

4. **ESR CAPABILITY**

4.1 Introduction

The **ESR Service Provider** agrees to provide **The Company** with the **Part 2 System Ancillary Service** of **ESR Capability**, and this Clause 4 and Schedule E set out provisions relating to such service including the payments to be made by **The Company** to the **ESR Service Provider** in respect thereof.

4.2 Definitions

In this Clause 4 and Schedule E the following terms shall have the meanings ascribed to them below:-

“Acceptable Security”	has the meaning attributed to it in Sub-Clause 4.6.4.4;
“Additional Works Period”	has the meaning given to it in Annexure B;
“Annual Availability Shortfall Payments”	means the payments calculated in accordance with Schedule E, Section 2, Part II to be made by the ESR Service Provider to The Company in the circumstances set out in Annexure C to this Clause 4;
“Assessment Period”	has the meaning attributed to it in Sub-Clause 4.15.1;
“Assurance Visit”	has the meaning attributed to it in Sub-Clause 4.19.2;
“Auxiliaries”	means any item of Plant and/or Apparatus not directly a part of the boiler plant, Generating Unit DC Converter , HVDC Converter Station or Power Park Module (as applicable), but required for the boiler plant's, Generating Unit's , DC Converter's , HVDC Converter Station's or Power Park Module's functional operation;
“Auxiliary Contracted MW”	means the respective level of MW available for ESR from each ESR Auxiliary Unit specified in Schedule E, Section 1, Part II;
“Balancing and Ancillary Services Agreement”	means, in relation to a HVDC System , an agreement with that title relating to the provision of services to The Company over that HVDC System ;
“Balancing Services”	has the meaning given to that term in the Transmission Licence but excluding: (a) such services as the ESR Service Provider may be required to have available as Ancillary Services pursuant to the Grid Code ; and

	(b) offers and bids made in the balancing mechanism (as that term is defined in the Transmission Licence);
“ESR”	means the procedure necessary for a recovery from a Total Shutdown or Partial Shutdown ;
“ESR Availability Price”	means the price specified in Schedule E, Section 3, Part I;
“ESR Capability”	means an ability in respect of ESR Plant to Start-Up from Shutdown and to energise a part of the National Electricity Transmission System upon instruction from the Company , within two hours, without an external electrical energy supply and including the obligations of the ESR Service Provider contained in Sub-Clause 4.8.4 in addition to and without prejudice to the ESR Service Provider’s obligations under the Grid Code with regard to ESRs ;
“ESR Contracted MW”	means that amount of Active Power specified in Schedule E, Section 1, Part I (or such other amount agreed from time to time between the ESR Service Provider and the Grid Operator pursuant to Sub-Clauses 4.8.6 to 4.8.10 inclusive) which shall not, where applicable, include Active Power supplied by the ESR Auxiliary Units to the ESR Plant for the purposes of a ESR Situation ;
“ESR Instruction”	has the meaning attributed to it in Sub-Clause 4.10.1;
“ESR Plant”	means a Power-Generating Facility or a HVDC System , which includes the relevant site and specific technical requirements for the Power-Generating Facility , or the HVDC System to provide the ESR Service ;
“ESR Service”	means the obligations of the ESR Service Provider more particularly referred to in Sub-Clause 4.8 (which, where applicable, shall be in addition to and without prejudice to the ESR Service Provider’s obligations under the Grid Code with regard to ESR Capability), to include in addition the procedure for running down and testing of Plant in Reproving Assessments ;
“ESR Situation”	means the period of time beginning when The Company issues a declaration to the ESR Service Provider in accordance with Grid Code OC 9.4.6 that a Partial Shutdown or a Total Shutdown exists and ending when The Company

	issues a declaration to the ESR Service Provider in accordance with Grid Code OC 9.4.7.9 ;
“ESR Station”	has the meaning attributed to it in the Grid Code ;
“ESR Test”	means a test carried out by a ESR Service Provider on the instructions of the Company , in order to demonstrate the ESR Capability of its ESR Plant ;
“ESR Test Parameters and Procedures”	means, in respect of any ESR Test , the parameters agreed between the Parties pursuant to Sub-Clause 4.20.2 as the same may be amended;
“ESR Test Period”	means, in relation to any ESR Test , the period from and including the start time to and including the end time each as comprised within the ESR Test Parameters and Procedures ;
“ESR Test Settlement Period”	means a Settlement Period comprised in a ESR Test Period ;
“ESR Auxiliary Units”	means a power source with the ability to start without external supplies and provide sufficient output to enable the delivery of the ESR Service at the ESR Plant identified in Schedule E, Section 1, Part II;
“ESR Gensets”	means the Generating Units specified in Schedule E, Section 1, Part I;
“ESR HVDC System”	means a HVDC System that is the subject of a contractual obligation to maintain ESR Capability ;
“ESR Service Provider”	means the Generator or the HVDC Owner , as the case may be;
“Capability Assessment”	has the meaning attributed to it in Sub-Clause 4.20.1.2;
“Commissioning Assessment”	has the meaning attributed to it in paragraph 1 of Part I of Annexure A to this Clause 4;
“Competent Authority”	has the meaning attributed to it in the CUSC ;
“Connection Event”	has the meaning attributed to it in Sub-Clause 4.8.4.3;
“Consents”	means all and any consent, licence, approval, permission, wayleave or other right of whatever nature whether governmental or regulatory in character or otherwise necessary for the provision of by the ESR Service Provider of the ESR

	Service , including where relevant the construction and installation of the ESR Auxiliary Units ;
“Dead Line Charge Test”	means the test more particularly described in Part 2 of Annexure D to this Clause 4;
“Escrow Account”	has the meaning attributed to it in Sub-Clause 4.6.4.4;
“Event of Default”	has the meaning attributed to it in Sub-Clause 4.13;
“Expiry Date”	means 24:00 hours on the date immediately preceding the third (3 rd) anniversary of the Service Commencement Date ;
“External Costs”	costs incurred by the ESR Service Provider to third party contractors arising directly from the Works and falling within the categories of cost described as external costs in Part VI of Annexure A;
“Final Consent Date”	has the meaning attributed to it in Sub-Clause 4.3.1;
“Funded Plant”	means such elements of the ESR Plant as have been funded wholly or partly through a Works Contribution Payment save where such funding does not materially enhance the capability of the ESR Plant to provide Balancing Services other than the ESR Service ;
“GB Converter Station”	in relation to an HVDC System , the HVDC Converter Station located in GB;
“Guarantor”	the party providing Acceptable Security in the form of a parent company guarantee under 4.6.4.4(d);
“HVDC Converter Station”	has the meaning given to it in the Grid Code ;
“HVDC System”	has the meaning given to it in the Grid Code ;
“Internal Costs”	costs incurred by the ESR Service Provider internally arising directly from the Works and falling within the categories of cost described as internal costs in Part VI of Annexure A;
“Legal Requirement”	means any order of a Competent Authority , Act of Parliament, Directive, regulations or licence, consent or similar provision issued by a Competent Authority ;
“Local Joint ESR Plan”	means a plan specific to each ESR Station or ESR HVDC System to enable a rapid ESR of the

	National Electricity Transmission System in the event of a ESR Situation and which is more particularly described in Sub-Clause 4.8.4;
“Minimum Non Zero Time”¹	has the meaning attributed to the term in Appendix 1 of Grid Code BC1 ;
“Monthly Availability Payment”	means an amount determined in accordance with Sub-Clause 4.6.1.2;
“Non-Performing Party”	has the meaning attributed to it in Clause 4.24;
“Partial Shutdown”	means the same as a Total Shutdown except that all generation has ceased in a separate part of the Total System and there is no electricity supply from External Interconnections or other parts of the Total System to that part of the Total System and, therefore, that part of the Total System is shutdown, with the result that it is not possible for that part of the Total System to begin to function again without The Company’s direction relating to a ESR Situation ;
“Power-Generating Facility”	means a facility that converts primary energy into electrical energy and which consists of one or more Power-Generating Modules connected to a network at one or more connection points;
“Power-Generating Module”	means either a synchronous power-generating module or a Power Park Module ;
“Power Island”	means the independent operation of a whole network or part of a network that is isolated after being disconnected from the interconnected system, having at least one power-generating module or HVDC System supplying power to this network and controlling the frequency and voltage;
“Power Park Module”	has the meaning attributed to it in the Grid Code ;
“Provisional Service Commencement Date”	has the meaning attributed to it in paragraph 4.1 of 0 of Annexure A to this Clause 4;
“Rated Bank”	has the meaning attributed to it in Sub-Clause 4.6.4.4;
“Re-assessment Availability Date”	has the meaning attributed to it in paragraph 4.1 of Part I of Annexure A to this Clause 4;
“Relevant Third Parties”	has the meaning attributed to it in Sub-Clause 4.12.1;

¹ NB This definition will need to be reconsidered in the context of updating the testing provisions in clause 4.20 for a HVDC System

“Remote Synchronisation”	means synchronisation of a power-generating module or HVDC System by closure of a circuit breaker which is not under the direct control of the ESR Service Provider ;
“Remote Synchronisation Test” or “RST”	means the test more particularly described in Part 1 of Annexure D to this Clause 4;
“Repayment Amount”	means payments calculated in accordance with Schedule E, Section 2, Part I to be made by the ESR Service Provider to The Company in the circumstances set out in Annexure B to this Clause 4 and representing repayments in whole or in part of Monthly Availability Payments ;
“Reproving Assessment”	means a test which The Company may require the ESR Service Provider to carry out to verify the ESR of ESR Capability of the ESR Plant as more particularly described in Sub-Clause 4.9.4.2.2;
“Service Commencement Date”	means either: - (a) (where the ESR Plant passes the first Commissioning Assessment) 00.00 hours on the Provisional Service Commencement Date ; or (b) (in all other cases) 00.00 hours on the first day of the calendar month immediately following the date on which the ESR Plant has successfully completed a second or suESRequent Commissioning Assessment in accordance with the provisions of Annexure A to this Clause 4;
“Shutdown”	means, in relation to a Generating Unit , the condition of a Generating Unit where the generator rotor is at rest or (where applicable) on barring; or, in relation to a HVDC System , the DC circuit is open;
“Start-up”	means: in relation to a Generating Unit , the action of bringing the Generating Unit from Shutdown to Synchronous Speed ; or, in the case of a HVDC System , the action of closing the DC circuit;
“Target Availability”	means, in relation to an Assessment Period , the target availability for ESR Capability as specified in the table set out in Section 4 of Schedule E;
“Target Commencement Date”	means 1 October 2021 or such earlier date as the ESR Service Provider and The Company may agree in writing;

“Technical Parameters”	means those technical parameters related to the ESR Service set out in Schedule E, Section 1, Part III (as the same may be revised from time to time in accordance with Sub-Clauses 4.8.6 to 4.8.10 inclusive);
“Time to Connection Event”	means the period of time specified as such in Schedule E, Section 1, Part III (or such other period of time agreed from time to time between The Company and the ESR Service Provider pursuant to Sub-Clauses 4.8.6 to 4.8.10 inclusive);
“Total Shutdown”	means the situation existing when all generation has ceased and there is no electricity supply from External Interconnections and, therefore, the Total System has shutdown with the result that it is not possible for the Total System to begin to function again without The Company’s directions relating to a ESR ;
“Transmission Owner”	means National Grid Electricity Transmission plc (registered no. 02366977);
“Unit Board”	has the meaning attributed to it in the Grid Code ;
“Valid Invoice”	has the meaning attributed to it in Sub-Clause 4.6.3.4;
“Voltage Control Mode”	means the automatic voltage regulator selected to auto and being off is the automatic voltage regulator selected to manual;
“Works”	means those works relating to the ESR Plant more particularly specified in Part III and Part IV of Annexure A to this Clause 4;
“Works Contribution”	means the reimbursement by The Company to the ESR Service Provider of the costs incurred by the ESR Service Provider arising directly from the Works , to be made by The Company , as more particularly described in Sub-Clause 4.6.1.1;
“Works Contribution Payments”	means the payments to be made under Sub-clause 4.6.3 for the purposes of the Works Contribution ;
“Works Contribution Period”	means each period of [] ² months during the period of the Works Programme ;
“Works Contribution Refund Payment”	means a payment calculated in accordance with Schedule E, Section 2, Part III to be made by the ESR Service Provider to The Company in the

² Provider to specify – quarterly is typical

	circumstances referred to therein and representing repayment of all or part of the Works Contribution Payments ; and
“Works Programme”	means the programme for completion of the Works more particularly specified in Part IV of Annexure A to this Clause 4.

4.3 Conditions Precedent

4.3.1 Save for the obligations of the **Parties** in this Sub-Clause 4.3.1 and Clause 4.26 (*No Announcement*), the respective obligations of the **Parties** under this Clause 4 are, subject to Sub-Clause 4.3.2, conditional upon the satisfaction of each of the following conditions precedent not later than [] or such later date as may be agreed in writing between the **Parties** (the **“Final Consent Date”**):

4.3.1.1 all **Consents** or amendments to **Consents** which have a material bearing on the ability of the **ESR Service Provider** to perform its obligations under this Clause 4 including without limitation pursuant to Section 36 of the **Act** having been granted for a period of not less than the period of this Clause 4 either unconditionally or, if subject to conditions and the **ESR Service Provider** having determined in its sole discretion to satisfy or fulfil such conditions, such conditions having been satisfied, fulfilled or accepted by the **ESR Service Provider**;

4.3.1.2 the variation to the **Bilateral Agreement**³ for the **ESR Plant** the subject of this **Agreement** having been executed by the **ESR Service Provider** and **The Company** and all provisions therein having a material bearing on the ability or liability of the **ESR Service Provider** to perform its obligations under this Clause 4 being binding and unconditional in all respects;

4.3.1.3 the agreement for construction of the **Works** referred to in Annexure A to this Clause 4 having been entered into and having become unconditional in all respects and the **ESR Service Provider** having obtained such other approvals (including board, shareholder, lender and counter-parties to contracts approvals) as it may consider appropriate;

4.3.1.4 in the case of a **ESR Service Provider** providing the **ESR Service** through an **HVDC System**, the variation to the **Balancing and Ancillary Services Agreement** for that **HVDC System** having been executed by the **ESR Service Provider**, the **Externally Interconnected System Operator** and **The Company** and all provisions therein having a material bearing on the ability or liability of the **ESR Service Provider** to perform its obligations under this Clause 4 being binding and unconditional in all respects;

4.3.1.5 where applicable, any sub-contract for the supply of electrical energy required by the **ESR Provider** for the purposes of providing the **ESR Capability** has been

³ NB The Connection Agreement may need amending

executed by the parties thereto and (save as to the coming into effect of this Clause 4) is unconditional and in full force and effect; and

4.3.1.6 receipt by **The Company** of evidence to its satisfaction that the **ESR Service Provider** will be in a position to deliver **Acceptable Security** (defined in Sub-Clause 4.6.4.4) in accordance with Sub-Clause 4.6.4.2 to secure possible repayment of the **Works Contribution Payment** in accordance with the provisions of Sub-Clause 4.6.4.

4.3.2 The **ESR Service Provider** shall be entitled at its option to waive one or both of the conditions precedent specified in Sub-Clauses 4.3.1.1 and 4.3.1.3 by notice in writing to **The Company** and **The Company** shall be entitled at its option to waive any other condition precedent by notice in writing to the **ESR Service Provider**.

4.3.3 When each of the conditions precedent (other than that specified in Sub-Clause 4.3.1.6) have been satisfied or (where permitted) waived, the **ESR Service Provider** shall forthwith give written notice to that effect to **The Company**, and **The Company** shall similarly notify the **ESR Service Provider** in respect of the condition precedent specified in Sub-Clause 4.3.1.6. Such notices shall be conclusive and binding on the **Parties** as to the satisfaction or waiver thereof. Without prejudice to the foregoing, the **ESR Service Provider** shall (in circumstances where such consent is required) notify **The Company** forthwith upon the granting of a consent under Section 36 of the **Act** in respect of the **ESR Auxiliary Unit** and, for the purposes of Sub-Clause 4.3.1.1, such notification shall be accompanied by a copy of such consent.

4.3.4 Subject to the provisions of Sub-Clause 4.3.2 the **ESR Service Provider** undertakes to use its reasonable endeavours to fulfil the conditions precedent specified in Sub-Clause 4.3.1 as soon as reasonably practicable but in any event not later than the **Final Consent Date**.

4.3.5 If any of the conditions precedent specified in Sub-Clause 4.3.1 has not either been satisfied (or where permitted waived) by the **Final Consent Date**, then the provisions of this Clause 4 shall thereupon cease to have any effect and the **Parties** shall have no rights against each other with respect to any breach of any of the provisions of this Sub-Clause 4.3.

4.4 Works

[Both **Parties** shall comply with their respective obligations set out in Annexure A to this Clause 4 in relation to the commissioning of the **Works**.]

[4.4.1 Both **Parties** shall comply with their respective obligations set out in Annexure A to this Clause 4 in relation to the commissioning of the **Works**.]

4.4.2 The **Parties** acknowledge that [no **Works**, other than a **Commissioning Test**, are required for the purposes of enabling the **Generator** to provide the **ESR Service**] [no **Works Contribution Payment** is payable in respect of the **Works**] and that the provisions of Clause 4.6.1.1 (relating to the payment of the **Works Contribution**), Clause 4.6.2 (relating to the repayment of the **Works Contribution**), Clause 4.6.3 (*Works Contribution Payments*), Clause 4.6.4 (*Security*) and all provisions

relating to the payment of a **Works Contribution Refund Payment** shall not apply.]⁴

4.5 Term

- 4.5.1 Subject to the provisions of Sub-Clause 4.3, the obligations of the **ESR Service Provider** hereunder to provide the **ESR Service** shall apply at all times from the **Service Commencement Date** until the **Expiry Date** subject to and in accordance with the provisions of this Clause 4 and, save where expressly provided otherwise in this Clause 4 and the Schedules, “term of Clause 4” shall be construed accordingly.
- 4.5.2 If the provisions of this Clause 4 shall not by then have terminated, not later than 12 months prior to the **Expiry Date** the **Parties** shall meet to discuss whether the provisions of this Clause 4 should be extended for a period beyond the **Expiry Date** and if so the duration of such extension and the terms (including prices) upon which the **ESR Service** shall continue to be provided by the **ESR Service Provider**. In the absence of any agreement between the **Parties** the provisions of this Clause 4 shall cease to apply in respect of periods after the **Expiry Date**.
- 4.5.3 Without prejudice to the other rights of termination in this **Agreement** after the **Service Commencement Date**, **The Company** shall be entitled to terminate the provisions of this Clause 4 prior to the **Service Commencement Date** in the manner specified in paragraphs 9, 10, 11, 12 and 15 of Part I of Annexure A to this Clause 4 whereupon, if all or part of the **Works Contribution** has been paid by **The Company** to the **ESR Service Provider** in accordance with the provisions of Sub-Clause 4.6.3 (but not otherwise), the **ESR Service Provider** shall pay to **The Company** in accordance with **Clause [8][4 of the MASA]** a **Works Contribution Refund Payment** calculated in accordance with the formula in Schedule E, Section 2, Part III. For the avoidance of doubt, the **Works Contribution Refund Payment** in those circumstances shall constitute repayment of the **Works Contribution** (together with interest thereon at the **Base Rate**) referred to at Sub-Clause 4.6.1.

