aid Rules, the Human Rights Act 1998 or a requirement arising under any other statute, or contrary to any requirement arising under any other European or other international law).

5. This letter is solely for the benefit of the Side Letter Parties.

6. The Side Letter Parties agree that:

(A) the UK Government has the primary role in liaising with the European Commission in respect of any Approval Decisions and that, subject to paragraph 6(C) below, the transmittal of any document or information to DG Competition at the European Commission in relation to the approval or otherwise of the Approved Arrangements shall be made through DECC (as a representative of the UK Government) and, in particular, the UK Permanent Representation to the European Union (UKRep);

(B) in accordance with the HPC Contract for Difference, the HPC Secretary of State Investor Agreement and this letter, the Side Letter Parties are each fully committed to respond to any European Commission request for information/documents as soon as reasonably practicable and should the European Commission request documents or information that it considers necessary, the Side Letter Parties or (in respect of information held by an Investor) the Lead Investor shall use reasonable endeavours to procure that the relevant Investor (or the relevant group company of an Investor) shall, as soon as reasonably practicable, provide or assist in the provision of such requested information to help both in the substance and the timescale of the assessment, under the State Aid Rules;

(C) neither of the above undertakings shall prejudice or limit the Side Letter Parties' respective rights and obligations to communicate directly with the European

Commission in accordance with the State Aid Rules, including without limitation any rights and obligations set out in the Commission's Code of Best Practice for the conduct of State aid control procedures (2009/C 136/04), Council Regulation (EC) No. 734/2013 and Council Regulation (EC) No. 659/1999;

(D) any communications pursuant to this letter:

(i) between the Secretary of State and the Lead Investor; and/or

(ii) between the CfD Counterparty and the Lead Investor,

shall be deemed to have been sent/received by the Lead Investor for and on behalf of itself and any/all other Investor(s) who are Side Letter Parties; and

(E) the CfD Counterparty and the Secretary of State shall not be obliged to receive or consider communications in relation to this letter from any Investor apart from the Lead Investor.

7. If the European Commission (or the Secretary of State acting reasonably) requests that a Side Letter Party take or refrain from taking any action in order to ensure compliance with any Approval Decision and/or the State Aid Rules, the Secretary of State will, subject to paragraph 8, consult and agree with the relevant Side Letter Party any such reasonable action to be taken.

8. If the Secretary of State requests a Side Letter Party to take or refrain from taking any action, the relevant Side Letter Party (acting reasonably) shall agree to any action that:

(A) represents the minimum change to the activity of the Side Letter Party necessary to enable the United Kingdom to grant State aid in compliance with an Approval Decision and/or the State Aid Rules; and

(B) would not materially worsen the balance of benefits and burdens for the Generator or its shareholders envisaged in the Approved Arrangements.

9. If at any time the CfD Counterparty and/or the Secretary of State (as the case may be) considers that the Generator has not complied with an Approval Decision and, as a result, that it may be unlawful for the CfD Counterparty and/or the Secretary of State to continue to perform their obligations under the HPC Contract for Difference and/or the HPC Secretary of State Investor Agreement, the CfD Counterparty and/or the Secretary of State (as appropriate) will notify the Generator as soon as practicable and shall include an explanation, in reasonable detail, as to why it considers that the Generator has not complied with an Approval Decision. Following receipt of such notice, the Generator will be entitled to make reasonable representations regarding its compliance with an Approval Decision.

10. In making any determination as to whether the Generator has failed to comply with the terms of an Approval Decision such that it would be unlawful for the CfD Counterparty and/or the Secretary of State to continue to perform their obligations under the HPC Contract for Difference and/or the HPC Secretary of State Investor Agreement, the CfD Counterparty and the Secretary of State (as appropriate) shall take into account the

Generator's reasonable representations as to its compliance with an Approval Decision, provided that these were submitted by the Generator as soon as practicable after receipt of the notice referred to in paragraph 9 above.

11. If any of the events in clause 56.2(A) (*State Aid Suspension*) of the HPC Contract for Difference or clause 5 (*State aid suspension*) of the HPC Secretary of State Investor Agreement occur or the Side Letter Parties, acting reasonably, consider that amendments are necessary to the Approved Arrangements so as to render the Approved Arrangements in compliance with the State Aid Rules and/or the terms of any Approval Decision and/or capable of obtaining State aid approval from the European Commission, the Side Letter Parties shall use reasonable endeavours to negotiate, for a period of 30 (thirty) months (or such other period, if any, as is agreed in writing between the Side Letter Parties each having regard to matters including those outlined in paragraph 12) from the date of notification under clause 56.2(B) (*State Aid Suspension*) of the HPC Contract for Difference or if this date has not yet occurred, from the date that the Side Letter Parties agree is the start date for their amendment negotiations, such amendments to the Approved Arrangements as are necessary to enable the Parties to perform their respective obligations under the Approved Arrangements in compliance with the terms of any Approval Decision and/or the State Aid Rules (as applicable). Each Side Letter Party agrees to work co-operatively with each other Side Letter Party during this time.

12. In agreeing any extension to the 30 (thirty) months time period referred to in paragraph 11, the Side Letter Parties may take into account the time required for appeals against a decision, determination, ruling or other action that resulted in a suspension of a Party's obligations pursuant to clause 56.2(A) (*State Aid Suspension*) of the HPC Contract for Difference and/or procuring further approval decisions.