4.6 Payments

Payments for Availability of ESR Service

- 4.6.1 **The Company** shall make the following availability payments to the **ESR Service Provider** in accordance with the terms of this Clause 4 :-
- 4.6.1.1 sums by way of reimbursement of certain of the **ESR Service Provider’s Internal Costs** and **External Costs** up to the maximum aggregate amount of £[] (the “**Works Contribution**”), payable subject to and in accordance with Sub-Clauses 4.6.3 and 4.6.4; and
- 4.6.1.2 with effect from the **Provisional Service Commencement Date**, and in accordance with Sub-Clause 4.6.5, a **Monthly Availability Payment** (the “**Monthly Availability Payment**”) calculated in accordance with Schedule E,

⁴ The second option for clause 4 applies where there is no capital contribution by NGESO. In such circumstances other provisions that are not applicable (including the calculation of the WCRP in Schedule E) will be marked “not used”.

Section 2, Part I in respect of all **Settlement Periods** in each calendar month in which:

4.6.1.2.1 paragraph 4.1 of Part I of Annexure A to this Clause 4 shall apply; and/or

4.6.1.2.2 the **ESR Plant** shall have the **ESR Capability**.

4.6.2 For the avoidance of doubt, in accordance with the provisions of this Clause 4 the **Works Contribution** may become repayable by the **ESR Service Provider to The Company** (in whole or in part) by way of **Annual Availability Shortfall Payments** and/or a **Works Contribution Refund Payment** (but not otherwise), and the **Monthly Availability Payments** may become repayable by the **ESR Service Provider to The Company** (in whole or in part) by way of **Repayment Amounts** (but not otherwise).

4.6.3 **Works Contribution Payments**

4.6.3.1 **The Company** shall, by reference to each **Works Contribution Period**, pay to the **ESR Service Provider** a **Works Contribution Payment** in respect of the **Internal Costs** and **External Costs** incurred by the **ESR Service Provider** in that **Works Contribution Period** subject to:

4.6.3.1.1 provision by the **ESR Service Provider** to **The Company** of **Acceptable Security** in accordance with Sub-Clause 4.6.4.4; and

4.6.3.1.2 receipt by **The Company** from the **ESR Service Provider** of **Valid Invoices**.

4.6.3.2 Not used

4.6.3.3 Not used

4.6.3.4 For the purpose of Sub-Clause 4.6.3.1, a "**Valid Invoice**" shall mean an invoice issued by the **ESR Service Provider**:-

4.6.3.4.1 that itemises **Internal Costs** and **External Costs** separately;

4.6.3.4.2 to the extent relating to **External Costs**, that does not exceed, when aggregated with all other **External Costs** so invoiced, the sum of £ [] (exclusive of VAT) and is be supported by copy invoices from the relevant third party contractors and such other evidence as **The Company** may reasonably require;

4.6.3.4.3 to the extent relating to **Internal Costs**, that does not exceed, when aggregated with all other **Internal Costs** so invoiced, the sum of £ [] (exclusive of VAT) and includes a description which is reasonably satisfactory to **The**

Company of that part of the **Works** to which such invoice relates and is supported by such other evidence as **The Company** may reasonably require,

provided always that, in each case, the invoiced sums shall be limited to reasonable costs which have been reasonably incurred and which the **ESR Service Provider** shall have used its reasonable endeavours to mitigate.

4.6.3.5 Not used

4.6.3.6 Following receipt of any invoice in respect of the **Works** submitted by the **ESR Service Provider** in accordance with Sub-Clause 4.6.3.1, **The Company** shall, as soon as reasonably practicable thereafter, notify the **ESR Service Provider** and provide a reason where **The Company** determines (acting reasonably) that such invoice is not a **Valid Invoice** and the **ESR Service Provider** shall submit a replacement invoice which is a **Valid Invoice** as soon as reasonably practicable thereafter.

4.6.3.7 Each **Valid Invoice** shall be paid by **The Company** within 42 days after receipt.

4.6.3.8 Not used

Security

4.6.4 The following provisions shall apply with respect to security against possible repayments of the **Works Contribution**:

4.6.4.1 The **ESR Service Provider** shall, as a condition of the payment by **The Company** of each **Works Contribution Payment** pursuant to Sub-Clause 4.6.1.1 and until payment of any **Works Contribution Refund Payment** or any **Annual Availability Shortfall Payment** applicable to the **Assessment Period** ending on the **Expiry Date** (or completion of the calculation indicating that no such **Annual Availability Shortfall Payment** is applicable) provide security against possible repayment of the **Works Contribution** under this **Agreement** as provided below.

4.6.4.2 Until the **Service Commencement Date**, the security provided must be **Acceptable Security** for not less than the secured amount being the amount from time to time of the **Works Contribution Refund Payment** which would be payable upon termination as calculated in accordance with Schedule E, Section 2, Part III including any value added tax payable on such amount. Where such **Acceptable Security** is a bond or letter of credit this shall be issued for a period of not less than six months. If for any reason the bond or letter of credit has an **Expiry Date** occurring prior to the **Service Commencement Date**, the **ESR Service Provider** shall provide a replacement bond or letter of credit with an appropriately extended **Expiry Date** or other equivalent **Acceptable Security** not later than 45 days before the expiry of the bond, letter of credit or other equivalent **Acceptable Security** and, if the **ESR Service Provider** fails to so provide a replacement bond or letter of credit, **The Company** shall be entitled to call the bond, letter of credit or other equivalent **Acceptable Security**.

4.6.4.3 From and including the **Service Commencement Date** the security described in Sub-Clause 4.6.4.2 above shall be replaced (so that there is no gap in coverage) by security consisting of **Acceptable Security** for not less than the secured amount referred to in Sub-Clause 4.6.4.5 below. Where such **Acceptable Security** is a bond or letter of credit this shall (except in the case of the final period) be issued for a period of not less than six months and thereafter replaced by the

ESR Service Provider at least 45 days prior to the expiry of the previous bond, letter of credit or other equivalent **Acceptable Security**. If the **ESR Service Provider** fails to so provide a replacement bond, letter of credit or other equivalent **Acceptable Security**, **The Company** shall be entitled to call the bond, letter of credit or other equivalent **Acceptable Security**.

4.6.4.4 In this Sub-Clause 4.6.4:

“**Acceptable Security**” shall mean: -

- 4.6.4.4.1 a first demand without proof or conditions irrevocable performance bond in a form reasonably satisfactory to **The Company** issued by a **Rated Bank** payable in Sterling in London; or
- 4.6.4.4.2 an irrevocable standby letter of credit in a form reasonably satisfactory to **The Company** issued by a **Rated Bank** payable in Sterling in London; or
- 4.6.4.4.3 a cash deposit in Sterling in an **Escrow Account**;
- 4.6.4.4.4 a parent company guarantee in terms and from an issuer satisfactory to **The Company**; or
- 4.6.4.4.5 such other form of security acceptable to **The Company** which shall be in such form as is included in **The Company's** then current policy and procedure.

“**Rated Bank**” shall mean a City of London branch of a bank with a rating of at least A- (Standard and Poor's long term rating) or A3 (Moody's long term rating).

“**Escrow Account**” shall mean a separately designated bank account in the name of **The Company** established by a mandate signed by both **The Company** and the **ESR Service Provider** at a branch of Barclays Bank PLC or another bank in the City of London as notified by **The Company** to the **ESR Service Provider**, bearing from (and including) the date of deposit of principal sums to (but excluding) the date of withdrawal of principal sums from such account a reasonable commercial rate of interest which shall be payable to the **ESR Service Provider** but mandated for withdrawal of principal only by way of a call by **The Company** as referred to in Sub-Clause 4.6.4.6 below or by way of payment to the **ESR Service Provider** to the extent of any reduction in the amount so secured and mandated for the transfer of any interest accrued to the **Escrow Account** quarterly to such bank account as the **ESR Service Provider** may specify. **The Company** agrees to take any steps required to be taken by it for the release from the **Escrow Account** and payment to the **ESR Service Provider** of such interest and any amount of principal in excess of the amount required to be secured at the relevant time.

4.6.4.5 The secured amount as referred to in Sub-Clause 4.6.4.3 above shall be for the maximum amount payable in respect of the **Works Contribution Refund Payment** as provided in Schedule E, Section 2, Part III at the relevant date including any value added tax payable on such amount.

4.6.4.6 **The Company** shall be entitled to call upon the security if: -

- 4.6.4.6.1 a **Works Contribution Refund Payment** or an **Annual Availability Shortfall Payment** has become payable under this **Agreement** and has not been paid

by the **ESR Service Provider** in accordance with **Clause [8][4 of the MASA]**;
or

4.6.4.6.2 other equivalent **Acceptable Security** of the required amount has not been put in place within the time periods provided for in this Sub-Clause 4.6.4. Where the security has been called for this reason, **The Company** shall repay the amount so called when the **ESR Service Provider** puts in place the appropriate replacement security in accordance with this Sub-Clause 4.6.4.

4.6.4.7 If any bank or banks being the issuer of a bond or letter of credit shall suffer at any time a change of rating so as to fall below that required above the **ESR Service Provider** shall forthwith on the **ESR Service Provider** becoming aware of such occurrence notify **The Company** and within twenty (20) Business Days of the **ESR Service Provider** becoming aware of such change of rating provide to **The Company** a replacement bond or letter of credit from a **Rated Bank** on the same terms as to amount and **Expiry Date** as the security being replaced or equivalent **Acceptable Security**. For the avoidance of doubt any such change of rating shall not during such period of twenty (20) Business Days constitute a breach under this **Agreement**, provided that the replacement security shall be provided, and from the date of its provision the security which it replaces shall be released by **The Company**.

[4.6.4.8 Where the form of **Acceptable Security** is a parent company guarantee provided pursuant to Sub-Clause 4.6.4.4(d), the **ESR Service Provider** shall procure that:

- (a) the **Guarantor's** auditor shall as soon as reasonably practicable following the end of each financial year of the **Guarantor** in which the parent company guarantee remains in force, certify (the "**Auditor's Certificate**") the net asset value on a consolidated basis of the **Guarantor**, by reference to the **Guarantor's** most recent annual audited financial statements; and
- (b) the **Guarantor's** finance director shall as soon as reasonably practicable following the end of the second quarter in each of the **Guarantor's** financial years in which the parent company guarantee remains in force, certify (the "**FD's Certificate**") the net asset value on a consolidated basis of the **Guarantor**, by reference to the **Guarantor's** half-year unaudited financial statements,

and if:

- (c) the **ESR Service Provider** shall fail to procure: (i) the **Auditor's Certificate** by not later than 6 months after the end of a financial year of the **Guarantor**; or (ii) the **FD's Certificate** by not later than one month after the end of the second quarter in a financial year of the **Guarantor** (in either case, the "**Due Date**"); or
- (d) the net asset value of the **Guarantor** stated in the **Auditor's Certificate** or the **FD's Certificate** (as the context requires) is less than [] GB pounds (£[]),

the **ESR Service Provider** shall forthwith following the **Due Date** or the date of issue of the **Auditor's Certificate** or the **FD's Certificate** (as the context requires) provide

to **The Company** a replacement for such parent company guarantee comprising another form of **Acceptable Security**.] **OR**⁵

[4.6.4.8 Where the form of **Acceptable Security** is a parent company guarantee provided pursuant to Sub-Clause 4.6.4.4(d), the **ESR Service Provider** shall procure that, if the **Guarantor** shall suffer at any time a change of rating so as to fall below [], the **ESR Service Provider** shall forthwith on becoming aware of such occurrence notify **The Company** and within 14 days of the **ESR Service Provider** becoming aware of such change of rating provide to **The Company** a replacement for such parent company guarantee comprising another form of **Acceptable Security**.]

4.6.4.8 The **ESR Service Provider** shall on reasonable notice to **The Company** be entitled to request the substitution of any form of security then in place with any other **Acceptable Security** and on such replacement security being put in place **The Company** shall release the security first provided. The **ESR Service Provider** may provide different security instruments to **The Company** at any time, each securing a different amount, provided that the number of security instruments does not exceed six at any time and that the aggregate sum secured is equal to the amount required to be secured under this Sub-Clause 4.6.4.

Monthly Availability Payments and Repayment Amounts

4.6.5 In respect of each calendar month in the period commencing on the **Provisional Service Commencement Date** and ending on the **Expiry Date**, **The Company** shall calculate in accordance with the formulae set out in Schedule E, Section 2, Part I and by reference to the **ESR Availability Price** (after indexation pursuant to Sub-Clause 4.6.6):-

4.6.5.1 the **Monthly Availability Payment**; and

4.6.5.2 any **Repayment Amount**,

and in connection therewith: -

4.6.5.2.1 where the **Monthly Availability Payment** exceeds the **Repayment Amount**, **The Company** shall pay the difference to the **ESR Service Provider** in accordance with **Clause [8][4 of the MASA]**; or

4.6.5.2.2 where the **Repayment Amount** exceeds the **Monthly Availability Payment**, the **ESR Service Provider** shall pay the difference to **The Company** in accordance with **Clause [8][4 of the MASA]**.

Indexation

4.6.6 The **ESR Availability Price** shall be subject to indexation during the term of this Clause 4 in accordance with the provisions of Schedule E, Section 3, Part II. For the avoidance of doubt the **Works Contribution Payment** shall not be subject to indexation.

Commercial Ancillary Services

4.6.7 The **Parties** acknowledge that they do not intend that the **ESR Service Provider** should over-recover its costs where a **Works Contribution Payment** has been made to fund all or part of the **ESR Plant** (including any **ESR Auxiliary Unit**), and the **ESR Service Provider** seeks to provide a **Balancing Service** or other

⁵ Please include one of the alternative versions of clause 4.6.4.8 if a PCG is provided.

similar service to a third party (otherwise than pursuant to existing contractual obligations) using any part of the **Funded Plant**. Accordingly, it is hereby agreed that, subject to Clause 4.6.8, the **ESR Service Provider** will not offer terms to **The Company** for provision of any **Balancing Service** or offer terms to a third party for the provision of a similar service using any part of the **Funded Plant** during any period prior to the **Expiry Date** without first seeking to agree in writing with **The Company** an appropriate reduction in the **ESR Availability Price** for the duration of any resulting contract reflecting the proportion of the capital cost of the relevant **Funded Plant** funded by **The Company** through a **Works Contribution Payment**. **The Company** shall, as soon as reasonably practicable following receipt of a written request from the **ESR Service Provider**, meet with the **ESR Service Provider** to discuss an appropriate reduction, and each of the **Parties** shall use reasonable endeavours to agree on such appropriate reduction in the **ESR Availability Price** within such period as is required to allow the **ESR Service Provider** to offer terms to **The Company** with respect to the relevant **Balancing Service**. If no such agreement can be concluded, then **The Company** reserves the right to decline to contract with the **ESR Service Provider** for any **Balancing Service** provided from any part of the **Funded Plant**.

- 4.6.8 If the **Parties** have agreed in writing prior to the date of this Clause 4, the basis on which the **ESR Service Provider** may use **Funded Plant** to provide **Balancing Services** or other similar services to a third party the **ESR Service Provider** may provide **Balancing Services** or other similar services to a third party on the basis of that agreement.

4.7 Not used

4.8 ESR Service

Service Description

- 4.8.1 Subject to the provisions of this Clause 4, with effect from the **Service Commencement Date** and thereafter in all **Settlement Periods** until the **Expiry Date**, and in consideration of **The Company's** payments to the **ESR Service Provider** in accordance with Sub-Clause 4.6, the **ESR Service Provider** hereby agrees at all times (save where the **ESR Service Provider** notifies **The Company** pursuant to Sub-Clause 4.9.1 that the **ESR Plant** does not have the **ESR Capability**) to maintain the **ESR Plant** in a condition such that it is able to:-
- 4.8.1.1 provide the **ESR Capability** as described in Sub-Clauses 4.8.4 to 4.8.5 inclusive; and
- 4.8.1.2 comply with valid instructions for initiation and implementation of the **Local Joint ESR Plan**, so that, in the event of a **Total Shutdown** or a **Partial Shutdown** of the **National Electricity Transmission System**:
- 4.8.1.2.1 in the case of **ESR Plant** other than a **ESR HVDC System**, at least one of the **ESR Gensets** at the **Power Station** is able to **Start-Up** from **Shutdown** and to energise a part of the **National Electricity Transmission System** and thereafter the local **User System** (in accordance with the **Local Joint ESR Plan**) and/or be **Synchronised** to the **National Electricity Transmission**

System and the local **User System** (in accordance with the **Local Joint ESR Plan**),

- 4.8.1.2.2 or, in the case of a **ESR HVDC System**, it is able to **Start-Up** from **Shutdown** and to energise part of the **National Electricity Transmission System** and thereafter the local **User System** (in accordance with the **Local Joint ESR Plan**) and/or be **Synchronised** to the **National Electricity Transmission System** and the local **User System** (in accordance with the **Local Joint ESR Plan**),

upon instruction from **The Company**, in accordance with the **Time to Connection Event** as set out in Schedule E, Section 1, Part III, without an external electrical supply.

- 4.8.1.3 The **ESR Service Provider** hereby further agrees with effect from the **Service Commencement Date** and thereafter until the **Expiry Date** to provide and maintain at the **ESR Plant** (and, where necessary, replenish) all necessary consumables (which, where applicable, shall include supplies of raw water, demineralised water and infrastructure for the supply of natural gas to the **ESR Auxiliary Units**), maintain, where applicable, arrangements for supplies of natural gas to the **ESR Auxiliary Units** at the appropriate time and the required pressure and maintain communication channels for the **ESR Plant** and other related supplies so that:

- 4.8.1.3.1 in a **ESR Situation**, and by block and/or ramp loading in each case in accordance with Sub-Clauses 4.8.4 to 4.8.5 inclusive, **Active Power** from the **ESR Plant** of at least the **ESR Contracted MW** is capable of being provided and sustained for not less than the period specified in the **Technical Parameters**; and

- 4.8.1.3.2 during a **ESR Situation**:

- 4.8.1.3.2.1 in the case of a **ESR Station**, the **Power Station** is capable of providing sufficient **Active Power** to achieve a controlled **Shutdown** of the **ESR Gensets** and perform a **Start-Up** of a **ESR Genset** or **CCGT Unit** within the relevant **CCGT Module** at least three times; or

- 4.8.1.3.2.2 in the case of a **ESR HVDC System**, the **HVDC System** is capable of importing to the **National Electricity Transmission System** sufficient **Active Power** to achieve re-energisation following a trip at least three times.

- 4.8.2 The **ESR Service Provider** agrees that the **Power Station** shall, if so required by **The Company**, be registered as a **ESR Station** under the relevant **Bilateral Agreement** as provided in the variation referred to in Sub-Clause 4.3.1.2 for the purposes of the **Grid Code OC9.4.5.1** and that accordingly the **ESR Service Provider's** obligations contained in this Clause 4 shall be additional and without prejudice to those (if any) set out in the **Grid Code**.

- 4.8.3 If, during a period which is the subject of a prior notification from the **ESR Service Provider** to **The Company** pursuant to Sub-Clause 4.9.1 that the **ESR Plant** does not have the **ESR Capability**, **The Company** issues a declaration in accordance with **Grid Code OC 9.4.6** that a **Partial Shutdown** or a **Total Shutdown** exists, the **ESR Service Provider** shall if required by **The Company** indicate whether and to what extent it is able to respond to

ESR Instructions and, if so, the basis upon which it will accept such instructions. Subject to the **Parties** reaching agreement thereto the **ESR Service Provider** shall use its reasonable endeavours to meet any such request by **The Company** to perform the **ESR Service**.

ESR Capability

- 4.8.4 Without prejudice to the **Grid Code**, the **ESR Capability** shall comprise the capability in a **ESR Situation** of the **ESR Plant** to operate in accordance with the contracted characteristics and outputs specified in Schedule E, Section 1, Part III and, where required, (subject to Sub-Clause 4.9) to perform and re-perform the following actions upon receipt of a relevant instruction from **The Company**:-
- 4.8.4.1 in the case of a **ESR Station**, and if applicable, maintaining suitable mains independent turbine barring and jacking facilities for all **ESR Gensets** (independent of the **ESR Auxiliary Units**) which will last for a minimum of 20 minutes after the loss of external alternating current supplies;
- 4.8.4.2 immediately commence the procedure to enable **Start-Up** of the **ESR Plant** from **Shutdown** with or without an external electrical supply (in the case of a **HVDC System**, to the **GB Converter Station**); and
- 4.8.4.3 within the **Time to Connection Event**, energise part of the **National Electricity Transmission System** (which would then energise the local **Distribution System**) and/or local **Distribution System** from the **Connection Point** or be **Synchronised** to the **National Electricity Transmission System** or the local **Distribution System** or a part thereof (the "**Connection Event**") in accordance with the **Local Joint ESR Plan**; and
- 4.8.4.4 be capable of accepting individual loads which will be connected in the form of demand blocks in each case of up to the relevant figure specified in Schedule E, Section 1 and in the **Local Joint ESR Plan**; and
- 4.8.4.5 when a block load is connected to the **ESR Plant** in accordance with Sub-Clause 4.8.4.4 above respond so that the **Frequency** of the **Power Island** should not fall below the minimum or above the maximum **Frequency** specified in Schedule E, Section 1, Part III and that the **Frequency** of the **Power Island** is restored to within statutory limits (above 49.5 Hz and, to the extent possible, below 50.5 Hz) within 10 seconds maintaining stable operation thereafter pending connection of the next block load; and
- 4.8.4.6 be capable of operating within the loading restrictions set out in Schedule E, Section 1 and of accepting loading instructions issued by the **Grid Operator** and/or the **Public Distribution System Operator** in accordance with the loading procedures specified in the **Local Joint ESR Plan**; and
- 4.8.4.7 achieve a power output equal to the **ESR Contracted MW** (or such lesser power output as may be instructed by **The Company**) within the loading period specified in Schedule E, Section 1 assuming loading is achieved by the connection of demand blocks in accordance with Sub-Clauses 4.8.4.4, 4.8.4.5 and 4.8.4.6 above; and
- 4.8.4.8 in order to achieve the power output within the loading period as specified in Sub-Clause 4.8.4.7 above, achieve the interim power output levels specified in

Schedule E, Section 1 (or such other interim power output levels as agreed between the **ESR Service Provider** and the **Grid Operator** from time to time) in the timescales therein specified, and further be capable of sustaining a power output equal to the **ESR Contracted MW** (or such lower level of MW output as may be instructed by **The Company**) in accordance with Sub-Clause 4.8.1.3 until otherwise instructed by **The Company**; and

- 4.8.4.9 without prejudice to the **ESR Service Provider's** obligation to provide **Reactive Power** in accordance with **Grid Code CC6.3.2** (where applicable), provide **Reactive Power** at no-load at the generator stator terminals (at rated terminal voltage) or at the **GB Converter Station** (as the context requires) of at least the range specified in Schedule E, Section 1 (or such other range agreed between the **ESR Service Provider** and the **Grid Operator** from time to time); and
- 4.8.4.10 operate in a **Frequency Sensitive Mode** in accordance with instructions issued by **The Company** pursuant to the **Grid Code** or as specified in the **Local Joint ESR Plan**; and
- 4.8.4.11 operate in a **Voltage Control Mode** in accordance with instructions issued by **The Company** pursuant to the **Grid Code** or as specified in the **Local Joint ESR Plan**; and
- 4.8.4.12 recommence all or part of the **Local Joint ESR Plan** to the extent that any **ESR Genset** or **HVDC System** is disconnected from the **National Electricity Transmission System** or **Demand** is disconnected from that **ESR Genset** or **HVDC System** during a **ESR Situation**; and
- 4.8.4.13 to co-operate with **The Company** to facilitate the provision of local 400kV, 275kV and 132kV sub-station indications to enable proper co-ordination of actions defined in the **Local Joint ESR Plan** and to enable **Remote Synchronisation** to be co-ordinated from the **ESR Service Provider's** control room; and
- 4.8.4.14 maintain provision of the **ESR Service** in accordance with the provisions of this Sub-Clause 4.8.4 and Sub-Clause 4.8.1.3 (without reliance on **Auxiliaries** that could be adversely affected by deviations in the **Frequency** of the **System** or by other conditions affecting the **National Electricity Transmission System**) until notification from **The Company** to the **ESR Service Provider** in accordance with **Grid Code OC 9.4.7.9** that the **ESR Situation** no longer exists.

The precise operational and procedural requirements of and responses from the **ESR Plant** will be more comprehensively set out in the **Local Joint ESR Plan** provided always that the **Local Joint ESR Plan** shall place no greater obligations upon the **ESR Service Provider** than those contained within this Clause 4. In relation thereto, in the event of any inconsistency between the provisions of the **Local Joint ESR Plan** and this Clause 4 the provisions of the **Local Joint ESR Plan** shall prevail in so far as the inconsistency relates to procedural matters, otherwise the provisions of this Clause 4 shall prevail.

Subject to Sub-Clause 4.11 the **ESR Service Provider** acknowledges that in a **ESR Situation**, **The Company** may issue an instruction for operation of the **ESR Plant** outside of the technical limitations comprising the **ESR Capability** to the extent that, in the case of a **ESR Station**, the instruction is to operate in accordance with **Dynamic Parameters** and other **BM Unit Data** submitted pursuant to **Grid Code BC1** (as amended from time to time).

- 4.8.5 The **ESR Service Provider** warrants to **The Company** that it believes that operation of the **ESR Plant** in accordance with the **ESR Capability** set out in Sub-Clause 4.8.4 will be within its safe operating parameters (whether relating to personnel or **Plant** or **Apparatus**) and will not require the **ESR Service Provider** to change generation on the **ESR Gensets** or flow on the **ESR HVDC System** for safety reasons pursuant to **Grid Code OC 9.4.7.4**.

Revisions to Technical Parameters and/or the ESR Capability requirements

- 4.8.6 Subject always to Sub-Clause 4.8.7, the **ESR Service Provider** may issue a request to **The Company** that one or more of the **Technical Parameters** and/or the **ESR Capability** requirements (more particularly specified in Sub-Clause 4.8.4) be revised temporarily (such request to be confirmed by facsimile or other electronic means approved from time to time by **The Company** in the appropriate form set out in Schedule E, Section 5), and upon receipt of the **ESR Service Provider's** facsimile confirmation of such request, **The Company** may at its sole discretion either accede to or decline such request provided always that any acceptance of such request may at **The Company's** sole discretion be immediately withdrawn at any time thereafter.
- 4.8.7 The **ESR Service Provider** shall specify in any request made in accordance with Sub-Clause 4.8.6 the start time and expected end time between which any revisions to the **Technical Parameters** and/or the **ESR Capability** requirements shall apply.
- 4.8.8 If **The Company** accepts any request made by the **ESR Service Provider** pursuant to Sub-Clause 4.8.6, any such revisions shall apply from the start time specified by the **ESR Service Provider**, until the end time specified by the **ESR Service Provider** or any earlier time at which **The Company** withdraws its acceptance of the **ESR Service Provider's** request pursuant to Sub-Clause 4.8.6.
- 4.8.9 If **The Company** declines (or withdraws any previous acceptance of) any request made by the **ESR Service Provider** pursuant to Sub-Clause 4.8.6, then the original **Technical Parameters** and/or **ESR Capability** requirements shall continue to apply (or be reinstated as the case may be), and for the avoidance of doubt if as a result the **ESR Service Provider** is unable to maintain the **ESR Capability** from the **ESR Plant** then it shall notify **The Company** accordingly in accordance with Sub-Clause 4.9.1.
- 4.8.10 For the avoidance of doubt, the revisions which may be requested by the **ESR Service Provider** pursuant to Sub-Clause 4.8.6 may include without limitation reductions to quantities of consumables and/or other related supplies required to be provided and/or maintained by the **ESR Service Provider** at the **Power Station** in accordance with Sub-Clause 4.8.1.3.

4.9 AESRence of ESR Capability

Notification by ESR Service Provider

- 4.9.1 The **ESR Service Provider** shall notify **The Company** by facsimile or other electronic means approved from time to time by **The Company** in the

appropriate form set out in Schedule E, Section 5 as soon as reasonably practicable (but in any event within 20 minutes of it becoming aware that) if:-

4.9.1.1 the **ESR Plant** does not or will not have any part of the **ESR Capability** (or, to the extent not possible, a further notice stating the reasons shall be given as soon as reasonably practicable thereafter), and such notification shall include a brief explanation thereof, the time of commencement and the expected duration thereof;

4.9.1.2 (without prejudice to Sub-Clause 4.9.4.1) following the issue of a notification by the **ESR Service Provider** in accordance with Sub-Clause 4.9.4.1, the **ESR Capability** has been restored and such notification shall include the time of such ESR.

4.9.2 For the purposes of Sub-Clause 4.9.1 the **ESR Service Provider** shall be deemed to have the knowledge of its operators at the **ESR Plant**. The **ESR Service Provider** undertakes to **The Company** that each notification given by its plant operators pursuant to Sub-Clause 4.9.1 shall reflect the true operating characteristics of the **ESR Plant**.

Determination by The Company

4.9.3 Notwithstanding Sub-Clause 4.9.1, the **ESR Plant** may be determined by **The Company** not to have the **ESR Capability** either:

4.9.3.1 (subject to review by the **Independent Expert**) by reference to inspections, **Assurance Visits** and testing carried out pursuant to Sub-Clauses 4.19 (*Inspections and Assurance Visits*) and 4.20 (*ESR Tests*); or

4.9.3.2 in accordance with the terms of Sub-Clause 4.12.3.

4.9.4 With effect from: -

4.9.4.1 the time at which the **ESR Plant** is notified by the **ESR Service Provider** or determined by **The Company** or, in the event of disagreement, by the **Independent Expert** upon the reference of either **Party**, no longer to have the **ESR Capability**; or

4.9.4.2 the commencement of the **Settlement Period** in which the respective **Event of Default** referred to in Sub-Clause 4.13 shall have occurred, the **ESR Plant** shall be deemed not to have the **ESR Capability** and no payments in respect of all suESRequent **Settlement Periods** shall be payable by either **Party** to the other unless and until the **ESR Capability** shall be deemed to be restored in accordance with the following provisions:-

4.9.4.2.1 The **ESR Service Provider** shall as soon as reasonably practicable notify **The Company** by facsimile or other electronic means approved from time to time by **The Company** in the appropriate form set out in Schedule E, Section 5 of the time and date when it considers that the **ESR Capability** is restored and shall, where unavailability of the **ESR Service** was due to an **Event of Default**, give **The Company** a brief explanation as to the reason for such **Event of Default**.

4.9.4.2.2 Promptly following receipt of such notification and explanation, **The Company** may inform the **ESR Service Provider** within five (5) **Business Days** that it wishes to conduct a test (a "**Reproving Assessment**") in order to verify such

ESR of **ESR Capability** and, in respect thereof, the relevant provisions of Sub-Clause 4.20 (*ESR Tests*) shall apply. The scope of a **Reproving Assessment** shall in each case have regard to the nature and extent of the circumstances which gave rise to the **ESR Plant** no longer having the **ESR Capability** and shall be discussed and agreed with the **ESR Service Provider** (such agreement not to be unreasonably withheld or delayed). Without limiting the foregoing, a **Reproving Assessment** may include the monitoring of the normal operation of the **ESR Gensets** or **ESR HVDC System** and/or the **ESR Auxiliary Units** (as appropriate).

- 4.9.4.2.3 If **The Company** fails to notify the **ESR Service Provider** in accordance with paragraph 4.9.4.2.2 above that it wishes to carry out a **Reproving Assessment** then the **ESR Capability** shall be deemed to have been restored with effect from the time set out in the notification by the **ESR Service Provider** pursuant to paragraph 4.9.4.2.1 above and the **Monthly Availability Payments** shall become payable with effect from such time and date.
- 4.9.4.2.4 Promptly following receipt of notification from **The Company** that it wishes to conduct a **Reproving Assessment**, the **ESR Service Provider** shall notify **The Company** of the time and date when the **Reproving Assessment** may be carried out which (unless **The Company** and the **ESR Service Provider** otherwise agree in writing) shall be not earlier than 72 hours and not later than 168 hours following such notification. If the **ESR Service Provider** unreasonably delays its notification, **The Company** may specify a time for the conduct of the **Reproving Assessment** on no less than 168 hours notice. **The Company** shall not unreasonably refuse to carry out a **Reproving Assessment** at the times and dates notified by the **ESR Service Provider**. Without limitation, it shall be reasonable for **The Company** (by notice in writing to the **ESR Service Provider**) to refuse to carry out the **Reproving Assessment** at the time and date notified by the **ESR Service Provider** in order to minimise cost implications or where the safety or security of the **System** may be compromised. Upon any refusal by **The Company** as aforesaid, the **ESR Service Provider** shall notify **The Company** of an alternative time and date when the **Reproving Assessment** may be carried out and where the **ESR Service Provider** unreasonably delays in sending such notification, **The Company** may specify a time for the conduct of the **Reproving Assessment** on no less than 168 hours notice.
- 4.9.4.2.5 If **The Company** fails to conduct a **Reproving Assessment** at the time and date notified by the **ESR Service Provider** pursuant to paragraph 4.9.4.2.4 above, save in the circumstances therein set out, then (unless it is prevented from carrying out such **Reproving Assessment** by means of an act or default of the **ESR Service Provider** or by reason of an event or circumstance of **Force Majeure**) the **ESR Capability** shall be deemed to have been restored with effect from the time set out in the notification by the **ESR Service Provider** pursuant to paragraph 4.9.4.2.1 above and the **Monthly Availability Payments** shall become payable with effect from such time and date.
- 4.9.4.2.6 If the **ESR Service Provider** passes a **Reproving Assessment**, then (subject to paragraph 4.9.4.2.7 below) the **ESR Capability** shall be deemed to be restored with effect from the time and date notified by the **ESR Service**

Provider pursuant to paragraph 4.9.4.2.1 above and the **Monthly Availability Payments** shall become payable with effect from such time and date.

4.9.4.2.7 If the **ESR Service Provider** fails a **Reproving Assessment**, then paragraphs 4.9.4.2.1 to 4.9.4.2.4 above (inclusive) shall continue to apply and the **ESR Service Provider** shall be required to re-notify **The Company** of the time and date when it considers that the **ESR Capability** shall be restored, and the **ESR Capability** shall only be deemed to be restored as from the earlier of:-

4.9.4.2.7.1 the passing of a suESRequent **Reproving Assessment**;

4.9.4.2.7.2 the date of the first notification where the first **Reproving Assessment** is determined to have been passed; or

4.9.4.2.7.3 if **The Company** fails to carry out a suESRequent **Reproving Assessment**, with effect from the time of the last notification from the **ESR Service Provider** to **The Company** that the **ESR Capability** is restored.

4.9.4.2.8 In relation to the conduct of all **Reproving Assessments** the provisions of Sub-Clause 4.20 shall apply.

4.9.4.2.9 During any period of dispute as to a determination of **The Company** that the **ESR Plant** no longer has the **ESR Capability**, the provisions of Sub-Clause 4.9.5 shall apply.

4.9.5 For the avoidance of doubt, no payments shall be payable by either **Party** in respect of any **Settlement Periods** following a determination by **The Company** that the **ESR Plant** no longer has the **ESR Capability**, notwithstanding that the **ESR Service Provider** shall have requested a further test and/or made a reference to the **Independent Expert** pursuant to Sub-Clause 4.23, unless and until:-

4.9.5.1 the **ESR Service Provider** passes such further test or the **Independent Expert** determines that such further test was passed, in which cases the **Monthly Availability Payments** in respect of the **Settlement Periods** since the first test shall become payable by **The Company** to the **ESR Service Provider** by reference to the first practicable **Final Monthly Statement** issued following such further successful test together with interest thereon at the **Base Rate** from the date on which such payments would otherwise have been due and payable by **The Company**; or

4.9.5.2 the **ESR Capability** shall be deemed to be restored in accordance with Sub-Clause 4.9.4.

4.10 **ESR Instruction**

4.10.1 During any **ESR Situation** **The Company** shall give an instruction to the **ESR Service Provider** as referred to in **Grid Code** OC9.4 for implementation of the **Local Joint ESR Plan** from the **ESR Plant** (a "**ESR Instruction**") which may comprise (subject to Sub-Clauses 4.8.4 and 4.11 (*Safety and Insurance*)), without limitation, any one or more of the instructions set out at

Sub-Clauses 4.10.1.1 to 4.10.1.6 below. The **Local Joint ESR Plan** shall set out who shall give the following instructions: -

- 4.10.1.1 an instruction to **Start-Up** the **ESR Plant**, without an external electrical supply (in the case of a, **ESR HVDC System** without an external electrical supply to the **GB Converter Station**) and in accordance with the **Local Joint ESR Plan**; and/or
- 4.10.1.2 an instruction for the **ESR Plant** to be connected to or **Synchronised** to the **National Electricity Transmission System** and the local **User System** (in accordance with the **Local Joint ESR Plan**) or a part thereof; and/or
- 4.10.1.3 an instruction, where applicable, for the **ESR Plant** to maintain a specified voltage at the **Commercial Boundary**; and/or
- 4.10.1.4 an instruction for the **ESR Plant** to accept block loads within the range specified in Schedule E, Section 1, Part III; and/or
- 4.10.1.5 an instruction for the **ESR Plant** to operate in **Frequency Sensitive Mode**; and/or
- 4.10.1.6 an instruction to switch in or out the **Power System Stabiliser**.

The modes of instruction specified in this Sub-Clause 4.10.1 are indicative only but all **ESR Instructions** shall fall within the remit of this Clause 4, the **Local Joint ESR Plan** and/or the **Grid Code**. The actual method of instruction and the detailed instruction formats for use in a **ESR Situation** will be more comprehensively set out in the **Local Joint ESR Plan**.

- 4.10.2 Subject and without prejudice to Sub-Clause 4.11 (*Safety and Insurance*) the **ESR Service Provider** agrees that **The Company** may issue a **ESR Instruction** for operation of the **ESR Plant** outside of operating capability as declared or redeclared to **The Company** pursuant to relevant provisions of the **Grid Code** but only to the extent the instruction is for operation in accordance with the relevant **ESR Capability** or a capability otherwise agreed by the **ESR Service Provider**.

- 4.10.3 The **ESR Service Provider** acknowledges and agrees that a **ESR Situation** will constitute an emergency situation as referred to in the **Grid Code** and that accordingly a **ESR Instruction** may constitute an **Emergency Instruction**.

- 4.10.4 During any **ESR Situation**, **The Company** shall provide the **ESR Service Provider** with such information relating to the **National Electricity Transmission System** as **The Company**, in its reasonable opinion, shall consider to be necessary in order to enable the **ESR Service Provider** to implement the **Local Joint ESR Plan** or respond to instructions under the **Grid Code**.

4.11 **Safety and Insurance**

- 4.11.1 Notwithstanding Sub-Clauses 4.8.5 and 4.10, **The Company** accepts that the decision to operate a **ESR Plant** outside its safe operating parameters is one for the **ESR Service Provider** alone, and accepts that the **ESR Service Provider** may change generation or flow on that **ESR Plant** if it believes it is

necessary for safety reasons (whether relating to personnel or **Plant** or **Apparatus**).

- 4.11.2 The responsibility for injury to personnel and damage to **Plant** and **Apparatus** owned and/or operated by the **ESR Service Provider** caused by operation of the **ESR Plant** in a **ESR Situation** (including without limitation any damage to a **ESR Genset** caused by loss of barring) therefore rests with the **ESR Service Provider** and **The Company** shall have no liability whatsoever in connection therewith.
- 4.11.3 The **ESR Service Provider** shall indemnify and keep indemnified **The Company** in respect of liability for death or personal injury and/or damage to **Plant** and **Apparatus** owned and/or operated by **The Company** and arising out of or in connection with such operation of the **ESR Plant** outside of its safe operating parameters save to the extent that: -
- 4.11.3.1 the **ESR Service Provider** has notified **The Company** that the **ESR Plant** cannot be operated within its safe operating parameters because of the **Demand** experienced and **The Company** subsequently fails to comply with **Grid Code OC 9.4.7.4**;
- 4.11.3.2 such death or personal injury and/or damage to **Plant** and **Apparatus** is caused by **The Company's** negligent act or omission or default; and
- 4.11.3.3 the **ESR Service Provider** has operated the **ESR Plant** in accordance with **Good Industry Practice**.
- 4.11.4 The **ESR Service Provider** shall insure for **Public Liability** risks with a reputable insurer with a minimum value of ten million pounds Sterling (£10,000,000) for each and every claim.
- 4.11.5 The **ESR Service Provider** acknowledges and agrees that, for the purposes of Sub-Clause 4.11.3, references to **The Company** shall include the **Transmission Owner** and that, in addition to **The Company**, the **Transmission Owner** shall be entitled to enforce Sub-Clause 4.11.3.

4.12 **Local Joint ESR Plan and Training**

- 4.12.1 The **ESR Service Provider** shall co-operate with **The Company** in the development, review and updating from time to time of a **Local Joint ESR Plan** for the **Power Station** which shall be in a form to be agreed between the **Parties** (such agreement not to be unreasonably withheld or delayed) and one or more local **Public Distribution System Operators** and/or **User** and/or third party responsible for necessary consumables as referred to in Sub-Clause 4.8.1.3 (as the case may be) (together the "**Relevant Third Parties**"), and shall include details of the following:-
- 4.12.1.1 the part of the **National Electricity Transmission System** and/or local **Distribution System** to be energised (in the case of the local **Distribution System**

indirectly) by the **ESR Service Provider** utilising the **ESR Plant** and the methods by which this will be achieved;

4.12.1.2 how the block loading of the **ESR Plant** is to be achieved by direct communication between the **ESR Service Provider**, the local **Public Distribution System Operator** and **The Company**;

4.12.1.3 manner of operation during islanded conditions;

4.12.1.4 telephone numbers of all **Parties** concerned and all other pertinent information of a similar nature; and

4.12.1.5 the time periods required for the ESR of such necessary consumables.

4.12.2 In connection with Sub-Clause 4.12.1, the **ESR Service Provider** shall ensure that all appropriate personnel at the **ESR Plant** are made aware of the **Local Joint ESR Plan** and receive appropriate training in respect thereof. Appropriate training shall be at the sole discretion of the **ESR Service Provider** but may include the carrying out of one exercise a year (of no more than a reasonable duration) with various station staff (which may include the operation of any part of the **Local Joint ESR Plan**). Upon reasonable request from the **ESR Service Provider**, **The Company** shall use reasonable endeavours (insofar as permitted by the **Grid Code** and subject as provided below) to co-operate with the **ESR Service Provider** in the carrying out of any such exercise by the issue of suitable instructions (at times and for periods agreed with **The Company**) and, subject to the **ESR Service Provider's** rights referred to in Sub-Clauses 4.20.2 to 4.20.15, each **Party** shall bear its own additional staffing costs in connection with any such exercise. In respect of any exercises involving changes to the production profile of any **BM Unit** at the **ESR Service Provider's Power Station**, the provisions of Sub-Clauses 4.20.2 to 4.20.15 shall apply.

4.12.3 The **Parties** shall use reasonable endeavours to ensure that a **Local Joint ESR Plan** has been developed by the **Service Commencement Date** and, in connection therewith, the **ESR Service Provider** shall be responsible for procuring that all **Relevant Third Parties** co-operate in the development of such **Local Joint ESR Plan**. In the event that a **Local Joint ESR Plan** has not been agreed by the **Parties** and the **Relevant Third Parties** by the date being three months after the **Service Commencement Date** or such later date as may be agreed in writing by both **Parties**, **The Company** shall be entitled to notify the **ESR Service Provider** in writing at any time thereafter that the **ESR Plant** shall be deemed not to have any part of the **ESR Capability** with effect from the date of such notification until such time as a **Local Joint ESR Plan** has been developed and agreed by the **Parties** and the **Relevant Third Parties**.

4.13 Events of Default

In relation to the **ESR Service**, each of the events specified in Annexure B (*Events of Default and Consequences*) to this Clause 4 (and no others) shall constitute an "**Event of Default**" and shall result in the respective consequences also set out therein as if the same were set out in full in this Clause 4. For the avoidance of doubt, where one incident results in more than one **Event of Default**, **The Company** shall only be entitled to apply the respective consequence once.

4.14 Consequences of Events of Default

- 4.14.1 The provisions of Annexure B (*Events of Default and Consequences*) to this Clause 4 shall apply in the case of an **Event of Default** and, subject to the provisions thereof, the amounts payable by the **ESR Service Provider** to **The Company** in respect thereof shall be calculated in accordance with Schedule E, Section 2, Part I (in respect of a **Repayment Amount**) and Schedule E, Section 2 Part III (in respect of a **Works Contribution Refund Payment**).
- 4.14.2 The **ESR Service Provider** acknowledges and agrees that the provisions of Annexure B to this Clause 4 have been the subject of discussion and negotiation and are fair and reasonable having regard to the circumstances as at the date hereof and that in particular (but without limiting the foregoing) any monies which cease to be payable by **The Company** to the **ESR Service Provider** hereunder, the aggregate number of hours expressed to be taken into account in calculating the **Monthly Availability Payments** payable to the **ESR Service Provider** pursuant to this Clause 4, the **Repayment Amounts** and the **Works Contribution Refund Payments** have been calculated so as to reflect as fairly as possible the costs which are reasonably contemplated by the **Parties** at the date hereof as being likely to be incurred by **The Company** as a direct result of the **Events of Default** as referred to in Sub-Clause 4.13 or (as the case may be) the termination of provision of the **ESR Service**.

4.15 Annual Assessment

- 4.15.1 Following the expiry of each consecutive 12 month period of operation of this Clause 4 commencing from the **Service Commencement Date**, **The Company** shall undertake assessments of the extent of provision of the **ESR Service** by the **ESR Service Provider** over the immediately preceding 12 month period (the "**Assessment Period**") and shall notify the **ESR Service Provider** accordingly within twelve (12) months following the end of the **Assessment Period**. If no such notification has been received by the **ESR Service Provider** from **The Company** by the date falling twelve (12) months after the end of the **Assessment Period**, no such assessment shall be required.
- 4.15.2 The first assessment shall be carried out by determining in relation to each **Assessment Period** and by reference to Sub-Clauses 4.15.3 to 4.15.4 inclusive, the number of **Settlement Periods** during such **Assessment Period** in which the **ESR Plant** has had the **ESR Capability**.
- 4.15.3 If in respect of any period the **ESR Plant** does not have the **ESR Capability** due solely to **Force Majeure** then, to the extent that in respect of such period the **ESR Service Provider** is able to demonstrate to **The Company's** reasonable satisfaction that it has been taking all reasonably practicable steps to restore the **ESR Capability** of the **ESR Plant**, the **ESR Plant** shall be deemed to have had the **ESR Capability** for the purposes of Annexure C (*Annual Assessment of ESR Capability*) to this Clause 4.
- 4.15.4 If the **ESR Service Provider** gives **The Company** prior written notice of any period during which the **ESR Service Provider** proposes to withdraw the **ESR Capability** from the **ESR Plant** in addition to the periods of scheduled

maintenance specified in the table set out in Schedule E, Section 4 (including the duration of such period), **The Company**:

- 4.15.4.1 shall assess the likely consequences of such withdrawal; and
- 4.15.4.2 may, at its discretion, agree in writing with the **ESR Service Provider** to the proposed period of outage or propose an alternative period of outage.
- 4.15.5 If the **Parties** agree to a period of outage pursuant to Sub-Clause 4.15.4.2 the withdrawal of the **ESR Capability** during the agreed period shall not be included in the **Annual Assessment** in accordance with Annexure C.
- 4.15.6 Where the **Parties** do not agree to a period of outage pursuant to Sub-Clause 4.15.4.2 the withdrawal of the **ESR Capability** during any period shall be included in the availability assessment for **Annual Assessment** in accordance with Annexure C.
- 4.15.7 If the percentage of **Settlement Periods** in an **Assessment Period** that the **ESR Plant** had the **ESR Capability** is less than a **ESR Capability** percentage stated in Annexure C to this Clause 4 then the respective consequences stated in Annexure C to this Clause 4 shall apply.
- 4.15.8 In respect of each **Assessment Period**, a second assessment shall also be carried out of the number of **Settlement Periods** during such **Assessment Period** in which the **ESR Plant** did not have the **ESR Capability** due to **Force Majeure**. If the percentage of such **Settlement Periods** during such **Assessment Period** exceeds 75% then either **Party** shall be entitled to terminate this Clause 4 forthwith by notice in writing to the other to be served at any time until the end of one month following expiry of the relevant **Assessment Period** (or one month following completion of the assessment, if later). In respect of such termination, the **ESR Service Provider** shall pay to **The Company** in accordance with Clause [8][4 of the MASA] a **Works Contribution Refund Payment** calculated in accordance with the formula in Schedule E, Section 2, Part III.
- 4.15.9 The first such **Assessment Period** shall commence on the **Service Commencement Date**. In the event of termination of the provisions of this Clause 4 during an **Assessment Period**, the availability of the **ESR Plant** in respect of the period since the end of the last **Assessment Period** shall be assessed by **The Company** in accordance with this Sub-Clause 4.15 but in respect of such shorter period, and “**Assessment Period**” shall be construed accordingly.
- 4.15.10 Subject to Sub-Clauses 4.15.3 and 4.15.4, for the purposes of this Sub-Clause 4.15 and Schedule E, Section 2, periods when the **ESR Plant** shall not have had the **ESR Capability** shall be determined in accordance with Sub-Clause 4.9 and/or Sub-Clause 4.12.3.
- 4.16 **Not used**
- 4.17 **Termination**
- 4.17.1 Without prejudice to **The Company's** right to terminate the provisions of this Clause 4 prior to the **Service Commencement Date** pursuant to Sub-Clause 4.5.3 or in the circumstances described in Sub-Clause 4.15.8, **The**

Company shall be entitled to terminate the provisions of this Clause 4 after the **Service Commencement Date** only in the following circumstances as specified in:

4.17.1.1 Annexure B (*Events of Default and Consequences*) to this Clause 4 as a consequence of one or more **Events of Default**; and

4.17.1.2 Annexure C (*Annual Assessment of ESR Capability*) to this Clause 4.

4.17.2 Upon termination of this Clause 4 as referred to in Sub-Clause 4.17.1 or upon termination of this **Agreement** pursuant to Sub-Clause [10.1][7.1 of the **MASA**], the **ESR Service Provider** shall pay to **The Company** in accordance with Clause [8][4 of the **MASA**] a **Works Contribution Refund Payment** calculated in accordance with the formula in Schedule E, Section 2, Part III.

4.17.3 Termination of this Clause 4 shall, subject to Sub-Clause 4.3.5 be without prejudice to any rights of the **Parties** which shall have accrued at the time of such termination.

4.18 **Instructions and Notifications**

4.18.1 All notifications, declarations, confirmations and other communications of whatever nature to be given by **The Company** to the **ESR Service Provider** or vice versa pursuant to this Clause 4 which concern the availability and utilisation of the **ESR Service** shall (unless otherwise specified to the contrary in this Clause 4) be given either:-

4.18.1.1 in accordance with the **Grid Code** (where applicable); or

4.18.1.2 by telephone,

and subsequently confirmed by facsimile or other electronic means approved from time to time by **The Company** in the appropriate form set out in Schedule E, Section 5 or by such other means as may be agreed in writing by the **Parties**.

4.19 **Inspections and Assurance Visits**

Inspections

4.19.1 To enable **The Company** to verify the capability of the **ESR Plant** to provide the **ESR Service**, the **ESR Service Provider** shall permit **The Company** to inspect such of the following as **The Company** may reasonably require (in each case upon giving to the **ESR Service Provider** not less than 24 hours prior notice):-

4.19.1.1 the **ESR Gensets** or **HVDC Converter Station**;

4.19.1.2 the **Auxiliaries** (including without limitation the **ESR Auxiliary Units**);

4.19.1.3 the **ESR Service Provider's** other **Plant** and **Apparatus**, in relation to **ESR Capability**, necessary consumables (which shall include supplies of raw water, demineralised water and, where applicable, infrastructure for the supply of natural

gas to the **ESR Auxiliary Units**), communication channels and other related supplies at the **Power Station**;

- 4.19.1.4 where applicable arrangements that the **ESR Service Provider** has in place for the supply of natural gas to the **ESR Auxiliary Units** at the appropriate time and the required pressure;
- 4.19.1.5 the **Local Joint ESR Plan** and such evidence as **The Company** shall reasonably require to demonstrate compliance by the **ESR Service Provider** with its obligations contained in this **Agreement**; and
- 4.19.1.6 any **ESR Situation** procedure which has been or may in future be developed independently by the **ESR Service Provider** in respect of the **ESR Plant** giving specific guidance to that **ESR Plant** in the event of a **ESR Situation** and which is or may at a future date be in current use at the **ESR Plant**.

Such inspection shall be carried out without undue interference with the normal operation of the **ESR Plant**.

Assurance Visits

- 4.19.2 Without prejudice to, and in addition to, **The Company's** right to carry out inspections in accordance with Sub-Clause 4.19.1, the **ESR Service Provider** shall, subject to Sub-Clause 4.19.3, not more than once in any calendar year, permit **The Company** to visit the **ESR Plant** (upon **The Company** giving to the **ESR Service Provider** not less than 168 hours' prior notice) so that **The Company** may ascertain to its reasonable satisfaction that the **ESR Service Provider** has, in accordance with **Good Industry Practice**, implemented at the **ESR Plant** appropriate technical, training and documentation procedures (an "**Assurance Visit**"). **Assurance Visits** shall be carried out without undue interference with the normal operation of the **ESR Plant**.
- 4.19.3 Following receipt of any notice issued by **The Company** pursuant to Sub-Clause 4.19.2, the **ESR Service Provider** may propose to **The Company** an alternative time and date for the **Assurance Visit**, provided that any such alternative time and date shall not be later than 28 **Settlement Days** following the time and date specified by **The Company** in its notice, and (at its option) **The Company** may agree to such alternative time and date. In the event that the **ESR Service Provider** unreasonably delays the **Assurance Visit** beyond the time and date being 28 **Settlement Days** after the time and date for the **Assurance Visit** specified by **The Company** in its notice, then no **Monthly Availability Payments** shall accrue to the **ESR Service Provider** in respect of the period commencing at the time and date for the **Assurance Visit** specified in **The Company's** notice and ending upon completion by **The Company** of an **Assurance Visit**.
- 4.19.4 If any dispute arises in relation to an inspection or **Assurance Visit**, then the **Parties** shall attempt to resolve the dispute by discussion but if they fail to reach agreement within three (3) **Business Days** of the commencement of discussions either **Party** may refer the matter to the **Independent Expert** for determination.

4.20 ESR Tests⁶

Obligations to carry out a Commissioning Assessment, Capability Assessment, Remote Synchronisation Test, Dead Line Charge Test and Repeating Assessment

4.20.1 For the purposes of this Clause 4, **ESR Tests** include **Commissioning Assessments, Capability Assessments, Remote Synchronisation Tests, Dead Line Charge Tests** and **Repeating Assessments**. Subject always to the provisions of this Clause 4, the **ESR Service Provider** shall:-

4.20.1.1 [on written notice to **The Company** and not later than the **Target Commencement Date** (or such later date as may be determined in accordance with Part 1 of Annexure A) carry out a **Commissioning Assessment** in accordance with Part 1 of Annexure A (*Works Programme*);]⁷

4.20.1.2 [on written notice to **The Company** and not later than the third anniversary of the **Service Commencement Date**, carry out a test (a "**Capability Assessment**") in accordance with the procedure set out in OC5.7.2 of the **Grid Code** provided always that not more than one **Capability Assessment** will be required to be undertaken by the **ESR Service Provider** in any period of thirty-six (36) calendar months;] OR [on written notice to **The Company** and not later than the third anniversary of the last **Capability Assessment** undertaken by the **ESR Service Provider** in accordance with the contractual terms governing the provision of ESR services in place immediately prior to commencement of the term of this Clause 4.]⁸

4.20.1.3 on written notice from **The Company** given not more than once in any two calendar years, carry out a **Remote Synchronisation Test**, to determine whether the **ESR Gensets** or **ESR HVDC System** and/or the **Auxiliaries** and their associated **Plant** and **Apparatus** are able to perform the processes described in Part 1 of Annexure D (*Remote Synchronisation Testing/Dead Line Charge Test*) and are otherwise capable of providing the **ESR Service** in accordance with this Clause 4. Subject to the foregoing, **The Company** may undertake a **RST** at the time of conducting a **Capability Assessment** or at such other times as it may determine; on written notice from **The Company** given not more than once in any two calendar years, carry out a **Dead Line Charge Test**, to determine whether the **ESR Gensets** or **ESR HVDC System** and/or the **Auxiliaries** and their associated **Plant** and **Apparatus** are able to perform the processes described in Part 2 of Annexure D (*Remote Synchronisation Testing/Dead Line Charge Test*) and are otherwise capable of providing the **ESR Service** in accordance with this Clause 4. Subject to the foregoing, **The Company** may undertake a **Dead Line Charge Test** at the time of conducting a **Capability Assessment** or at such other times as it may determine; and following written notice from **The Company** under Sub-Clause 4.9.4.2(b), carry out a **Repeating Assessment** in order to verify the ESR of **ESR Capability** on such date as may be determined under Sub-Clause 4.9.4.2 in accordance the procedure set out in OC5.7.2 of the **Grid Code**.

ESR Test Procedure - Preparatory

4.20.2 In respect of each **ESR Test**, **The Company** and the **ESR Service Provider** shall use all reasonable endeavours to agree, no later than four clear **Settlement Days**

⁶ Clause 4.20 has been drafted for a power generating facility and will need to be adapted for an interconnector.

⁷ New Providers only – where the ESR Plant is currently being used to provide a ESR Service, no Commissioning Assessment will be required unless changes are being made to the plant affecting its ESR Capability.

⁸ The second option is for existing providers only.

before the day on which the **ESR Test** is due to be conducted, the **ESR Test Parameters and Procedures** for the conduct of the **ESR Test**, such agreement to be recorded in the form of a side letter. If no such agreement is reached by such date and **The Company**, acting reasonably, determines that such failure is due to the default of the **ESR Service Provider**, then without prejudice to any other provision of this **Agreement** no **Monthly Availability Payments** shall accrue due to the **ESR Service Provider** from such date until the date when such agreement is finally reached.

- 4.20.3 The **ESR Test Parameters and Procedures** shall comprise those matters necessary to meet the objectives referred to in Sub-Clause 4.20.1.1 (**Commissioning Assessment**), 4.20.1.2 (**Capability Assessment**), 4.20.1.3 (**RST**), 4.20.1.4 (**Dead Line Charge**) and 4.20.1.5 (**Reproving Assessments**), as applicable, and shall be consistent therewith, and shall in each case include (without limitation):
- 4.20.3.1 the **BM Unit ID** for each of the **ESR Gensets** and **BM Unit ID** (or other identification) for each of the **ESR Auxiliary Units**;
- 4.20.3.2 the proposed start time and end time for the **ESR Test Period**, each determined in accordance with Sub-Clause 4.20.4;
- 4.20.3.3 a proposed running profile, together with underlying **Physical Notification** level and **Maximum Export Limit**, for each of the **ESR Gensets** during the **ESR Test** which meet the requirements of Sub-Clause 4.20.5; and
- 4.20.3.4 a proposed running profile for each of the **ESR Auxiliary Units**.

ESR Test Period

- 4.20.4 The start time and end time of a **ESR Test Period** referred to in Sub-Clause 4.20.3.2 shall, unless otherwise agreed by the **Parties** in writing, be determined as follows:
- 4.20.4.1 in the case where the running profile comprised within the **ESR Test Parameters** indicates the **ESR Gensets** being **Synchronised** in any **Settlement Periods** in the twelve hour period immediately prior to commencement of the **ESR Test Period**:-
- (a) the start time shall be one hour prior to the time indicated in the running profile for the **ESR Genset** to commence **De-Loading** in preparation for **Desynchronisation**; and
- (b) the end time shall be one hour after the time indicated in the running profile by which the **ESR Gensets** shall have achieved an **Output** equal to its **Physical Notification** level;
- 4.20.4.2 if the running profile comprised within the **ESR Test Parameters and Procedures** indicates the **ESR Gensets** not being **Synchronised** in any **Settlement Period** in the twelve hour period immediately prior to commencement of the **ESR Test Period**:-
- (a) the start time shall be one hour prior to the time indicated in the running profile for the opening of the final circuit breaker connecting the **Power Station** to the **National Electricity Transmission System** or **User**

System (as the case may be) in preparation for the **Synchronisation** of the **ESR Gensets**; and

- (b) the end time shall be one hour after the time indicated by the running profile for the **ESR Gensets** to achieve an **Output** equal to its **Physical Notification** level.
- 4.20.5 The underlying **Physical Notification** level for a **ESR Genset** during the **ESR Test** referred to in Sub-Clause 4.20.3.3 shall, unless otherwise agreed by the **Parties** in writing, be zero MW if the running profile of that **ESR Genset** indicates it not being **Synchronised** in any **Settlement Period** in the twelve hour period immediately prior to commencement of the **ESR Test Period**.
- 4.20.6 The **Dynamic Parameters** for the **ESR Gensets** during the **ESR Test** shall, unless otherwise agreed by the **Parties** in the **ESR Test Parameters and Procedures**, be those **Dynamic Parameters** which applied at the time of the written notice under Sub-Clause 4.20.1 of the requirement for a **ESR Test**.
- 4.20.7 Once agreed by the **Parties** in accordance with Sub-Clause 4.20.2, the **ESR Test Parameters and Procedures** may subsequently be revised by agreement in writing of the **Parties** (not to be unreasonably withheld or delayed) but not so as to fall outside of the **ESR Test Period**.

ESR Test Procedure - Conduct

- 4.20.8 In conducting a **ESR Test**, **The Company** may assess the suitability of, and the performance of the **ESR Service Provider's** personnel against, the terms of the **Local Joint ESR Plan** and/or any **ESR Situation** procedure which has been developed independently by the **ESR Service Provider** (as more particularly referred to in Sub-Clause 4.19.1.6), and such assessment shall (inter alia) be taken into account when determining whether the **ESR Service Provider** has passed or failed such **ESR Test**.
- 4.20.9 Where **The Company** or the **ESR Service Provider** reasonably considers that any **ESR Test**, other than a **Reproving Assessment** (in respect of which Sub-Clause 4.9.4.2(d) shall apply), would result in it incurring exceptional costs or (in the case of **The Company** only) the safety or security of the **System** being compromised, it may notify the other **Party** of the cancellation of such **ESR Test**, in which event the **Parties** shall agree a new time for the conduct of such **ESR Test** and Sub-Clauses 4.20.2 to 4.20.7 and this Sub-Clause 4.20.9 shall apply. Where the **ESR Service Provider** unreasonably withholds or delays such agreement, **The Company** may specify a time for the conduct of such **ESR Test** on no less than 168 hours notice.

Notices

- 4.20.10 The **ESR Service Provider** shall use such telephone and facsimile numbers (or the address for such other electronic means approved from time to time by **The Company**) as may be notified to it by **The Company** from time to time for the purposes of notices to be given or confirmed pursuant to this Sub-Clause 4.20. Service of such notice shall be without prejudice to the **ESR Service Provider's** obligations to notify

BM Unit Data by means of the **EDL Equipment** pursuant to the **Grid Code** and/or the **Balancing and Settlement Code**.

ESR Test - Costs

- 4.20.11 Each **Party** shall bear its own costs incurred as a direct result of a **Commissioning Assessment**, a **Capability Assessment**, a **Dead Line Charge Test** and a **Remote Synchronisation Test** save where the **ESR Service Provider** fails such **Commissioning Assessment**, **Capability Assessment**, **Dead Line Charge Test** or **Remote Synchronisation Test** (as the case may be), in which event the **ESR Service Provider** shall, in addition to bearing its own costs, reimburse to **The Company** all of **The Company's** reasonable resource costs (other than costs incurred in connection with reconfiguring the **National Electricity Transmission System**) and expenses reasonably incurred as a direct result thereof. Additionally, the **ESR Service Provider** shall reimburse to **The Company** all of **The Company's** reasonable costs reasonably incurred as a direct result of a **Reproving Assessment** conducted either following an **Event of Default** referred to in Sub-Clause 4.13 (*Events of Default*) or following failure by the **ESR Service Provider** of a previous **Reproving Assessment**.

Disputes

- 4.20.12 If a bona fide dispute relates to the performance of the **ESR Gensets** or **ESR HVDC System** and/or the **ESR Auxiliary Units** or the results of a **ESR Test**, **The Company** and the **ESR Service Provider** shall attempt to resolve the dispute by discussion, and if they fail to reach agreement the **ESR Service Provider** may require a further test. If the **ESR Service Provider** passes such further **ESR Test**, it shall be deemed to have passed the first test. If the **ESR Service Provider** fails such further **ESR Test** and a dispute arises in respect of that further test, then the **Parties** shall attempt to resolve the dispute by discussion but if they fail to reach agreement within three (3) **Business Days** of the commencement of such discussion either **Party** may refer the matter to the **Independent Expert** for

determination. The **ESR Service Provider** shall not be treated as failing any **ESR Test** if it has given notice of non-capability pursuant to Sub-Clause 4.9 either:-

- 4.20.12.1 before the notice of the relevant test is given in accordance with Sub-Clause 4.20.1; or
- 4.20.12.2 after the notice of the relevant test is given in accordance with Sub-Clause 4.20.1 in respect of matters which the **ESR Service Provider** can reasonably demonstrate arose after the giving of such notice.

Forced Cooling

- 4.20.13 If during any **ESR Test** relating to a power generating facility a **ESR Genset** at the **Power Station** is required to be **Shutdown**, any forced cooling of that **ESR Genset** undertaken by the **ESR Service Provider** shall be at its own cost.

Restrictions on ESR Tests

- 4.20.14 **The Company** shall not require a **ESR Test** during periods when the **ESR Plant** does not have or is deemed not to have the **ESR Capability** by reason of: -
 - 4.20.14.1 a planned maintenance and/or inspection period agreed pursuant to the **Grid Code**;
 - 4.20.14.2 an event or circumstance of **Force Majeure**;
 - 4.20.14.3 notification in accordance with Sub-Clause 4.9.1; or
 - 4.20.14.4 the terms of this Clause 4 (including Sub-Clauses 4.9.3, 4.9.4, 4.9.5 and 4.12.3) or Annexure B (*Events of Default and Consequences*) to this Clause 4.

Damage to Plant and Apparatus

- 4.20.15 For the avoidance of doubt, each **Party** shall bear the risk of, and the other **Party** shall have no liability to that **Party** in respect of, loss and damage to that **Party's Plant** and/or **Apparatus** caused during or as a result of any **ESR Test** (whether due wholly or partly to the other **Party's** default or to the malfunction of its **Plant** or **Apparatus** or otherwise).

4.21 Monitoring and Metering

Without prejudice to any existing right of **The Company** to monitor and meter the provision of any **Ancillary Service**, **The Company** by agreement with the **ESR Service Provider** (not to be unreasonably withheld or delayed) may monitor and/or meter the provision by the **ESR Service Provider** of the **ESR Service**.

4.22 Changes to Other Documents

- 4.22.1 The **Parties** agree to negotiate in good faith and use all reasonable endeavours to agree amendments to this Clause 4 in light of: -
 - 4.22.1.1 any changes to a **Legal Requirement** or industry documentation (including without limitation the **Act**, any **Licence**, the **Balancing and Settlement Code**, the

Grid Code, the Connection and Use of System Code, the Mandatory Services Agreement and/or the relevant Bilateral Agreement); or

4.22.1.2 the implementation of any new **Legal Requirement**,

resulting, in either case, in a material change to the manner of provision of the **ESR Service** by the **ESR Service Provider** and/or the basis of payments made to or by **The Company** under this Clause 4, such amendments to have the effect so far as reasonably practicable of making the provision of the **ESR Service** by the **ESR Service Provider** and/or (as the case may be) the basis of payments to or by **The Company** under this Clause 4 no more or less favourable to the respective **Party** as was the case before such variations took effect (ignoring all payments made to the **ESR Service Provider** otherwise than pursuant to this **Agreement** which, as a result of the changes to industry documentation as referred to above, shall cease to be payable to the **ESR Service Provider** or are otherwise varied).

4.22.2 Failing agreement in respect of the matters contained in Sub-Clause 4.22.1, within 30 days of a **Party** notifying the other **Party** that it intends to refer a matter to the **Independent Expert**, that **Party** shall have the right to invoke the provisions of Clause [19][15] (*Dispute Resolution*) [of the **MASA**].

4.22.3 It is agreed that neither **Party** shall be entitled to modify, alter or otherwise change the site specific technical conditions under Appendix F1 (relating to the **ESR Service**) of the **Bilateral Agreement** for the **Power Station** the subject of this **Agreement** referred to in Sub-Clause 4.3.1.2 so as to remove the reference therein to **ESR** during such time as terms dealing with the provision of and payment for such **Ancillary Service** are contained in this Clause 4 (as amended, varied or otherwise altered from time to time) and have not either terminated or expired in accordance with the provisions of this Clause 4.

4.23 Independent Expert

4.23.1 Where any provision of this Clause 4 or Schedule E provides for a dispute or difference between the **Parties** to be referred to the **Independent Expert**, the following provisions shall apply:

4.23.1.1 the **Independent Expert** shall act as an expert and not as an arbitrator and shall decide those matters referred to him using his skill, experience and knowledge, and with regard to all such other matters as he in his sole discretion considers appropriate;

4.23.1.2 if the **Parties** cannot agree upon the selection of an **Independent Expert**, the selection shall be made by the President for the time being of the Law Society of England and Wales;

4.23.1.3 all references to the **Independent Expert** shall be made in writing by either **Party** with notice to the other being given contemporaneously, and the **Parties** shall promptly supply the **Independent Expert** with such documents and information as he may request when considering any referral;

4.23.1.4 the **Independent Expert** shall be requested to use his best endeavours to give his decision upon the question before him as soon as possible in writing following its

referral to him, his decision shall, in the absence of fraud or manifest error, be final and binding upon the **Parties**;

4.23.1.5 if the **Independent Expert** wishes to obtain independent professional and/or technical advice in connection with the question before him:

- a) he shall first provide the **Parties** with details of the name, organisation and estimated fees of the professional or technical adviser; and
- b) he may engage such advisers with the consent of the **Parties** (which consent shall not be unreasonably withheld or delayed) for the purposes of obtaining such professional and/or technical advice as he may reasonably require;

4.23.1.6 the **Independent Expert** shall not be held liable for any act or omission, and his written decision will be given without any liability on the **Independent Expert's** part to either **Party**, unless it shall be shown that he acted fraudulently or in bad faith;

4.23.1.7 save to the extent otherwise expressly provided herein, pending the determination by the **Independent Expert**, the **Parties** shall continue to the extent possible to perform their obligations; and

4.23.1.8 the **Independent Expert** shall at his discretion be entitled to order that the costs of the reference of a dispute to him shall be paid by the **Parties** in whatever proportions he thinks fit.

4.24 Force Majeure

4.24.1 If either **Party** (the "**Non-Performing Party**") shall be unable to carry out any of its obligations under this **Agreement** due to **Force Majeure**, then without prejudice to the other provisions of this Clause 4 this **Agreement** shall remain in effect but the **Non-Performing Party's** relevant obligations and the obligations of the other **Party** owed to the **Non-Performing Party** under this **Agreement**, shall be suspended for a period equal to the duration of **Force Majeure** provided that:-

4.24.1.1 the suspension of performance is of no greater scope and of no longer duration than is required by the **Force Majeure**;

4.24.1.2 no obligations of any **Party** that arose before the **Force Majeure** causing suspension of performance are excused as a result of the **Force Majeure**;

4.24.1.3 the **Non-Performing Party** gives the other **Party** prompt notice describing the circumstance of **Force Majeure**, including the nature of the occurrence and its expected duration, and continues to furnish regular reports with respect thereto during the period of **Force Majeure**;

4.24.1.4 the **Non-Performing Party** uses all reasonable efforts to remedy its inability to perform; and

4.24.1.5 as soon as reasonably practicable after the event which constitutes **Force Majeure** the **Parties** shall discuss how best to continue their operations so far as possible in accordance with this Clause 4.

4.24.2 For the purposes of Sub-Clauses 4.6.1.2 and 4.6.4 the **ESR Service** shall be unavailable and no **Monthly Availability Payment** or **Repayment Amount** shall fall

due in respect of and to the extent of any **Settlement Period** in which the **ESR Service Provider** is unable to provide the **ESR Service** due to **Force Majeure**.

- 4.24.3 The **Expiry Date** shall be extended by the aggregate of all **Settlement Periods** during the term of this Clause 4 in which the **ESR Service Provider** is unable to provide the **ESR Service** due to **Force Majeure**. The **Monthly Availability Payment** and/or the **Repayment Amount** that falls due during any such extension period shall be fixed at the levels set following the final indexation prior to the original **Expiry Date** and will not be subject to any further indexation.

4.25 **BM Unit Registration**

If during the term of this Clause 4 the registration status of any or all of the **ESR Plant** as (or as part of) a **BM Unit** or as a non-**BM Unit** changes, then the **Parties** shall use all reasonable endeavours to agree such variations to this Clause 4 and Schedule E as shall be necessary in consequence thereof. Failing agreement within 30 days, either **Party** shall have the right to refer the matter to the **Independent Expert** for determination whose decision shall be final and binding on the **Parties**.

4.26 **No Announcement**

Notwithstanding Sub-Clause [13.4][9.4] of the MASA (*Confidentiality and Announcements*), the **ESR Service Provider** agrees that except as provided in Sub-Clause [13.4.2] it shall not make any public announcement or statement regarding the subject matter of this Clause 4 and/or the status of the **Power Station** or **HVDC System** as a **ESR Plant** and this Sub-Clause 4.26 shall continue to bind the **ESR Service Provider** after termination or expiry of this Clause 4 for whatever reason.

**ANNEXURE A TO CLAUSE 4
WORKS PROGRAMME ⁹**

Part I

Timescale

1. The **ESR Service Provider** shall use its reasonable endeavours to procure that the **Commissioning Assessment** is passed on or before the **Target Commencement Date**. The **Parties** agree that the milestone schedule shown in Part IV of this Annexure A represents an indicative schedule of progress of the **Works**. During progress of the **Works**, but in any event no later than 3 months prior to completion of the **Works**, both **Parties** shall use their reasonable endeavours to agree the precise technical specification for the test or sequence of tests (a "**Commissioning Assessment**") referred to in Part II below. Such **Commissioning Assessment** shall not include any requirement for **The Company** to issue **Bid-Offer Acceptances**. If the **Parties** shall have failed to reach agreement by the date 3 months prior to completion of the **Works**, then the matter shall be referred to the **Independent Expert** who shall determine in his absolute discretion the precise technical specification consistent with the summary procedure set out in Part II below.
2. The **ESR Service Provider** shall provide to **The Company** monthly reports of how the **Works** are progressing which shall, inter alia, identify any delay or anticipated delay in completing the **Works** and how the **ESR Service Provider** proposes to remedy or avoid any such delay or anticipated delay. Moreover, the **ESR Service Provider** shall, if so requested by **The Company**, give to **The Company** such evidence as it shall reasonably require and, if necessary, allow **The Company's** representatives all reasonable access to the **Power Station** and to the **Auxiliaries and/or ESR Gensets and Plant and Apparatus** owned or operated by the **ESR Service Provider** to enable **The Company** to ascertain how the **Works** are progressing and that the **Works** are proceeding in accordance with the **Works Programme**. Furthermore, the **ESR Service Provider** shall notify **The Company** of its intention to conduct an acceptance test of the **Auxiliaries** and shall, if so requested by **The Company** and at **The Company's** sole cost, allow **The Company's** representatives to be present at such a test as **oESR servers**.
3. The **ESR Service Provider** shall notify **The Company** in writing of the date when the **Works** are substantially completed and the **ESR Gensets** and/or the **Auxiliaries** and their associated **Plant and Apparatus** are able in the **ESR Service Provider's** opinion to provide the **ESR Service**.
4. Following receipt of a notice issued by the **ESR Service Provider** pursuant to paragraph 3 or 6 (as the case may be):
 - 4.1. the **Works** shall be deemed to be available for the purposes of conducting a **Commissioning Assessment** with effect from the date specified in the notice given by the **ESR Service Provider** in accordance with paragraph 3 (the "**Provisional Service Commencement Date**") or paragraph 6 (the "**Re-assessment Availability Date**") and the **ESR Service Provider** shall (subject to paragraph 7) be entitled to receive **Monthly Availability Payments** with effect from the **Provisional Service Commencement Date**.
 - 4.2. **The Company** shall, as soon as reasonably practicable after the **Provisional Service Commencement Date** or **Re-assessment Availability Date** (as the case may be),

⁹ Note: this Annexure has been developed to cover the installation and commissioning of an auxiliary generating unit. It may need to be adapted in the case of a HVDC System or a Power Park Module and the changes required will be dependent on the specific works required.

contact the **ESR Service Provider** to agree the date on which the **ESR Service Provider** shall carry out a **Commissioning Assessment**, the scope of which is set out in Part II of this Annexure A, to determine whether the **ESR Gensets** and/or the **Auxiliaries** and their associated **Plant** and **Apparatus** have the **ESR Capability** and are otherwise capable of providing the **ESR Service** in accordance with Clause 4 . For the avoidance of doubt, the **ESR Plant** shall not have the **ESR Capability** until such time as a **Commissioning Assessment** has been passed in accordance with this Annexure A.

5. Both **Parties** shall use their reasonable endeavours to ensure that the **Commissioning Assessment** is conducted as soon as possible and shall agree the date and time of the **Commissioning Assessment**, provided always that, although **The Company** shall not unreasonably refuse to carry out a **Commissioning Assessment** at any time and date that may be requested by the **ESR Service Provider**, having regard to the cost implications **The Company** reserves the right to cancel any **Commissioning Assessment** previously agreed to be carried out. In such a case the **Parties** shall agree an alternative time and date when the **Commissioning Assessment** shall be carried out which shall be as soon as possible thereafter. Either **Party** may request the **Independent Expert** to be present at a **Commissioning Assessment**.
6. As soon as possible after the date on which the **Commissioning Assessment** has been completed, **The Company** shall notify the **ESR Service Provider** whether it has passed or failed the **Commissioning Assessment**. Subject to the provisions of paragraph 9, in the event that **The Company** notifies the **ESR Service Provider** that in **The Company's** opinion (and giving reasons for that opinion) the **ESR Service Provider** has failed any **Commissioning Assessment**, the **ESR Service Provider** shall as soon as possible respond to **The Company**. If the **ESR Service Provider** does not dispute that there has been a failure, it shall address the reason for the failure and shall subsequently notify **The Company** when the failure has been addressed, whereupon the provisions of paragraphs 4 and 5 shall apply. If the **ESR Service Provider** disputes that there has been a failure, the **Parties** shall attempt to resolve the dispute by discussions, and if they fail to reach agreement within 3 **Business Days** of the commencement of such discussions either **Party** may refer the matter to the **Independent Expert** for determination and the provisions of paragraph 13 shall apply to such reference.
7. Where the **ESR Service Provider** is determined by **The Company** or (where appropriate) the **Independent Expert** to have passed the first **Commissioning Assessment** then the **ESR Plant** shall be deemed to have had the **ESR Capability** with effect from the **Provisional Service Commencement Date** and the **Provisional Service Commencement Date** shall constitute the **Service Commencement Date**. Where the **ESR Service Provider** fails the first **Commissioning Assessment** then the **ESR Service Provider** shall reimburse to **The Company** all **Monthly Availability Payments** received in respect of all periods from the **Provisional Service Commencement Date** by way of a **Repayment Amount** and shall not be entitled to receive **Monthly Availability Payments** in respect of the **ESR Plant** for the period commencing on the date of failure of the first **Commissioning Assessment** and ending at 00.00 hours on the first day of the calendar month immediately following the date on which the **ESR Service Provider** has successfully completed a second or subsequent **Commissioning Assessment**.
8. For the avoidance of doubt, each **Party** shall bear the risk of, and the other **Party** shall have no liability to the **Party** in respect of, loss and damage to that **Party's Plant** or **Apparatus** caused during or as a result of any **Commissioning Assessment** (whether due wholly or partly to the other **Party's** default or the malfunction of its **Plant** or **Apparatus** or otherwise).

9. Subject always to paragraph 13.2 below, if the **ESR Service Provider** shall fail a third successive **Commissioning Assessment**, **The Company** may serve written notice on the **ESR Service Provider** terminating the provisions of Clause 4 and such notice shall take effect immediately.
10. Subject always to paragraphs 12 and 13.2 below, save to the extent due to an event or circumstance of **Force Majeure** or an act or omission of **The Company**, if the earlier of the date of a successful **Commissioning Assessment** or the date on which the **Works** are deemed to have been commissioned is:-
- 10.1. after the **Target Commencement Date**, then save to the extent due to an event or circumstance of **Force Majeure** the **ESR Service Provider** shall pay to **The Company** without deduction or set off liquidated damages at the daily rate of £3,000 per day in respect of the first 60 days after the **Target Commencement Date** and then £1,000 per day in respect of the next 120 days after the **Target Commencement Date** (reduced by the number of days between the date originally agreed for a **Commissioning Assessment** and any date subsequently agreed following cancellation by **The Company** pursuant to paragraph 5 above), provided always that such liquidated damages shall not in any event exceed £300,000; and
- 10.2. more than 6 months after the **Target Commencement Date**, then **The Company** shall have the right to terminate Clause 4 by written notice to the **ESR Service Provider** in accordance with Clause [16][12] (Notices) [of the MASA].
11. For the purposes of paragraph 10.11 liquidated damages shall be payable by the **ESR Service Provider** to **The Company** on a monthly basis in accordance with Clause [8][4] (Payment) [of the MASA], and the due date shall be ascertained accordingly. If any payment of liquidated damages (not being a payment subject to a bona fide dispute) remains unpaid after the due date of payment and such non-payment continues unremedied at the expiry of 14 **Business Days** immediately following receipt by the **ESR Service Provider** of written notice from **The Company** of such non-payment then **The Company** shall have the right to terminate Clause 4 by written notice to the **ESR Service Provider** in accordance with Clause [16][12] (Notices) [of the MASA]. Without prejudice to such right of termination, **The Company** may set off all or any part of any liquidated damages due to it pursuant to this Annexure A against any payments due from it to the **ESR Service Provider** pursuant to this **Agreement** and/or any **Mandatory Services Agreement** or other agreement for the provision of **Ancillary Services** to **The Company** to which the **ESR Service Provider** is **Party**, and the **ESR Service Provider** hereby consents to the exercise of such right.
12. If **Force Majeure** prevents successful completion of a **Commissioning Assessment** or deemed commissioning within twelve (12) months after the **Target Commencement Date**, **The Company** shall have the right to terminate Clause 4 by written notice to the **ESR Service Provider** given in accordance with Clause [16][12] (Notices) [of the MASA].
13. Upon any referral to the **Independent Expert** in the circumstances provided in paragraph 6:-
- 13.1. the **ESR Service Provider's** obligation to pay liquidated damages to **The Company** under paragraph 10.1 above shall continue notwithstanding the referral provided always that if the **Independent Expert** determines that the relevant **Commissioning Assessment** has been passed, then **The Company** shall repay to the **ESR Service Provider** in accordance with Clause [8][4] (Payment) [of the MASA] any liquidated damages paid by the **ESR Service Provider** pursuant to paragraph 10.1 above in respect of the period after such **Commissioning**

Assessment together with interest thereon at the **Base Rate** from the date of payment by the **ESR Service Provider**; and

- 13.2. **The Company's** right to terminate the provisions of Clause 4 under paragraphs 9 and 10.2 above shall be suspended and shall have no effect during the period commencing with such referral and ending on the date of determination by the **Independent Expert**.
14. If, following receipt of a monthly report pursuant to paragraph 2 above or in exercise of its rights pursuant to paragraph 2 above or otherwise, **The Company** has reasonable grounds for believing that the **Works** will not be completed on or before the **Target Commencement Date**, then it shall so notify the **ESR Service Provider**. The **ESR Service Provider** shall within 12 **Business Days** inform **The Company** of the reasons for the delay or anticipated delay and shall at the same time either submit to **The Company** its proposals for remedying or avoiding such delay or anticipated delay or alternatively shall notify **The Company** of such later date by which it reasonably expects the **Works** to be completed and commissioned.
15. If **The Company** has reasonable grounds for believing that despite the **ESR Service Provider's** proposals (if any) for remedying or avoiding any delay or anticipated delay the **Works** will not be completed and commissioned within a period 6 months or (where any delay is caused by **Force Majeure**) 12 months after the **Target Commencement Date**, then **The Company** may request the **Independent Expert** to declare that the **Works** have been abandoned. Upon receipt of such a request, the **Independent Expert** shall determine in his sole opinion whether there is any reasonable prospect of the **Works** being completed by, or within 6 or 12 months (as the case may be) of, the **Target Commencement Date**. If the **Independent Expert** determines that there is no such reasonable prospect, then he shall so notify **The Company** and the **ESR Service Provider** whereupon the following provisions shall apply:-
- 15.1. the **ESR Service Provider** shall pay to **The Company** in accordance with **Clause [8][4] (Payment) [of the MASA]** an amount equal to a **Works Contribution Refund Payment** calculated in accordance with the formula in Schedule E, Section 2, Part III as if termination of Clause 4 had thereupon taken place by way of repayment of the **Works Contribution Payment** (together with interest thereon at the **Base Rate**) referred to at Clause 4.6.1.1;
- 15.2. if either:-
- 15.2.1. the **Works** are successfully completed or commissioned within a period of 6 months or (where the delay is caused by **Force Majeure**) 12 months after the **Target Commencement Date**; or
- 15.2.2. before the expiry of such relevant period it is agreed by the **Parties** or determined pursuant to **Clause [19][15] (Dispute Resolution) [of the MASA]** that notwithstanding the **Independent Expert's** determination the **Works** had not at the date of his determination been abandoned and that there are reasonable grounds for believing that the **Works** will be completed before the expiry of such relevant period,

then by reference to the first practicable **Final Monthly Statement** following such completion and commissioning or agreement or determination (as the case may be) **The Company** shall repay to the **ESR Service Provider** the amount paid and referred to in paragraph 15.1 together with interest thereon at the **Base Rate** from the date of payment to **The Company** referred to in paragraph 15.1 above;

15.3. if either:-

15.3.1. the **Works** are not subsequently completed or commissioned within a period of 6 months or (where the delay is caused by **Force Majeure**) 12 months after the **Target Commencement Date**; or

15.3.2. before the expiry of such relevant period it is agreed by the **Parties** or determined pursuant to **Clause [19][15] (*Dispute Resolution*) [of the MASA]** that the **Independent Expert** was correct in his determination that the **Works** had been abandoned or that there are no reasonable grounds for believing that the **Works** will be completed before the expiry of such relevant period,

then **The Company** shall thereupon be entitled to terminate Clause 4 forthwith by notice in writing to the **ESR Service Provider** in accordance with **Clause [16][12] (*Notices*) [of the MASA]**.

Part II

Commissioning Assessment - Summary Procedure¹⁰

1. Scope

The precise technical specification for a **Commissioning Assessment** will be comprehensively set out in a detailed specification to be agreed between the **Parties** no later than 3 months prior to the completion of the **Works** (such agreement not to be unreasonably withheld or delayed) or otherwise determined by the **Independent Expert** pursuant to paragraph 1 of Part I of this Annexure A.

2. Purpose

The **Commissioning Assessment** will aim to demonstrate that with and without external power supplies to all or part of the **Power Station** the **ESR Auxiliary Unit** can be independently started and in turn allow the reliable start-up of the main **Gas Turbine Units** and **Steam Unit** in the manner (including without limitation within the timescales) required by the **ESR Capability** technical parameters.

3. Specification

A full range of commissioning and **Plant** performance test will be carried out by the **ESR Service Provider** to prove that the **ESR Auxiliary Unit** performs correctly without detriment to the operation of the existing **ESR Gensets**. The **Commissioning Assessment** may form part of these tests however they will be considered to be independent from them.

The **Commissioning Assessment** shall be deemed to be passed when the **Power Station** has demonstrated that it has performed adequately in all the required tests such that all **Parties** can have confidence that the **ESR Capability** could be provided if the situation arose. It should be noted that performance tests of various types may be conducted after the **Commissioning Assessment** but these will not affect the ability of the **Power Station** to carry out a **ESR Instruction**.

¹⁰ Note: this Part has been developed to cover the installation and commissioning of an auxiliary generating unit. It may need to be adapted in the case of a HVDC System or Power Park Module and the changes required will be dependent on the specific works required.

Part III

[Specification of ESR Auxiliary Unit]

[To be completed]

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Part IV

Indicative Milestone Schedule¹¹

MILESTONE ACTIVITY	LATEST TARGET
1. The Company exec approval	
2. Contract signing	
3. Complete preliminary functional specifications	
4. Environmental Statement completed	
5. Submit IPC Application	
6. Submit Section 36 Application	
7. Expected to receive Section 36 Consents	
8. Expected to receive IPC Consents	
9. Site access (enabling works)	
10. Site access (main civil)	
11. Civil construction completion	
12. Start of delivery of power converter system	
13. Complete pipe-work installation	
14. Complete electrical control & instrumentation installation	
15. Mechanical completion (i.e. the completion of the supply and installation of the power converter system and process Plant and equipment provided under contract to the ESR Service Provider with the exception of minor defects and omissions).	
16. Cold commissioning complete	
17. Start hot commissioning	

¹¹ Note: this Part has been developed to cover the installation and commissioning of an auxiliary generating unit. It will need to be adapted in the case of a HVDC System or a Power Park Module and the changes required will be dependent on the specific works required.

18.	Completion of hot commissioning	
19.	ESR Capability testing	
20.	Target Commencement Date	

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Part V

Not used

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Part VI - Valid Invoices

[Insert list of required invoices for **Internal Costs** and **External Costs**]¹²

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¹² Commercial Submission information submitted as part of ITT will be listed here

**ANNEXURE B TO CLAUSE 4
EVENTS OF DEFAULT AND CONSEQUENCES**

Event of Default (Capability) - Failure of first Commissioning Assessment	Consequences
Failure by the ESR Service Provider of the first Commissioning Assessment conducted in accordance with Part I and Part II of Annexure A to Clause 4.	A Repayment Amount shall become payable by the ESR Service Provider to The Company , being an amount calculated in accordance with Schedule E, Section 2, Part I.
Event of Default (Capability) - Notification of non-capability	Consequences
Save in respect of a planned maintenance or inspection period agreed pursuant to the Grid Code (evidenced by written notification(s) from the ESR Service Provider under Grid Code OC 2.4.1.2.3 and 2.4.1.2.4), failure by the ESR Service Provider to notify The Company that the ESR Plant does not or will not have the ESR Capability in the manner referred to in Sub-Clause 4.9.1.1 (whether evidenced by a Remote Synchronisation Test, Capability Assessment, Grid Code test or otherwise).	<p>(1) The ESR Service shall be deemed to be unavailable and Sub-Clause 4.9.4 shall apply; and</p> <p>(2) Upon the first and each successive Event of Default a Repayment Amount shall become payable by the ESR Service Provider to The Company, being an amount calculated in accordance with Schedule E, Section 2, Part I; and</p> <p>(3) Upon the third and each successive Event of Default within each Assessment Period (reduced pro rata for any Assessment Period shorter than 12 months), in addition to (2) above, The Company shall have the right to terminate Clause 4 by notice in writing to the ESR Service Provider to be served not later than 28 days following such third or successive Event of Default.</p>
Event of Default - Planned Maintenance and Inspection Periods	Consequences
In respect of a planned maintenance or inspection period agreed pursuant to the Grid Code (as evidenced by written notification(s) from the ESR Service Provider under Grid Code OC 2.4.1.2.3 and 2.4.1.2.4), failure by the ESR Service Provider to notify The Company that the ESR Plant does not or will not have the ESR	The ESR Service shall be deemed to be unavailable during, and there shall be taken into account in the calculation of ESR Capability Payments those Settlement Periods comprised in, the period commencing at 00.00 on the first day of the planned maintenance or inspection period agreed pursuant to the Grid Code (as notified by the ESR Service Provider to The Company under Grid Code OC 2.4.1.2.3

<p>Capability in the manner referred to in Sub-Clause 4.9.1.1.</p>	<p>and 2.4.1.2.4.) and ending at 24.00 hours on the last day of such planned maintenance or inspection period.</p>
<p>Events of Default (ESR Situation) - ESR Instruction</p>	<p>Consequences</p>
<p>Save during a period the subject of a prior notification from the ESR Service Provider to The Company as referred to in Sub-Clause 4.9.1 in which the ESR Plant does not have the ESR Capability, the failure by the ESR Service Provider to comply with The Company's instruction for the initiation and implementation of the Local Joint ESR Plan in accordance with Sub-Clause 4.10 save to the extent:-</p> <p>(a) the instruction requires the ESR Service Provider to sustain the relevant ESR Contracted MW (or such lesser power output agreed by the ESR Service Provider and the Grid Operator) in any ESR Situation for more than the number of hours and on the basis referred to in Sub-Clause 4.8.1.3; or</p> <p>(b) compliance with the instruction would mean the ESR Plant could not keep within its safe operating parameters and a subsequent change in output from that ESR Plant was demonstrated to The Company's reasonable satisfaction to be necessary for safety reasons (whether relating to personnel or Plant and Apparatus);</p> <p>(c) the failure was wholly and directly caused by the unavailability of or constraint on the National Gas Transmission System such that the ESR Service Provider was unable to offtake gas in sufficient quantities at that part of the National Gas Transmission System to which the ESR Station is connected; or</p>	<p>(1) The ESR Service shall be deemed to be unavailable and Sub-Clause 4.9.4 shall apply; and</p> <p>(2) A Repayment Amount shall become payable by the ESR Service Provider to The Company, being an amount calculated in accordance with Schedule E, Section 2 , Part I); and</p> <p>(3) In addition to (2) above, The Company shall have the right to terminate Clause 4 forthwith by notice in writing to the ESR Service Provider.</p>

(d) the failure was wholly and directly caused by an event or circumstance of Force Majeure .	
Events of Default - Failure of ESR Tests	Consequences
The failure by the ESR Service Provider to pass a Reproving Assessment carried out as a result of a failure of any ESR Test (excluding an exercise pursuant to Sub-Clause 4.12).	<p>(1) The ESR Service shall be deemed to be unavailable and Sub-Clause 4.9.4 shall apply; and</p> <p>(2) A Repayment Amount shall become payable by the ESR Service Provider to The Company, being an amount calculated in accordance with Schedule E, Section 2, Part 1.</p>
The failure by the ESR Service Provider of any Reproving Assessment carried out following failure of both a ESR Test (excluding an exercise pursuant to Sub-Clause 4.12) and a suESRequent Reproving Assessment .	<p>(1) The ESR Service shall be deemed to be unavailable and Sub-Clause 4.9.4 shall apply; and</p> <p>(2) A Repayment Amount shall become payable by the ESR Service Provider to The Company, being an amount calculated in accordance with Schedule E, Section 2, Part 1.</p> <p>(3) Upon the first and each successive Event of Default, The Company shall have the right to terminate Clause 4 by notice in writing to the ESR Service Provider.</p> <p>(4) Without prejudice to (3) above, The Company may (at its option) meet with the ESR Service Provider to discuss the reasons for failure of the ESR Test and the suESRequent Reproving Assessments and, subject to the ESR Service Provider identifying the cause(s) for such failure and demonstrating to The Company's reasonable satisfaction that it is able to remove or address such cause(s) before the Expiry Date, The Company may (in its sole discretion) agree with the ESR Service Provider a period during which the ESR Service Provider shall (at its own cost) undertake additional works to ensure that the ESR Capability is restored</p>

	<p>(Additional Works Period). Where The Company agrees to an Additional Works Period, The Company shall only be permitted to terminate Clause 4 in accordance with (3) above, where either:-</p> <p>(i) the ESR Service Provider advises that the additional works will not be completed within the Additional Works Period;</p> <p>(ii) following completion of the additional works, the ESR Service Provider fails a subsequent Reproving Test.</p>
Events of Default – Public Announcement	Consequences
Any breach by the ESR Service Provider of its obligation contained in Sub-Clause 4.26 (<i>No Announcement</i>).	The Company shall have the right to terminate Clause 4 forthwith by notice in writing to the ESR Service Provider .

ANNEXURE C TO CLAUSE 4
ANNUAL ASSESSMENT OF ESR CAPABILITY

% ESR Capability over each Assessment Period by reference to Target Availability in the relevant Assessment Period ("TA _y ")	Consequences
≥ TA _y	None.
Year 1 < TA _y ≥ 90% Year 2 < TA _y ≥ 90% Year 3 < TA _y ≥ 90% Year 4 < TA _y ≥ 90% Year 5 < TA _y ≥ 90%	The ESR Service Provider shall pay to The Company in accordance with Clause [8][4] (Payment) [of the MASA] the Annual Availability Shortfall Payment calculated in accordance with the formulae set out in Schedule E, Section 2, Part II.
< 90%	Either (at The Company's absolute discretion): (1) The ESR Service Provider shall pay to The Company in accordance with Clause [8][4] (Payment) [of the MASA] the Annual Availability Shortfall Payment calculated in accordance with the formulae set out in Schedule E, section 2 Part II; or (2) The Company shall implement a reduction in the Availability Price specified in Schedule E, Section 3, Part I equivalent to the percentage unavailability of the ESR Capability over the Assessment Period and shall revise the calculation of Monthly Availability Payments due to the ESR Service Provider in respect of the Assessment Period accordingly and recover any overpayment of Monthly Availability Payments from the ESR Service Provider by reference to the first practicable Final Monthly Statement after

	<p>expiry of the Assessment Period. Further, the Parties shall discuss and endeavour to agree appropriate amendments to Clause 4 to reflect the reduced value to The Company of the ESR Service. Provided always that, if no such agreement shall by then have been reached, The Company shall be entitled to terminate Clause 4 forthwith by notice in writing to the ESR Service Provider to be served at any time until the end of one month following expiry of the relevant Assessment Period (or one month following completion of the assessment, if later).</p>
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ANNEXURE D TO CLAUSE 4 REMOTE SYNCHRONISATION TEST/DEAD LINE CHARGE TEST

PART 1 – RST SUMMARY PROCEDURE

1. The precise technical requirements for a **RST** will be comprehensively set out in the '**RST** procedure' as amended from time to time and to be agreed by the **ESR Service Provider** prior to the test (such agreement not be unreasonably withheld or delayed).
2. A **RST** will require the **ESR Service Provider** to energise from dead a local busbar, a circuit(s), a transformer(s) and a remote busbar and then synchronise onto a live busbar that is already synchronised to the **National Electricity Transmission System**.
3. At the start of the energisation process, the **ESR Service Provider** circuit breaker will be closed to energise the test part of the system. The energisation process may require, when the relevant circuit breaker is closed the voltage level to be gradually increased to meet a target HV voltage level.
4. The **ESR Service Provider** may be required to operate for up to one hour at no load at **Synchronous Speed** while the **Genset's/HVDC System's** ability to control voltage and **Frequency** on the test system is verified. If forced cooling of the **Genset** is required to enable such operation to be permissible, then the cost of such cooling should be the sole responsibility of the **ESR Service Provider**.
5. All reasonable care will be undertaken in preparing the **RST** procedure such that neither the energisation process nor the remote **Synchronisation** process will cause damage to **Plant** or equipment owned by the **ESR Service Provider** or **The Company**, however all risks of damage to a **Party's Plant** or equipment shall be borne by that **Party**.
6. The **ESR Service Provider** will be required to provide suESRtation indications to enable the test to be co-ordinated from the **ESR Service Provider's** control room.

PART 2 – DEAD LINE CHARGE TEST SUMMARY PROCEDURE

1. A **Dead Line Charge Test** will be carried out in the same manner as a **Remote Synchronisation Test** with the exception that the **ESR Plant** is not synchronised to the **National Electricity Transmission System** at the remote busbar. This test confirms the **ESR Service Provider's** ability to charge a dead part of the network and its ability to control parameters at the remote end.

**SCHEDULE E
ESR CAPABILITY**

SECTION 1 - DATA¹³

Part I

[Main Generating Unit(s)] [CCGT Module(s)] : []

ESR Contracted MW:[] MW

¹³ **Note:** this Part has been developed to cover a Power Station and will need to be adapted for a HVDC System or a Power Park Module.

Part II

[ESR Auxiliary Unit(s):[]]

[Auxiliary Contracted MW:[]]

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Part III¹⁴
Technical Parameters (Ref: Sub-Clause 4.8.4)¹⁵

Time to Connection Event (minutes) (Ref: Sub-Clause 4.8.4.3)	[120 minutes] [the periods specified in respect of different warmth conditions in the table set out in Part IV below.] (or such other period agreed by the Parties in writing)
Individual Loads (Ref: Sub-Clause 4.8.4.4)	
Minimum Frequency Maximum Frequency (Ref: Sub-Clause 4.8.4.5)	[] Hz [] Hz
Loading Restrictions Minimum Stable Operating Level Maximum period of running for MW output below that stated above (Ref: Sub-Clause 4.8.4.6)	[] MW [] Minutes
Loading period (Ref: Sub-Clause 4.8.4.7)	[] minutes from the time of the Connection Event
Interim power output levels (MW) 1 2 3 (Ref: Sub-Clause 4.8.4.8)	[] MW within ½ hour of Connection Event [] MW within 1 hour of Connection Event [] MW within 1½ of Connection Event
Reactive Power range (Mvar)	[] Mvar leading to [] Mvar lagging at Minimum Output

¹⁴ **Note:** this Part will be updated with the contracted outputs based on the technical and commercial submissions in the tender.
This Part has been developed for a Power Station and will need to be adapted in the case of a HVDC System or Power Park Module.

¹⁵ **Note:** this table will be updated.

(Ref: Sub-Clause 4.8.4.9)	
Resilience of supply, ESR Service	[] hours
Resilience of Supply, ESR Auxiliary Unit(s)	[] hours
Sequential ESRs	[] starts
Short-circuit level (following the start of a system disturbance)	[]
Inertia value	[] MVA.s

PART IV

[TIME TO CONNECTION EVENT (WARMTH CONDITIONS)]¹⁶

Unit	Thermal Condition (TC)	Time to Connect [minutes]	Following a desynchronization, Unit will withstand in each TC for... [minutes]	Comments
GT I	Hot	[]	[]	
	Warm	[]	[]	
	Cold	[]	[]	
	Cold Bypass		[]	
GT I	Hot	[]	[]	
	Warm	[]	[]	
	Cold	[]	[]	
	Cold Bypass	[]	[]	
- ST	Hot	[]	Offline [] Hours	
	Warm	[]	Offline [] Hours	
	Cold	[]	Offline longer than [] Hours	

¹⁶ Delete if not relevant

SECTION 2 - FORMULAE

Part I Availability Payments

1. TOTAL MONTHLY PAYMENT

$$TMP_m = BSAP_m - RA_m$$

Where:

TMP_m is the total monthly payment by **The Company** to the **ESR Service Provider** pursuant to Clause 4;

$BSAP_m$ is defined in paragraph 2 below;

$RA_m = RAF_m + RAC_m + RAESR_m$ as each is defined in paragraph 3 below,

and if TMP_m is negative, then the **ESR Service Provider** shall pay to **The Company** such amount in accordance with Clause [8][4] (*Payment*) of the **MASA**.

2. MONTHLY AVAILABILITY PAYMENT

$$BSAP_m = \sum_{j=1}^{month} BSAP_j * BSAM_j$$

$BSAP_m$ is the aggregate **Monthly Availability Payments** payable in respect of calendar month m;

$\sum_{j=1}^{month}$ is the summation over all **Settlement Periods j** in calendar month m;

$BSAP_j$ is the **ESR Availability Price** for all **Settlement Periods j** subject to indexation in accordance with Schedule E, Section 3, Part II; and

$BSAM_j$ is 0 in respect of each **Settlement Period j** in which the **ESR Plant** does not have the **ESR Capability** (including by reason of an **Event of Default**), or is deemed not to have the **ESR Capability** in accordance with Sub-Clause 4.9, Sub-Clause 4.12.3 or Sub-Clause 4.19.3, otherwise 1.

3. REPAYMENT AMOUNTS

(a)

$$RAF_m = \sum_{n=1}^m BSAP_m$$

Where:

RAF_m is the **Repayment Amount** referred to in the **Capability** (Failure of first **Commissioning Assessment**) section of the table in Annexure B to Clause 4; and

$\sum_{m=1}^m$ is the summation over all calendar months' m in the period commencing on the **Provisional Service Commencement Date** and ending on the date of failure of the first **Commissioning Assessment** in calendar month m.

(b)

$$RAC_m = \sum_{EventofDefault} \min((BSAP_j * 480), \sum_{j=1}^{j=x} BSAP_j * BSAM_j)$$

Where:

RAC_m is the **Repayment Amount** referred to in the Capability (Notification of non-capability) section of the table in Annexure B to Clause 4;

$\sum_{EventofDefault}$ Is the summation over each **Event of Default** referred to in the Capability section of the table in Annexure B to Clause 4; and

$\sum_{j=1}^{j=x}$ is the summation over each **Settlement Period** j prior to the **Event of Default** beginning with the **Settlement Period** in which the **ESR Plant** was last demonstrated to **The Company's** reasonable satisfaction to have the **ESR Capability**.

(c)

$$RABS_m = \sum_{EventofDefault} \min((BSAP_j * 1440), \sum_{j=1}^{j=y} BSAP_j * BSAM_j)$$

Where:

$RABS_m$ is the **Repayment Amount** referred to in the **ESR Situation** section and the **ESR Test** section of the table in Annexure B to Clause 4;

$\sum_{EventofDefault}$ is the summation over each **Event of Default** referred to in the **ESR Situation** section of the table in Annexure B to Clause 4; and

$\sum_{j=1}^{j=y}$ is the summation over each **Settlement Period** j prior to the **Event of Default** beginning with the commencement of Clause 4 or, if later, the last successful initiation and implementation of the **Local Joint ESR Plan** in a **ESR Situation** or during a **Grid Code** test or **Remote Synchronisation Test**.

Part II

Annual Availability Shortfall Payment

1. CALCULATION OF ANNUAL AVAILABILITY SHORTFALL PAYMENT

- 1.1 For the purposes of Clause 4.15 and Annexure C to this Clause 4, the **Annual Availability Shortfall Payment** (AASP) shall be calculated as follows:

$$AASP_y = (MR_y * RFA_y)$$

$AASP_y$ is the **Annual Availability Shortfall Payment** due to **The Company** from the **ESR Service Provider** in respect of **Assessment Period y** (as defined in Sub-Clause 4.15.1);

MR_y is defined in paragraph 1.2 below; and

RFA_y is calculated in accordance with paragraph 1.3 below.

1.2 Calculation of maximum amount repayable (MR_y) in respect of any single Assessment Period

In circumstances where a **Works Contribution Payment** has been made (but not otherwise) the maximum aggregate amount payable by the **ESR Service Provider** to the **Company** by way of **Annual Availability Shortfall Payments** in respect of **Assessment Period y** (MR_y) is calculated as follows:

$$MR_y = (A * WCP + Id)$$

Where:

A is a fraction, being the **Assessment Period y** divided by the term of Clause 4 (as defined in Sub-Clause 4.5);

WCP is the amount of total **Works Contribution Payments**; and

Id is Interest at the **Base Rate** calculated on WCP accruing on a daily basis over the number of days in **Assessment Period y**.

1.3 Calculation of RFA_y in respect of any single Assessment Period

$$RFA_y = 0 \text{ if } AA_y \geq TA_y$$

Otherwise

$$RFA_y = (TA_y - AA_y) / TA_y$$

Where:

TA_y is the **Target Availability** as specified in the table set out in Section 4 to this Schedule E;

AA_y is the actual availability and is the percentage of **Settlement Periods** over **Assessment Period** y in which the **ESR Plant** has had **ESR Capability** (expressed as a fraction) as calculated below:

$$AA_y = \frac{\sum_{j=0}^{12months} (BSAMA_j)}{SP}$$

Where:

$\sum_{j=0}^{12months}$ is the summation overall **Settlement Periods** j in **Assessment Period** y ;

$BSAMA_j$ is 0 in respect of each **Settlement Period** j in which the **ESR Plant** does not have **ESR Capability** as provided in Sub-Clause 4.9 (excluding where due to events or circumstances of **Force Majeure** or where **The Company** has approved a period of withdrawal of **ESR Capability** pursuant to Sub-Clause 4.15.4), otherwise 1; and

SP is the number of **Settlement Periods** j in **Assessment Period** y .

Part III

Works Contribution Refund Payment

The **Works Contribution Refund Payment** ($WCRP_t$) referred to in Sub-Clauses 4.5.3, 4.15.8, 4.17.2 and paragraph 15.1 of Annexure A shall be calculated in accordance with the following applicable formulae:-

$$WCRP_t = [(WCP_1 + I_1) * f_1] - \sum AASP_y$$

Where: -

$WCRP_t$ is the **Works Contribution Refund Payment** payable by the **ESR Service Provider** to **The Company**;

WCP_1 is the sum of all **Works Contribution Payments** (including VAT thereon) paid by **The Company** to the **ESR Service Provider**;

I_1 is Interest at the **Base Rate** calculated on WCP_1 accruing on a daily basis from the date of payment of WCP_1 by **The Company** until the date of repayment by the **ESR Service Provider**;

f_1 is a factor equal to either:

- (i) prior to the date of successful completion of the **Works**, 1: or
- (ii) from and including the date of successful completion of the **Works**:

$$\frac{M_R}{M_T}$$

M_R is the number of whole calendar months remaining until the **Expiry Date** as at the date of termination or (as the case may be) the date on which the event that triggers the **Works Contribution Refund** occurs;

M_T in respect of $WCRP_t$, is the total number of whole calendar months in the period from the date of successful completion of the **Works** until the **Expiry Date**; and

$AASP_y$ is all **Annual Availability Shortfall Payments** paid or payable by the **ESR Service Provider** to **The Company** over the term of Clause 4.

Part IV
Not used

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SECTION 3 - PRICES

Part I

ESR Availability Price

£[]/Settlement Period

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Part II

Indexation Formulae

The prices specified in Schedule E, Section 3, Part I are specified at April 2022 values and will be adjusted annually (commencing on 1st April 2023) to take account of general price inflation. The index used will be the Retail Prices Index (RPI) with 1987 = 100 base.

The source of the RPI index is to be the monthly Office for National Statistics “Focus on Consumer Price Indices”.

The relevant price will therefore be increased (or reduced as appropriate) for the period April 2023 to March 2024 by the following factor:-

$$\frac{RPI_2}{RPI_1}$$

Where

RPI_2 is the RPI for March 2023

RPI_1 is the RPI for March 2022

The relevant price will then be increased (or reduced as appropriate) for the period April 2024 to March 2025 by the following factor:-

$$\frac{RPI_3}{RPI_1}$$

Where

RPI_3 is the RPI for March 2024

RPI_1 is the RPI for March 2022

In subsequent years indexation will continue in accordance with the above, with always the numerator of the factor representing the RPI of the year under consideration and the denominator of the factor being RPI for March 2022

In the event that RPI ceases to be published or is not published in respect of any relevant month or it is not practicable to use RPI because of a change in the method of compilation or some other reason, indexation for the purpose of this Part II shall be calculated by **The Company** using an index agreed by the **Parties** with a view to determining the relevant price after indexation that would be closest to the relevant price after indexation if RPI had continued to be available.

SECTION 4 - TARGET AVAILABILITY

Assessment Period:	Target Availability for Assessment Period y (TA _y):	Scheduled maintenance days in Assessment Period y:

SECTION 5 - NOTIFICATION FORMATS

NOTIFICATION OF NON-CAPABILITY AND ESR OF CAPABILITY FOR ESR

[NAME OF ESR SERVICE PROVIDER]

Optional Logo

StationTelephone:

Standby Tel:

Fax:

Standby Fax:

NOTIFICATION TIME

HRS:MINS	DD/MM/YY

CONFIRMATION OF A TELEPHONE CONVERSATION? <input checked="" type="checkbox"/>	
BETWEEN OF NATIONAL GRID AND OF [NAME OF ESR SERVICE PROVIDER]	

PERIOD OF NON-CAPABILITY

	TIME (hrs:mins)	DATE (dd/mm/yy)
COMMENCEMENT OF NON-CAPABILITY		
*ESTIMATED TIME/DATE OF ESR		

* Indicate estimated time/date of ESR and re-notify actual time/date of ESR when known using table below.

REASON FOR NON-CAPABILITY

--

ESR OF-CAPABILITY

	TIME (hrs:mins)	DATE (dd/mm/yy)
TIME/DATE OF ESR		

Fax Sent By (Print name):

Signature:

Date:

Time:

Acknowledged by National Grid Electricity System Operator Limited:

Signature:

Date:

Time:

NATIONAL GRID USE ONLY	SENT TO O & T SETTLEMENTS? ✓	
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National Grid Control Centre Fax: 0870 602 4809
Standby Fax: 0870 602 4802

DRAFT

REQUEST TO REVISE CONTRACT DATA FOR ESR

[NAME OF ESR SERVICE PROVIDER]

Optional Logo

StationTelephone:

Standby Tel:

Fax:

Standby Fax:

NOTIFICATION TIME

HRS:MINS	DD/MM/YY	CONFIRMATION OF A TELEPHONE CONVERSATION? ✓
		BETWEEN OF NATIONAL GRID AND OF [NAME OF ESR SERVICE PROVIDER]

REDECLARATION OF CONTRACT DATA

STATION CONTRACTED (MW)		*National Grid ACCEPT ✓	National Grid REJECT ✗
EXISTING	PROPOSED		
PROPOSED INTERIM POWER OUTPUT LEVELS			
1 []	MW WITHIN [] MINS		
2 []	MW WITHIN [] MINS		
3 []	MW WITHIN [] MINS		

PROPOSED REACTIVE POWER RANGE (Mvars) AT MIN OUTPUT/GEN STATOR TERMINALS	*National Grid ACCEPT ✓	National Grid REJECT ✗
[] LEADING TO [] LAGGING		

TIME TO CONNECTION EVENT (MINS)	*National Grid ACCEPT ✓	National Grid REJECT ✗
EXISTING		
PROPOSED		

DETAILS OF ANY OTHER REVISION(S) TO THE ESR CAPABILITY	*National Grid ACCEPT ✓	National Grid REJECT ✗

*This agreement can be withdrawn at anytime by the Company and the contract parameters reinstated.

Fax Sent By (Print name):

Signature:

Date:

Time:

Acknowledged by **National Grid Electricity System Operator Limited:**

Signature:

Date:

Time:

NATIONAL GRID USE ONLY	SENT TO O & T SETTLEMENTS?✓	
	SENT TO O & T CONTRACTS?✓	

National Grid Control Centre

Fax: 0870 602 4809
Standby Fax: 0870 602 4802

AGREEMENT OF ESR TEST PARAMETERS¹⁷

[ESR SERVICE PROVIDER'S NAME]
[] POWER STATION

AGREEMENT REFERENCE NUMBER	IDENTITY OF ESR GENSET [BM UNIT ID]	ESR TEST DATE	ESR TEST PERIOD START TIME	ESR TEST PERIOD END TIME

ESR GENSET:

PARAMETERS	[BM UNIT ID]
Physical Notification Level (MW)	
Maximum Export Limit (MW)	
Bid Price (£/MWh)	
Offer Price (£/MWh)	Equal to Bid Price
MZT (Hours)	
Min Desync Interval (Hours)	
Min Sync Interval(Hours)	

ESR AUXILIARY UNIT:

PARAMETERS	[BM UNIT ID]
Physical Notification Level	Zero
Maximum Export Limit (MW)	

PROPOSED RUNNING PROFILE(S) FOR THE ESR GENSET	
Appended hereto.	

The aforementioned ESR Test Parameters and Running Profiles are agreed pursuant to Sub-Clause [4.20] by:

Signature:

Date:

Time:

Authorised Signatory

On behalf of []

Signature:

Date:

Time:

Electricity Balancing and Energy Trading Manager

On behalf of **National Grid Electricity System Operator Limited**

¹⁷ This will require updating for a HVDC System or a Power Park Module

NATIONAL GRID USE ONLY	COPY TO CONTRACTS, OPS POLICY & SETTLEMENTS? ✓	
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GENERAL DEFINITIONS FOUND IN SCHEDULE A OF CSA OR SCHEDULE B OF MASA

“the Act”	the Electricity Act 1989;
“Active Power”	<p>the product of voltage and the in-phase component of alternating current measured in units of Watts and standard multiples thereof i.e.</p> <p>1000 Watts = 1kW</p> <p>1000 kW = 1MW</p> <p>1000 MW = 1GW</p> <p>1000 GW = 1TW</p>
“Adequate Procedures”	shall be determined in accordance with section 7(2) of the Bribery Act (and any guidance issued under section 8 of that Act);
“Agreed Ancillary Services”	Part 2 System Ancillary Services and Commercial Ancillary Services;
“Agreement”	this agreement (including the Schedules) as amended, extended, supplemented, novated or modified from time to time;
“Allowed Interruption”	the meaning attributed to it in the CUSC ;
“Ancillary Services”	System Ancillary Services and/or Commercial Ancillary Services , as the case may be;
“Apparatus”	all equipment in which electrical conductors are used, supported or of which they may form a part;
“Associated Person”	shall have the meaning ascribed to it in section 8 of the Bribery Act and shall include but is not limited to any employees, agents and/or subcontractors of the ESR Service Provider or The Company as applicable in relation to the provision of Agreed Ancillary Service(s) ;
“Authority”	the Director General of Electricity Supply appointed for the time being pursuant to section 1 of the Act or, after the coming into force of section 1 of the Utilities Act 2000, the Gas and Electricity Markets Authority established by that section;
“Balancing and Settlement Code (ESRC)”	the meaning attributed to it in the Transmission Licence ;
“Balancing Mechanism Window”	the meaning attributed to it in the ESRC ;

“Balancing Activity”	Services	the meaning attributed to it in the Transmission Licence ;
“Base Rate”		in respect of any day the rate per annum which is equal to the base lending rate from time to time of Barclays Bank plc as at the close of business on the immediately preceding Business Day ;
“Bid-Offer Acceptance”		the meaning attributed to it in the Grid Code ;
“Bid-Offer Data”		the meaning attributed to it in the ESRC ;
“Bid-Offer Pairs”		the meaning attributed to it in the Grid Code ;
“Bid Price”		the meaning attributed to it in the Grid Code ;
“Bilateral Agreement”		the meaning attributed to it in the CUSC ;
“BM Unit”		the meaning attributed to it in the ESRC , except for the purposes of this Agreement the reference to “a Party ” in the ESRC shall be a reference to the Generator ;
“BM Unit Data”		the meaning attributed to it in the Grid Code ;
“BM Unit Metered Volume”		the meaning attributed to it in the ESRC ;
“Bribery Act”		the Bribery Act 2010 (and any amendment thereto);
“ESRC Framework Agreement”	Framework	the meaning attributed to it in the CUSC ;
“Business Day”		a week-day other than a Saturday on which banks are open for domestic business in the City of London;
“Circuit Breaker”		a mechanical switching device, capable of making carrying and breaking currents under normal circuit conditions and also of making, carrying for a specified time and breaking currents under specific abnormal circuit conditions, such as those of short circuit;
“Combined Cycle Gas Turbine Module” or “CCGT Module”	Gas	a collection of Generating Units (registered as a CCGT Module under the Grid Code PC) comprising one or more Gas Turbine Units (or other gas based engine units) and one or more Steam Units where, in normal operation, the waste heat from the Gas Turbine Units is passed to the water/steam of the associated Steam Unit or Steam Units and where the component units within the CCGT Module are directly connected by steam or hot gas lines which enable those units to

	contribute to the efficiency of the combined cycle operation of the CCGT Module ;
“Combined Cycle Gas Turbine Unit” or “CCGT Unit”	a Generating Unit within a CCGT Module ;
“Commercial Ancillary Services”	Ancillary Services other than the System Ancillary Services ;
“Commercial Boundary”	the meaning attributed to it in the CUSC ;
“Connection and Use of System Code (CUSC)”	the Connection and Use of System Code designed by the Secretary of State as from time to time modified;
“Connection Point”	the connection of the Power Station to the National Electricity Transmission System , as more particularly described in the Bilateral Agreement for the Power Station ;
“Connection Site”	each location more particularly described in the relevant Bilateral Agreement at which the ESR Service Provider’s Equipment and Transmission Connection Assets required to connect the ESR Service Provider to the National Electricity Transmission System are situated or at which the ESR Service Provider’s Equipment is connected to a User System ;
“Construction Agreement”	as defined in the CUSC ;
“CUSC Framework Agreement”	the meaning attributed to it in the Transmission Licence ;
“Customer”	a person to whom electrical power is provided (whether or not he is the same person as the person who provides the electrical power) other than power to meet Station Demand of that person;
“Deenergise”	the movement of any isolator breaker or switch or the removal of any fuse whereby no Electricity can flow to or from the relevant System at a Connection Site through the ESR Service Provider’s Equipment and “ Deenergised ” shall be construed accordingly;
“De-Load”	as defined in the CUSC , and “ De-Loading ” shall be construed accordingly;
“Demand”	the demand of MW and Mvar of Electricity ;

“Derogation”	a direction issued by the Authority which relieves the ESR Service Provider from its obligation under the Generation Licence to comply with such parts of the Grid Code as may be specified in such direction;
“Desynchronisation”	has the meaning attributed to it in the Grid Code and “De-Synchronised” and “De-Synchronisation” shall be construed accordingly;
“Disconnect”	permanent physical disconnection of the ESR Service Provider’s Equipment at any given Connection Site and “Disconnection” shall be construed accordingly;
“Distribution Code(s)”	the Distribution Code(s) drawn up by Public Distribution System Operators pursuant to the terms of their respective Licence(s) as from time to time revised in accordance with those Licences ;
“Distribution Licence”	a licence issued under section 6(1)(c) of the Act ;
“Dynamic Parameters”	the meaning attributed to it in the Grid Code ;
“EDL Equipment”	the electronic despatch mechanism by which the Parties communicate with respect to the BM Unit(s) at the Generator’s Power Station for the purposes of operation of the Balancing Mechanism and the utilisation of Balancing Services;
“Electricity”	Active Energy and Reactive Energy ;
“Electricity Supply Arbitration Association”	the meaning attributed to it in the Grid Code ;
“Embedded”	having a direct connection to a User System or the System of any User to which Customers and/or Power Stations are connected such connection being either a direct connection or a connection via a busbar of another User or of The Company (but with no other connection to the National Electricity Transmission System);
“Emergency Instruction”	has the meaning attributed to it in the Grid Code ;
“Energy” or “Active Energy”	<p>the electrical energy produced, flowing or supplied by an electric circuit during a time interval, being the integral with respect to time of the instantaneous power, measured in units of Watt-hours or standard multiples thereof i.e.</p> <p>1000 Wh = 1kWh</p>

		1000 kWh = 1MWh 1000 MWh = 1GWh 1000 GWh = 1TWh
“Energy Equipment”	Metering	the meaning attributed to the phrase “Metering Equipment” in the Balancing and Settlement Code ;
“Enhanced Power Services”	Reactive	the meaning attributed to it in the CUSC ;
“External Interconnection”		the meaning attributed to it in the Grid Code ;
“Final Statement”	Monthly	the meaning attributed to it in the CUSC ;
“Force Majeure”		in relation to either Party to this Agreement any event or circumstance which is beyond the reasonable control of such Party (not being, without limitation an event or circumstance caused by the negligence or lack of care and attention of that Party or its officers or employees or through the unsuitability of the ESR Plant to perform the ESR Service as specified in this Agreement (whether by virtue of a design specification fault or otherwise) or a failure to maintain such Plant in accordance with Good Industry Practice or lack of funds of that Party) but subject thereto including act of God, strike, lockout or other industrial disturbance, act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, lack of water arising from weather or environmental problems, explosion, governmental restraint, Act of Parliament, other legislation, bye law and Directive (not being any order, regulation or direction under Section 32, 33, 34 and 35 of the Electricity Act 1989);
“Frequency”		the number of alternating current cycles per second (expressed in Hertz) at which a System is running;
“Frequency Mode”	Sensitive	the meaning attributed to it in the Grid Code ;
“Gas Turbine Unit”		a Generating Unit driven by a gas turbine, (for instance by an aero-engine);

“Generating Unit”	unless otherwise provided in this Agreement , any Apparatus which produces electricity including for the avoidance of doubt a CCGT Unit ;
“Generation Licence”	the licence granted to the Generator pursuant to section 6(1)(a) of the Act ;
“ESR Service Provider’s Equipment”	<p>the Plant and Apparatus owned by the ESR Service Provider (ascertained in the aESRence of agreement to the contrary by reference to the principles of ownership set out in CUSC) which</p> <p>(a) is connected to Transmission Connection Assets forming part of any particular Connection Site to which the ESR Service Provider wishes so to connect; or</p> <p>(b) is connected to a User System to which the ESR Service Provider wishes so to connect;</p>
“Genset”	a Generating Unit or CCGT Module at a Large Power Station ;
“Good Industry Practice”	the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;
“Great Britain” or “GB”	the meaning attributed to it in Schedule 1 of the Transmission Licence ;
“Grid Code”	the Grid Code drawn up pursuant to the Transmission Licence as from time to time revised in accordance with the Transmission Licence (and references in this Agreement to any specific provision or part of the Grid Code shall be construed as references to such provision or part as from time to time amended);
“Grid Code BC”	the Balancing Codes of the Grid Code ;
“Grid Code CC”	the Connection Conditions of Grid Code ;
“Grid Code OC”	the Operating Codes of the Grid Code ;
“Grid Code PC”	the Planning Code of the Grid Code ;
“Grid Operator”	the person who for the time being and from time to time is required by the terms of a Licence (inter alia) to implement the Grid Code ;

“Grid Supply Point”	a point of supply from the National Electricity Transmission System to Network Operators or Non-Embedded Customers ;
“Independent Expert”	<p>such expert agreed between the Parties from time to time Provided that</p> <p>(a) where the Parties fail to agree on a suitable expert within 30 days of either Party serving on the other notice of its intention to apply to the President of the Institute of Mechanical Engineers as mentioned below; or</p> <p>(b) where any Independent Expert appointed from time to time shall fail, refuse or cease to act in this capacity set out herein and no suitable expert of suitable standing and qualification can be agreed by the parties within 30 days,</p> <p>such expert as the President of the Institute of Mechanical Engineers shall, on the application of either Party, nominate shall be the Independent Expert;</p>
“Large Power Station”	as defined in the Grid Code ;
“Licence”	any one or more as appropriate of the Licences granted pursuant to section 6 of the Act ;
“Mandatory Services Agreement”	the meaning attributed to it in the CUSC ;
“Maximum Export Limit”	the meaning attributed to it in BC1.A.1.3 of the Grid Code ;
“Minimum Output”	the meaning attributed to it in Grid Code BC2.A.3.1 ;
“National Electricity Transmission System”	has the meaning attributed to it in the CUSC ;
“Non-Embedded Customer”	a Customer except for a Network Operator acting in its capacity as such receiving electricity direct from the National Electricity Transmission System irrespective of from whom it is supplied;
“Offer Price”	the meaning attributed to it in the BSC ;
“Operational Metering Equipment”	meters, instrument transformers (both voltage and current), transducers metering protection equipment including alarms circuitry and their associated outstations as may be necessary for the purposes of the Grid Code CC6.5.6 and the

	corresponding provision of the relevant Distribution Code ;
“Output”	the actual Active Power or Reactive Power output achieved by a BM Unit ;
“Part 1 System Ancillary Services”	the meaning attributed to it in Grid Code CC8.1 ;
“Part 2 System Ancillary Services”	the meaning attributed to it in Grid Code CC8.1 ;
“Party”	each person for the time being and from time to time a party of this Agreement and any successor(s) in title to, or permitted assign(s) of, such person and “Parties” shall be construed accordingly;
“Plant”	fixed and movable items used in the generation and/or supply and/or transmission of electricity other than Apparatus ;
“Physical Notification”	the meaning attributed to it in the Grid Code ;
“Power Station”	[an installation comprising one or more Generating Units (even where separately sited) owned or controlled by the same Generator which may reasonably be considered as being managed as one Power Station , for the purposes of this Agreement being the Generator’s Power Station at [];]
“Power System Stabiliser”	the meaning attributed to it in the Grid Code ;
“Provisional Monthly Statement”	the meaning attributed to it in the CUSC ;
“Public Distribution System Operator”	a holder of a Distribution Licence who was the holder of, or is a successor to a company which was the holder or, a Public Electricity Supply Licence , relating to distribution activities in Great Britain ;
“Public Electricity Supply Licence”	a licence issued under section 6(1)(c) of the Act prior to the coming into force of section 30 of the Utilities Act 2000;
“Reactive Energy”	the integral with respect to time of Reactive Power ;
“Reactive Power”	the product of voltage and current and the sine of the phase angle between them measured in units of voltamperes reactive and standard multiples thereof i.e., 1000 Var = 1kvar

	1000 kVar = 1Mvarr
“Relevant Requirements”	shall mean all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act .
“Remote Transmission Assets”	any Plant and Apparatus or meters owned by The Company which (a) are embedded in a User System and which are not directly connected by Plant and/or Apparatus owned by The Company to a sub-station owned by The Company and (b) are by agreement between The Company and such User under the direction and control of such User ;
“Secretary of State”	the meaning attributed to it in the Act ;
“Settlement Period”	a period of 30 minutes ending on the hour or half hour in each hour during a day;
“Short Term Operating Reserve”	the additional Active Power and/or the reduction in Demand from non-synchronised generating plant or demand sites which must be capable of being provided within 240 minutes of instruction by The Company and sustained for up to 2 hours for the purposes of balancing Active Power and Demand on the National Electricity Transmission System ;
“Stable Export Limit”	the meaning attributed to the term in Appendix 1 of Grid Code BC1 ;
“Station Demand”	the meaning attributed to it in the CUSC ;
“Steam Unit”	a Generating Unit whose primes mover converts the heat-energy in steam to mechanical energy;
“Synchronised”	the condition where an incoming BM Unit or CCGT Unit or System is connected to the busbars of another System so that the Frequencies and phase relationships of the BM Unit or CCGT Unit or the System , as the case may be, and the System to which it is connected are identical: “Synchronise” and “Synchronisation” shall be construed accordingly;
“Synchronous Speed”	that speed required by a BM Unit or CCGT Unit to enable it to be Synchronised to a System ;
“System”	any User System or the National Electricity Transmission System as the case may be;
“System Services” Ancillary	Part 1 System Ancillary Services and Part 2 System Ancillary Services ;

“Total System”	the National Electricity Transmission System and all User Systems in Great Britain ;
“Transmission Connection Assets”	the meaning attributed to it in the CUSC ;
“Transmission Licence”	the licence granted to The Company under section 6(1)(b) of the Act ;
“User”	a person who is party to the CUSC Framework Agreement other than The Company ; and
“User System”	<p>any System owned or operated by a User comprising: -</p> <p>(a) Generating Units; and/or</p> <p>(b) systems consisting (wholly or mainly) of electric lines used for the distribution of electricity from Grid Supply Points or Generating Units or other entry points to the point of delivery to Customers, or other Units;</p> <p>and Plant and/or Apparatus connecting:</p> <p>(a) the System as described above; or</p> <p>(b) Non-Embedded Customers equipment;</p> <p>to the National Electricity Transmission System or to the relevant other User System, as the case may be. The User System includes any Remote Transmission Assets operated by such User or other person and any Plant and/or Apparatus and meters owned or operated by the User or other person in connection with the distribution of electricity but does not include any part of the National Electricity Transmission System.</p>