13. The Secretary of State and the CfD Counterparty shall not unreasonably refuse to agree to any amendments to the Approved Arrangements pursuant to paragraph 11 if the amendment:

    (A) represents the minimum change necessary to render the Approved Arrangements in compliance with the State Aid Rules or the terms of any State aid approval decision and/or capable of obtaining State aid approval from the European Commission taking account of the outcome of any relevant decision, determination or ruling of a State Aid Competent Authority;

    (B) would not materially increase the aggregate cost of Electricity Market Reform to the Secretary of State, electricity suppliers, electricity consumers and taxpayers in the United Kingdom (disregarding the Generator) as compared with the cost of Electricity Market Reform in the absence of such amendments;

    (C) would not require a fundamental change or addition to Government policy; and

    (D) would not require a fundamental change or addition to the constitutional documents of the CfD Counterparty,

    provided that the CfD Counterparty, in considering whether to agree to any such amendment, may rely on advice received from the Secretary of State in relation to the matters set out in paragraphs 13(A) to (D), but that it will not be held liable or responsible

in any way whatsoever should it rely on that advice.

14. The Generator and the Lead Investor shall not unreasonably refuse to agree to any amendments to the Approved Arrangements pursuant to paragraph 11 if the amendment:

    (A) represents the minimum change necessary to render the Approved Arrangements in compliance with the State Aid Rules or the terms of any State aid approval decision and/or capable of obtaining State aid approval from the European Commission taking account of the outcome of any relevant decision, determination or ruling of a State Aid Competent Authority; and

    (B) would not materially worsen the balance of benefits and burdens for the Generator or its shareholders envisaged in the Approved Arrangements.

15. If the Side Letter Parties agree amendments to the Approved Arrangements pursuant to paragraph 11 above:

    (A) the Secretary of State shall use reasonable endeavours to procure that the European Commission issues a State aid approval decision in respect of the amended arrangements on terms reasonably satisfactory to the Secretary of State, the CfD Counterparty and the Generator;

    (B) the Side Letter Parties shall provide all Information reasonably required by the European Commission to enable the European Commission to re-determine the case promptly and the Generator shall, as soon as reasonably practicable, provide the Secretary of State with such information as he may reasonably require in connection with such re-determination;

    (C) the Side Letter Parties shall not unreasonably dispute taking or refraining from taking any other action as may be reasonably requested by the European Commission or the Secretary of State and shall co-operate in good faith for the purpose of procuring that the European Commission issues a State aid approval decision in respect of the amended arrangements on terms reasonably satisfactory to the Secretary of State, the CfD Counterparty and the Generator;

    (D) in relation to engagement with the European Commission in relation to the proposed amended arrangements, the Secretary of State shall:

        (i) keep the other Side Letter Parties informed of and discuss key developments to the extent permitted, on a confidential basis (save that neither the CfD Counterparty nor the Secretary of State shall be obliged to share privileged information/materials);

        (ii) to the extent permitted, consult with the other Side Letter Parties on the main representations to be made to the European Commission on a confidential basis (save that neither the CfD Counterparty nor the Secretary of State shall be obliged to share privileged information/materials);

(iii) give reasonable consideration to any views or representations made by the other Side Letter Parties; and

(iv) permit the Generator to attend meetings and calls with the European Commission where expressly invited by the European Commission;

(E) each Side Letter Party shall co-operate to manage the process of engaging with the European Commission so as to mitigate any adverse impact on the amended arrangements and avoid unreasonable delays that are within their control; and

(F) the amended arrangements will not be implemented until any actions or events upon which the amended arrangements are conditional have taken place.

16. If a Side Letter Party becomes aware that proceedings have been issued in the Court of any European Union member state or the Court of Justice of the European Union challenging any State aid approval decision in respect of the Approved Arrangements ("**Proceedings**"), the Side Letter Parties shall:

(A) provide all information reasonably required by a State Aid Competent Authority or the Secretary of State in order to defend the Proceedings;

(B) keep the other Side Letter Parties informed of and discuss key developments to the extent permitted (including having regard to any confidentiality requirement of the Court of Justice of the European Union and/or under the State Aid Rules) on a confidential basis (save that no Side Letter Party shall be obliged to share privileged information/materials);

(C) to the extent permitted (including having regard to any confidentiality requirement of the Court of Justice of the European Union and/or under the State Aid Rules) and so far as is practicable, consult with the other Side Letter Parties on the main substantive arguments to be made as part of any intervention on a confidential basis save that no Side Letter Party shall be obliged to share privileged information/materials;

(D) give reasonable consideration to any views or representations made by the other Side Letter Parties; and

(E) agree to co-operate to manage the Proceedings so as to avoid any unreasonable delays that are within their control.

17. The Side Letter Parties shall not be obliged to agree any amendments to the Approved Arrangements and it shall be at their sole discretion to agree any such amendments. In exercising their discretion, the Side Letter Parties shall take account of, among other things, the compatibility of any amendments with the State Aid Rules and the need to obtain State aid approval from the European Commission.

18. Implementation of any amendments to the Approved Arrangements will be conditional upon State aid approval from the European Commission on terms reasonably satisfactory to the Secretary of State, the CfD Counterparty and the Generator.

Signed by authority of the
Secretary of State for Energy and Climate Change

……..

Accepted and agreed for and on behalf of:

NNB Generation Company (HPC) Limited

……..

Dated:

Low Carbon Contracts Company Ltd

……..

Dated:

NNB Top Company HPC (B) Limited in its capacity as Lead Investor (for itself and for the benefit of Électricité de France S.A., EDF Energy (NNB) Limited (a Hong Kong company) and China General Nuclear Power Corporation and such other Investor(s) as the CfD Counterparty agrees, acting reasonably)

……..

Dated: