Dated **2018**

EIRGRID PLC **(1)**

and

[SERVICE PROVIDER] **(2)**

Draft for Consultation Purposes Only

DS3 SYSTEM SERVICES FIXED CONTRACTS AGREEMENT

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THIS AGREEMENT is made on the day of 2019

BETWEEN:

(1) **EirGrid plc**, a limited liability company incorporated under the laws of Ireland with registered number 338522 and having its registered office at The Oval, 160 Shelbourne Road, Dublin 4 (hereinafter called the "**Company**"); and

(2) **Name and registered address of Service Provider** with registered Number xxxxxx (hereinafter called the "**Service Provider**")

WHEREAS:

(A) The Company has responsibility amongst other duties for the operation of the Transmission System under the TSO Licence.

(B) The Company's duties include the procurement of DS3 System Services.

(C) Following a competitive procurement process, the Service Provider is now entering into this Agreement in order to provide the Company with DS3 System Services from the Providing Unit subject to and in accordance with the provisions set out herein.

IT IS HEREBY AGREED as follows:

1 Definitions and Interpretation

1.1 In this Agreement (including the recitals hereto), except where the context otherwise requires, the words and expressions set out in Schedule 1 shall have the meanings ascribed to them therein.

1.2 In this Agreement, unless the context requires otherwise, any reference to:

1.2.1 the singular shall include the plural and vice versa;

1.2.2 any gender reference shall be deemed to include references to the masculine, feminine and neuter genders;

1.2.3 this "Agreement" shall mean this Agreement and its Schedules;

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1.2.4 "writing" or "written" shall include all methods of reproducing words in a legible and non-transitory form;

1.2.5 any words importing persons or parties shall include individuals, firms and corporations, joint ventures, trusts, unincorporated associations and organisations, partnerships and any other entity, in each case whether or not having a separate legal personality and any references to persons shall include their legal successors and permitted assignees;

1.2.6 legislation, regulations, Directives, orders, instruments, codes or other enactments shall include any amendments, modifications extensions, replacements or re-enactments thereof then in force.

1.3 Unless otherwise specified:

1.3.1 any reference in this Agreement to a "Clause" is a reference to a Clause contained in this Agreement;

1.3.2 any reference to a "Schedule" is a reference to a Schedule to this Agreement;

1.3.3 any reference to a "Section" is a reference to a Section of a Schedule to this Agreement;

1.3.4 any reference to another agreement or document, or any deed or other instrument (including but not limited to statute, statutory instrument, the Grid Code, the Metering Code, the Network Codes, the Distribution Code or the Trading and Settlement Code) shall be construed as a reference to that other agreement, or document, deed or other instrument as the same may have been, or may from time to time be, amended, varied, supplemented, substituted or novated;

1.3.5 any reference to a month or year shall be construed as reference to a calendar month or year, as the case may be;

1.3.6 the table of contents and Clause headings are inserted for ease of reference only and shall be ignored for the purpose of the construction of this Agreement;

1.3.7 all terms which have been defined in this Agreement shall have their initial letters in capital typescript whenever and wherever they appear in this Agreement; and

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1.3.8 any reference to "including" shall be construed without limitation.

1.4 In the event of inconsistency between the provisions of this Agreement and the Grid Code, the Distribution Code, the Network Codes or the Metering Code (as the case may be), the provisions of the Grid Code, the Distribution Code, the Network Codes or the Metering Code (as the case may be) shall prevail to the extent of such inconsistency unless the contrary intention is explicit. For the avoidance of doubt, the Providing Unit must be both capable of operating in accordance with the Grid Code, the Distribution Code, the Network Codes and the Metering Code (as the case may be) and capable of operating in accordance with the provisions of this Agreement, but may be instructed to operate in either of these modes by the Company.

1.5 To the extent that the Service Provider is a party to the Trading and Settlement Code, if either Party reasonably believes that a conflict exists between any provision of this Agreement and the provisions of the Trading and Settlement Code, it shall notify the other Party of that belief and the Parties shall meet and discuss in good faith whether such a conflict exists, and if so whether amendments should be made to this Agreement to resolve the conflict (and if appropriate the nature of those amendments). If the Parties are in dispute as to whether a conflict exists, whether amendments should be made to this Agreement to resolve the conflict and/or the nature of those amendments, either Party shall be entitled to refer the dispute to the Regulatory Authority for determination (which determination shall be binding on the Parties). For the avoidance of doubt the Parties agree that any amendment to this Agreement to resolve a conflict with the Trading and Settlement Code shall require the prior written approval of the Regulatory Authority.

2 Commencement and Duration of Agreement

2.1 Term of Agreement

2.1.1 Subject to Clause 2.3.1, this Agreement shall commence on the Effective Date and:

(a) where the Go-Live Date is achieved **before** 1st September 2021, continue in full force and effect for six (6) years after the Go-Live Date unless terminated earlier in accordance with Clause 9; or

(b) where the Go-Live Date is achieved **after** 1st September 2021, continue in full force and effect until 31st August 2027 unless terminated earlier in accordance with Clause 9.

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(c) where the Go Live Date is not achieved, the Agreement will terminate six (6) months following the agreed Go-Live Date

2.1.2 If the commencement or completion of a procurement process in respect of a contract which the Company intends to use as a partial or total replacement for this Agreement is delayed due to a legal challenge (or threat of a legal challenge) or for any other reason whatsoever, the Company may, subject to the approval of the Regulatory Authority and the written consent of the Service Provider and subject to any other provisions as provided in this Agreement extend the Agreement for two additional time periods of up to eighteen (18) months each.

2.2 Survival of Rights on Termination

2.2.1 Termination of this Agreement shall not affect:

(a) any rights or obligations which may have accrued prior to such termination; or

(b) continuing obligations of each of the Parties under this Agreement which, according to this Agreement, are to continue after termination of this Agreement.

2.3 Conditions Precedent

2.3.1 The Parties' rights and obligations under this Agreement (save for those set out in Clauses 2.3.2 and 2.3.3) shall in all respects be conditional on the fulfilment by the Service Provider of its obligations under Clauses 2.3.2 and 2.3.3 by no later than the date falling eighteen (18) months after the Effective Date. This Agreement shall terminate on the date falling eighteen (18) months after the Effective Date if either of the conditions in Clauses 2.3.2 or 2.3.3 below is not fulfilled before then.

2.3.2 To the extent that the Service Provider participates in the Single Electricity Market, the Service Provider shall be a party to the TSC and to the extent that is required, the Service Provider shall be registered as the Participant (as defined in the TSC) for the Providing Unit under the TSC.

2.3.3 The Service Provider shall have received a Connection Offer for the Providing Unit.

2.4 No Exclusivity

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2.4.1 The Service Provider hereby acknowledges and agrees that, despite entering into this Agreement or the provision by it of any DS3 System Services under this Agreement, it has no exclusive right to make available and/or provide any DS3 System Services to the Company and it has no exclusive right to provide any works, services, supplies or deliverables to the Company.

2.4.2 Subject to the terms of this Agreement, the Service Provider is the only party eligible to make available and/or to provide to the Company the DS3 System Services.

2.5 Availability of Services by Go-Live Date

2.5.1 The DS3 System Services shall be provided in accordance with the terms, conditions and specifications of this Agreement from the Go-Live Date. This Agreement shall entitle the Service Provider to payment for making available the DS3 System Services and Over-Frequency Response (OFR), as set out in Schedule 9 from the Go-Live Date.

2.5.2 Prior to the Company making any payment to the Service Provider for making DS3 System Services and OFR available, the Service Provider shall demonstrate, to the satisfaction of the Company, that the following conditions are satisfied:

a) The Providing Unit can provide the DS3 System Services and OFR in accordance with Schedule 2, and;

b) The Service Provider has made the DS3 System Services and OFR available to the Company in accordance with this Agreement.

2.6 Provision of Services

2.6.1 If the Company, during the term of the Agreement, has a requirement for any or all of the DS3 System Services and OFR, the Company may require the immediate provision of the required DS3 System Services by the Service Provider.

2.6.2 The provision of such DS3 System Services and OFR shall be in accordance with the applicable parameters, terms and conditions set out in this Agreement, and/or any instructions as may otherwise be issued by the Company under this Agreement.

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3 Provision and Purchase of DS3 System Services and Over-Frequency Response

3.1 Duty to provide DS3 System Services and OFR in accordance with the applicable Operating Parameters

3.1.1 In consideration of the Company's agreement to pay the DS3 System Services Payments to the Service Provider on the terms and subject to the conditions of this Agreement and its applicable Operating Parameters the Service Provider shall at all times during the term of, and subject to, this Agreement maintain, repair, fuel and operate the Providing Unit as required by Good Industry Practice and any legal requirements in order to provide the DS3 System Services and OFR.

3.1.2 The Service Provider shall reasonably endeavour not to issue or allow to remain outstanding an Availability Notice, a Technical Parameters Notice or an Additional Grid Code Characteristics Notice which declares the Availability, applicable Technical Parameters or additional technical data (respectively) of a Providing Unit at levels or values inferior to the applicable Operating Parameters of the Providing Unit in accordance with Schedule 9 except:

(i) during periods of Scheduled Outage or forced outage or otherwise with the consent of the Company; or

(ii) where necessary to avoid an imminent risk of injury to persons or material damage to property (including the Providing Unit); or

(iii) where it is not lawful for the Service Provider to operate the Providing Unit; or

(iv) to the extent that the Service Provider is affected by Force Majeure; or

(v) in the event of a test of the Providing Unit under OC10 of the Grid Code or an Operational Test under OC8 of the Grid Code,

provided that this Clause 3.1.2 shall not require the Service Provider to declare levels or values better than those specified in Schedule 9.

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3.2 Compliance with the Grid Code, Distribution Code, Network Codes, and Protocol

3.2.1 The Service Provider shall, during the term of this Agreement, comply with the Grid Code, Distribution Code, the Network Codes and the Protocol as applicable as it relates to the provision of the DS3 System Services and OFR, (including declaring to the Company any inability to comply with the applicable Operating Parameters), subject to any derogations granted to the Service Provider by the Regulatory Authority.

3.3 Dispatch Instructions

3.3.1 The Service Provider shall, subject to Clause 3.4, comply with the terms of all Dispatch Instructions relating to the DS3 System Services and OFR.

3.4 TSC

3.4.1 To the extent that the Service Provider is a party to the TSC, nothing in this Agreement shall prevent the Service Provider from operating the Providing Unit in such a manner so as to comply with its obligations under the TSC.

3.4.2 The Service Provider shall provide Technical Offer Data to the Company in accordance with the TSC. For the avoidance of doubt this clause 3.4.2 shall apply regardless of whether or not the Service Provider is a party to the TSC. Such Technical Offer Data will be subject to validation by the Company.

3.5 Planned Maintenance

3.5.1 The Service Provider shall, without limitation to its obligations under Clause 3.2, plan its maintenance requirements including outage plans for the Providing Unit in accordance with Good Industry Practice and in accordance with Clause 3.1.2

3.5.2 The Service Provider shall, without limitation to its obligations under Clause 3.2, have up to five days each year from the Go-Live Date for the purposes of planned maintenance of the Providing Unit, for which the Providing Unit will not be treated as unavailable for the purposes of calculating the Performance Availability Scalar in accordance with the calculation described in Schedule 2. The Service Provider shall give at least ten Business Days' notice to the Company of its intention to carry out planned maintenance.

4 Bonding Arrangements

4.1 On Demand Performance Bond

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4.1.1 The Service Provider has executed and provided to the Company the Performance Bond as set out in Schedule 11 prior to the date of this Agreement.

4.1.2 The Performance Bond Amount shall become payable to the Company in circumstances where:

(a) the Company considers that the Providing Unit does not satisfy a Performance Milestone by the applicable Milestone Deadline, and in the Company's opinion, there is no reasonable prospect of completion of the Performance Milestone within six (6) months of the applicable Milestone Deadline; or

(b) the Providing Unit fails to report to the TSO the required information in relation to the Performance Milestone (as specified in the definition of Performance Milestone); or

(c) the Company considers that the Providing Unit or Service Provider Fails by the Go-Live Date, and in the Company's opinion there is no reasonable prospect of a Pass within twelve (12) months of the Go-Live Date; or

(d) The development of the Providing Unit is abandoned; or

(e) for any other reason the Providing Unit is not able to make available the DS3 System Services and OFR by the Go-Live Date.

4.2 Where the Service Provider is unable to complete a Performance Milestone by the applicable Milestone Deadline due to a delay occurring as a result of an act or omission of the TSO, the Performance Bond Amount shall not be payable due to this specific occurrence and the future Milestone Deadline and the Go-Live Date will be adjusted by agreement of both parties and with approval from the Regulatory Authority.

4.3 Where the Providing Unit cannot make available DS3 System Services and OFR owing to Force Majeure, the Performance Bond Amount shall not be payable and the future Milestone Deadline and the Go-Live Date will be adjusted accordingly to allow for remedy.

5 Payment

5.1 Payment Rates

5.1.1 In consideration of the Service Provider making available and/or providing the DS3 System Service(s) to the Company in accordance with this Agreement, the Company shall pay the Service Provider the **DS3 System Service Payments** as calculated in accordance with Schedule 2 provided always that the Service

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Provider has passed all Compliance Tests and is compliant with the Operational Requirements and the terms of this Agreement.

5.1.2 All amounts payable by the Company under this Agreement are exclusive of any applicable Value Added Tax, sales tax or other lawful taxes or levies applicable by reason of the performance of the Agreement and the Parties agree that an amount equal to any applicable Value Added Tax, sales tax or other lawful taxes or levies lawfully chargeable in respect of the performance of the Agreement shall be payable or repayable, as the case may be, in addition to, at the same time and in the same manner as the amounts to which it relates.

5.1.3 The Company shall have no right to settle amounts due to the Service Provider under this Agreement net of amounts due to the Company by the Service Provider under other agreements.

5.2 Billing and Payment Plan

5.2.1 The provisions of Schedule 3 shall apply in relation to the billing and payment of procedures for the DS3 System Services Payments.

6 Monitoring and Metering

6.1 The Company may use or install Metering Equipment and Monitoring Equipment and/or require the Service Provider to install Monitoring Equipment to ensure that the Service Provider is complying with its obligations to provide the DS3 System Services and OFR from the Providing Unit in accordance with the Grid Code or Distribution Code and the Protocol where applicable and in accordance with the terms of this Agreement.

6.2 The relationship between the Parties with respect to Metering Equipment shall be regulated in accordance with the Metering Code.

6.3 Without purporting to exhaustively specify the circumstances in which no payments will be made under this Agreement, no payments will be made under this Agreement in respect of DS3 System Services to be provided from a Providing Unit in relation to any period during which the Providing Unit or the Service Provider's Installation at any Connection Site used by that Providing Unit, is prevented from providing the DS3 System Services and OFR by reason of (i) a circumstance of a Force Majeure or (ii) the Providing Unit being De-energised, Decommissioned or Disconnected for any reason pursuant to

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the relevant Connection Agreement, Interface Agreement or Use of System Agreement (as applicable) or in accordance with the provisions set out in Schedules 2, 3 or 4.

6.4 Where the Service Provider serves notice to Decommission or Disconnect the Service Provider's Installation at a Connection Site under the Connection Agreement or Interface Agreement, the Parties shall discuss in good faith the possibility of terms being offered for the continued provision following the date when Decommissioning or Disconnection would otherwise have occurred of any DS3 System Service and OFR which was being provided by the Service Provider at that Connection Site immediately before service of the notice to Decommission or Disconnect and for which the Company is unable to find a reasonable alternative.

6.5 The Service Provider will accept the data provided by the Metering Equipment and/or Monitoring Equipment applicable to the Providing Unit and the Company's monitoring system including meters and SCADA or State Estimators unless it has reasonable grounds for believing that such Metering Equipment or Monitoring Equipment is defective, in which case the Service Provider shall notify the Company and the Parties will make every effort to resolve the issue and reconcile the payments. Any dispute under this Clause 6.5 shall be referable to the Expert in accordance with the Dispute Resolution Procedure.

7 Assignment

7.1 The Service Provider shall not assign, novate or otherwise transfer nor purport to assign novate or otherwise transfer the benefit or burden of the whole or part of this Agreement save in the following circumstances:-

7.1.1 the Service Provider may assign or charge its benefit under this Agreement in whole or in part by way of security;

7.1.2 the Service Provider may transfer its rights and obligations under this Agreement, upon the disposal of the whole of the Service Provider's business or undertaking, to the purchaser thereof, provided that the Company or the Distribution System Operator (as the case may be) has provided prior written consent to the transfer of the Service Provider's rights and obligations under the Connection Agreement and/or Interface Agreement (as applicable); or

7.1.3 upon disposal of part of the Service Provider's business or undertaking comprising the Service Provider's Installation at one or more Connection Sites the Service

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Provider may transfer such of its rights and obligations under this Agreement as relate to the Providing Unit and the DS3 System Services and OFR concerned to the purchaser thereof, provided that the Company or the Distribution System Operator (as the case may be) has provided prior written consent to the transfer of the Service Provider's rights and obligations under the Connection Agreement or Interface Agreement (as applicable) relevant to the part of the business or undertaking to be transferred.

7.2 The Company may at any time assign, novate or otherwise transfer all of its rights and obligations under this Agreement to an Affiliate or to another person who by statute becomes legal successor to the Company or, in the event that the Company ceases to be the Transmission System Operator in Ireland, to its successor transmission system operator in Ireland.

7.2 No assignment, novation or other transfer pursuant to Clause 7.1 or 7.2 shall be effective unless and until the assignor has procured the proposed assignee to covenant directly with the other Party to observe and perform all the terms and conditions of this Agreement (so far as they apply to the assignee), has provided to the other Party a certified copy of the assignment (omitting the consideration and any other commercial terms) and has procured that any guarantee in respect of the assignor's obligations is extended to the proposed assignee or replaced by another providing the other Party with equivalent security.

8 Variations

8.1 This Agreement may not be varied without the prior written approval of the Regulatory Authority provided that the approval of the Regulatory Authority shall not be required in relation to variation of the Operating Parameters set out in Schedule 9. Subject to Regulatory Authority approval being obtained, this Agreement may be varied if made in writing and signed by authorised representatives of both Parties (but not otherwise).

8.2 Either Party may at any time give written notice to the other proposing that this Agreement be varied.

8.3 If, after execution of this Agreement, there shall be enacted and brought into force legislation and/or any Directive, rule, regulation, direction, statutory instrument or order of any Competent Authority arising therefrom, or change in the Grid Code, Distribution Code, Network Codes, Metering Code or Trading and Settlement Code providing for:

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8.3.1 the further reorganisation of all or part of the electricity industry in either Northern Ireland or Ireland, or

8.3.2 the facilitation of the introduction of third party interests to the affairs of such electricity industry or any part of it, or

8.3.3 the amendment or variation of any policy of the Company or the manner in which the Transmission System or Distribution System and any agreements or codes related thereto are organised, or

8.3.4 the imposition of a public service obligation or the introduction of a levy under Section 39 and/or Section 40 of the Act,

which necessitates a variation to this Agreement, the Parties shall, subject always to Clause 8.1, effect such changes to this Agreement as are reasonably necessary so as to ensure that the operations contemplated by this Agreement shall be conducted in a manner which is consistent with the effect of the new legislation, Directive, rule, regulation, direction, statutory instrument or order, or change in the Grid Code, Distribution Code, Network Codes, Metering Code or Trading and Settlement Code and most closely reflect the intentions of same with effect from the date thereof provided however that any such amendment:

(a) will be of no greater extent than is required by reason of the new legislation, Directive, rule, regulation, direction, statutory instrument or order, or change in the Grid Code, Metering Code, Network Codes, the Distribution Code or Trading and Settlement Code; and

(b) shall not deal with the cost implications under this Agreement of any such new legislation, Directive, rule, regulation, direction, statutory instrument or order, or change in the Grid Code, Metering Code, Network Codes, the Distribution Code or Trading and Settlement Code, which, if any, shall fall to be considered in accordance with the provisions of clause 14 of this Agreement.

8.4 The Parties hereby agree to effect any change to the Agreement required by any direction given by the Regulatory Authority under Sections 34 or 35 of the Act relating to a DS3 System Services Agreement of this type.

8.5 If any variation proposed under Clauses 8.2, 8.3 or 8.4 has not been agreed by the Parties within one (1) month of its being proposed, then either Party may refer to the Regulatory Authority for determination and the Parties agree to abide by and to effect the

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Regulatory Authority's determination, if necessary by entering into an agreement supplemental to this Agreement.

9 Termination

9.1 The Company and the Service Provider, without prejudice to the remaining rights and obligations of the Parties under this Agreement or in law, shall be entitled, by giving three (3) month's written notice to the other Party and with the consent in writing of the other Party (such consent not to be unreasonably withheld) to terminate this Agreement..

9.2 Without prejudice to any other rights it may have under this Agreement or in law, the Company may in respect of any of the events of default set out for the purposes of this Clause in sub-clauses 9.2.1 to 9.2.12 by notice in writing to the Service Provider terminate this Agreement in its entirety or (at the Company's sole discretion) forthwith upon:

9.2.1 the Service Provider ceasing to be a signatory to the Trading and Settlement Code to the extent that the Service Provider is a party to the Trading and Settlement Code, otherwise than due to the Trading and Settlement Code being terminated (in which case Clause 9.2.2 may apply); or

9.2.2 termination of the Trading and Settlement Code, save where the same is replaced with alternative electricity trading arrangements; or

9.2.3 the Connection Agreement or Interface Agreement (as applicable) being properly terminated in accordance with their respective terms provided always that, where this Agreement relates to the provision of the DS3 System Services and OFR from more than one of the Service Provider's Providing Units the right for the Company to terminate this Agreement shall be limited to termination of the Parties' respective obligations relating to the DS3 System Services and OFR to be provided from the Service Provider's Providing Units for which the relevant Connection Agreement or Interface Agreement (as applicable) has terminated; or

9.2.4 the Use of System Agreement being properly terminated in accordance with its terms to the extent that the Providing Unit is connected to the Transmission System; or

9.2.5 revocation or withdrawal of the TSO Licence or any replacement thereof granted to the Company by a Competent Authority; or

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9.2.6 revocation or withdrawal of the Generation Licence and/or Supply Licence (as applicable) or any replacement thereof granted to the Service Provider by a Competent Authority; or

9.2.7 the occurrence of any of the circumstances set out in Clause 4.1.2 (a) to (e) inclusive of this Agreement; or

9.2.8 the Service Provider failing to comply with or failing to operate in conformity with any provisions of this Agreement or the Grid Code where such failure is a material breach of this Agreement (being one which materially affects the Service Provider's ability to perform its obligations under this Agreement) or the Grid Code, as the case may be, and, either:

(i) the breach is not capable of remedy; or

(ii) if such failure is capable of remedy but remains unremedied for any period provided for in this Agreement or, if none is provided for in this Agreement, then twenty (20) Business Days following the date on which the Service Provider is given notice of the breach by the Company; or

9.2.9 any grounds for exclusion set out in Regulation 57 of the European Union (Award of Public Authority Contracts) Regulations 2016 applying to the Service Provider; or

9.2.10 the Company becomes aware that, at the time of the award of the Agreement, the Service Provider was in one of the situations referred to in Regulation 57(1) or (2) of European Union (Award of Public Authority Contracts) Regulations 2016 and should have been excluded from the procurement procedure leading to the award of this Agreement; or

9.2.11 the Agreement has been subject to a substantial modification which requires a new procurement procedure in accordance with Regulation 97 of the European Union (Award of Contracts by Utility Undertakings) Regulations 2016; or

9.2.12 the Agreement should not have been awarded to the Service Provider in view of a serious infringement of the obligations under the Treaties governing the European Union or the European Union (Award of Contracts by Utility Undertakings) Regulations 2016 that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU; or

9.2.13 in the event that a challenge to the award of this Agreement to the Service Provider or to any aspect of the competition leading to award of this Agreement is

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or has been made by any person on the grounds of non-compliance with EU public procurement rules.

9.2.14 in relation to the Service Provider:

(a) an order of the High Court being made or an effective resolution passed for its insolvent winding up or dissolution; or

(b) if, within twenty-eight (28) days of appointment of a receiver (which expression shall if applicable include an examiner within the meaning of Section 508 of the Companies Act, 2014) liquidator, administrative receiver, administrator nominee or other similar officer in respect of the whole or any material part of its assets or undertaking, such person has not provided to the Company a guarantee of future performance by the Service Provider of the Agreement in such form and amount as the Company may reasonably require; or

(c) any scheme of arrangement being entered into (other than for the purpose of a solvent reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Company); or

(d) inability to pay its debts within the meaning of the Relevant Legislation; or

9.2.15 the Service Provider failing to pay (other than by inadvertent error in transfer of funds which is discovered by the Company, notified to the Service Provider and corrected within two (2) Business Days thereafter) any amount properly due or owing from it pursuant to this Agreement and such failure to pay continues unremedied (and is not disputed in good faith and upon reasonable grounds) at the expiry of fifteen (15) Business Days following receipt of written notice from the Company of such failure; or

9.2.16 the Providing Unit being destroyed or damaged (including by Force Majeure) to such an extent as to be incapable of providing the DS3 System Services and OFR, and it is agreed between the Parties or determined by an Expert that the Providing Unit is unlikely to be restored to at least seventy-five per cent (75%) of the Registered Capacity within twenty-four (24) months after the date on which the destruction or damage occurred; or

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9.2.17 the Providing Unit failing to make available the DS3 System Services and OFR, such that the Performance Assessment results in their Availability Performance Scalar value being 0 for 3 consecutive months.

9.3 The Service Provider may by notice in writing to the Company terminate this Agreement:

9.3.1 forthwith upon:

(a) the Company failing to pay (other than by inadvertent error in funds transmission which is discovered by the Service Provider, notified to the Company and corrected within two (2) Business Days thereafter) any material amount properly due or owing from it pursuant to this Agreement and such failure to pay continues unremedied (and is not disputed in good faith and upon reasonable grounds) at the expiry of fifteen (15) Business Days following receipt of written notice from the Service Provider of such failure; or

(b) the revocation or withdrawal of the TSO Licence or any replacement thereof granted to the Company by a Competent Authority;

9.3.2 upon the date of closure of the Providing Unit where such closure takes place in accordance with the closure provisions of the Grid Code or a derogation from the notice provisions thereunder.

9.4 In the event that this Agreement is declared "ineffective" pursuant to Regulation 9(1) (b) of the European Communities (Award of Contracts by Utility Undertakings) (Review Procedures) Regulations 2010, the Company shall have no liability to the Service Provider other than in respect of DS3 System Services and OFR provided prior to the date on which such "ineffectiveness" order takes effect. Under no circumstances shall the Service Provider be entitled to any payment or compensation for loss of profit for DS3 System Services and OFR not provided consequent on such declaration of ineffectiveness or for loss of opportunity or reputation or breach of statutory duty or otherwise.

10 Effect of Termination

10.1 The relevant provisions of this Agreement shall survive expiry or termination of this Agreement to the extent necessary to provide for final billings, adjustments and payment of any payments, charges or other monies due and owing pursuant to this Agreement.

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10.2 Termination of this Agreement as a whole under Clause 9 shall not affect any rights or obligations of the Parties which have accrued at the time of such termination or, where applicable, the continuing obligations of the Parties under this Agreement.

11 Force Majeure

11.1 If before the Go-Live Date, the Providing Unit cannot make available the DS3 System Service(s) and OFR owing to Force Majeure, the Service Provider shall not be entitled to DS3 System Services Payments during the period that the Force Majeure is continuing.

11.2 If during any Trading Period, the Providing Unit cannot make available the DS3 System Service(s) and OFR owing to Force Majeure, the Service Provider shall not be entitled to DS3 System Services Payments for that Trading Period in which the Force Majeure took place.

11.3 As soon as reasonably practicable following the occurrence of Force Majeure:

11.3.1 the Party affected by the Force Majeure (the "**Notifying Party**") shall notify the other Party of the Force Majeure, identifying the nature of the event and the duration of its effect which the Notifying Party believes to be reasonably likely;

11.3.2 the Notifying Party shall afford the other Party reasonable access and facilities for obtaining further information about the event including facilities for site inspection; and

11.3.3 the Notifying Party shall take, at its own cost, all steps reasonably required to mitigate the effects of the Force Majeure.

11.4 Subject to the other provisions of this Clause 11, the Notifying Party shall not be in breach of its obligations under this Agreement for so long as and to the extent that the performance of such obligations continues to be prevented by the relevant event of Force Majeure.

12 Limitation of Liability

12.1 Neither Party shall be liable to the other Party for any losses, damages, claims, liabilities, costs or expenses arising from any breach of this Agreement other than for losses, damages, claims, liabilities, costs or expenses directly resulting from a breach which at the date of this Agreement was reasonably foreseeable as likely to occur in the ordinary course of events from such breach in respect of:

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12.1.1 physical damage being occasioned to the property of the other Party, its officers, employees or agents; or

12.1.2 the liability of the other Party to any other person for loss in respect of physical damage caused directly to the property of such other person as a result of such breach (a claim by a third party in respect of that liability hereafter in Clause 12.5 being referred to as a "**Legal Claim**"); or

12.1.3 (in the case of breach by the Service Provider) purchasing or obtaining services where reasonably and necessarily required to replace the DS3 System Services which, at the date of this Agreement, the Parties agree and acknowledge is reasonably foreseeable as likely to occur in the ordinary course of events from such breaches,

provided that the liability of either Party in respect of all such losses, damages, claims, liabilities, costs or expenses shall not exceed the Liability Cap.

12.2 Subject to Clause 12.3 and any provision of this Agreement which provides for payment obligations or an indemnity, neither Party nor any of their respective officers, directors, employees or agents shall in any circumstances whatsoever be liable to the other Party for:

12.2.1 loss of profit, loss of revenue, loss of use, loss of contract (other than this Agreement) or loss of goodwill (whether these are direct or indirect losses); or

12.2.2 indirect or consequential loss, incidental or special damages (including punitive damages); or

12.2.3 loss resulting from the liability of the other Party to any other person howsoever and whensoever arising, save as provided in Clause 12.1.2.

12.3 Nothing in this Agreement shall exclude or limit the liability of one Party ("**the Party Liable**") for death or personal injury to an officer, employee or agent of the other Party, ("**the Party Not Liable**"), resulting directly from the negligence of the Party Liable or any of its officers, employees and agents and, the Party Liable shall indemnify and keep indemnified the Party Not Liable, its officers, employees and agents from and against any losses, damages, claims, liabilities, costs or expenses which the Party Not Liable may suffer or incur by reason of any claim on account of death or personal injury resulting

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from the negligence of the Party Liable or the negligence of any of its officers, employees or agents (such claim hereafter in Clause 12.6 being referred to as an "**Injury Claim**").

12.4 The rights and remedies provided by this Agreement to the Parties are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies expressed or implied and provided by common law or statute in respect of the subject matter of this Agreement, including without limitation any rights either Party may possess in tort which shall include without limitation actions brought in negligence and/or nuisance. Accordingly, each of the Parties hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute, and releases the other Party, its officers, employees and agents to the same extent from all duties, liabilities, responsibilities or obligations provided by common law or statute in respect of the matters dealt with in this Agreement and undertakes not to enforce any of the same except as expressly provided herein.

12.5 In the event of any Legal Claim being made by a third party against the Party Not Liable, the Party Liable shall be promptly notified by the Party Not Liable of the Legal Claim and, the Party Liable may, at its own expense, conduct all negotiations for the settlement of the Legal Claim and any litigation that may arise from the Legal Claim. The Party Not Liable shall not, unless and until the Party Liable has failed to unconditionally agree in writing to take over the conduct of the negotiations or litigation in respect of the Legal Claim within ten (10) Business Days of receiving notice from the Party Not Liable requesting it to do so, make any admission which might be prejudicial to the Legal Claim. The conduct by the Party Liable of such negotiations or litigation shall be conditional upon the Party Liable having first given to the Party Not Liable such reasonable security as the Party Not Liable shall from time to time notify the Party Liable that it requires to cover the amount ascertained or agreed or estimated, as the case may be, of any losses, damages, claims, liabilities or costs for which the Party Not Liable may become liable in respect of the Legal Claim. The Party Not Liable shall, at the request of the Party Liable, afford all available assistance for the purpose of contesting the Legal Claim and shall be paid by the Party Liable (within ten (10) Business Days of the date of its invoice therefor) all reasonable expenses incurred in so doing.

12.6 In the event of any Injury Claim being made by a third party against the Party Not Liable, the Party Liable shall be promptly notified by the Party Not Liable of the Injury Claim and, the Party Liable may at its own expense, conduct all negotiations for the settlement of the Injury Claim and any litigation that may arise from the Injury Claim. The Party Not Liable shall not, unless and until the Party Liable has failed to unconditionally agree in writing to take over the conduct of the negotiations or litigation in respect of the injury claim within ten (10) Business Days of receiving notice from the Party Not Liable requesting it to do

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so, make any admission which might be prejudicial to the Injury Claim. The conduct by the Party Liable of such negotiations or litigation shall be conditional upon the Party Liable having first given to the Party Not Liable such reasonable security as the Party Not Liable shall from time to time notify the Party Liable that it requires to cover the amount ascertained or agreed or estimated, as the case may be of any losses, damages, claims, liabilities, costs or expenses for which the Party Not Liable may become liable in respect of the Injury Claim. The Party Not Liable shall, at the request of the Party Liable, afford all available assistance for the purpose of contesting the Injury Claim and shall be paid by the Party Liable (within ten (10) Business Days of the date of its invoice therefor) all reasonable expenses incurred in so doing.

12.7 Each of the provisions of this Clause 12 shall:

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

12.7.2 survive termination of this Agreement.

12.8 Each of the Parties agrees that the other Party holds the benefit of Clauses 12.1, 12.2 and 12.3 for itself and as trustee and agent for its officers, directors, employees and agents.

12.9 For the avoidance of doubt nothing in this Clause 12 shall prevent or restrict either Party enforcing any obligation (including suing for a debt) owed to it under or pursuant to this Agreement.

12.10 Nothing in this Clause 12 shall exclude or restrict or otherwise prejudice or affect any:

12.10.1 rights and obligations of either Party which are conferred or created by the Act, the TSO Licence or the Service Provider's Generation Licence or Supply Licence (as the case may be), or statutory regulations; or

12.10.2 rights, powers, duties and obligations of the Regulatory Authority or any other Competent Authority under the Act, any licence granted under the Act or otherwise howsoever.

12.11 Subject to Clause 12.10 and unless expressly provided otherwise in this Agreement, this Clause 12 insofar as it excludes or limits liability shall override any other provisions of this Agreement.

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12.12 Each Party hereby acknowledges and agrees that the provisions of this Clause 12 are fair and reasonable having regard to the circumstances as at the date of this Agreement.

13 Confidentiality

13.1 Each Party shall treat any and all information and data disclosed to it by the other Party in connection with this Agreement in any form whatsoever (the "**Confidential Information**") as confidential and proprietary, shall preserve the secrecy of the Confidential Information and shall not use the Confidential Information for any purpose other than solely in connection with this Agreement.

13.2 For the purposes of this Clause 13, the term "Confidential Information" shall not include information which:

13.2.1 at the time of disclosure or at any time thereafter is in, or becomes part of, the public domain other than through a breach of the provisions of this Clause 13;

13.2.2 the Party receiving the information can prove that the information was already known to it or was independently acquired or developed by it without being in breach of its obligations under this Clause 13;

13.2.3 became available to the Party receiving the information from another source in a non-confidential manner otherwise than in breach of an obligation of confidentiality; or

13.2.4 is published by or the publication of which is required by a Competent Authority.

13.3 Notwithstanding the provisions of Clause 13.1, Confidential Information may be disclosed by a Party:

13.3.1 to proposed and actual shareholders, owners, directors, officers, employees, agents, consultants, contractors, advisers, investors, assignees, insurers, lenders or bona fide prospective purchasers of all or substantially all of the shares of such Party or its Affiliates who need to know the Confidential Information provided that:

(a) the recipient agrees to keep the Confidential Information confidential on terms no less onerous than contained in this Clause 13; and

(b) the disclosing Party shall be responsible for ensuring that the recipient observes and complies with such obligation to keep the Confidential

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Information confidential and shall accordingly be responsible for any failure of the recipient to do so;

13.3.2 as may be ordered or required by any applicable law or a Competent Authority;

13.3.3 as may be required by the regulations of any recognised stock exchange upon which the share capital of the Party (or any parent undertaking of the Party) is or is proposed to be from time to time listed or dealt in, and the Party making the disclosure shall, if reasonably practicable prior to making the disclosure, and in any event as soon as reasonably practicable thereafter, supply the other Party with a copy of such disclosure or statement and details of the persons to whom the Confidential Information is to be, or has been, disclosed. Where a copy of such disclosure or statement has been supplied prior to making the disclosure, the other Party may give comments on that disclosure or statement to the Party proposing to make it. The Party proposing to make the disclosure shall, if reasonably practicable in the time available, consult with the other Party as to any such comments and consider whether the disclosure is to be amended to take into account the comments;

13.3.4 as may be permitted by or required to comply with the requirements of the Grid Code, Distribution Code, Network Codes, Metering Code or the Trading and Settlement Code;

13.3.5 by either Party as may be necessary to comply with any obligation under any licence (or any document referred to therein) granted to it under the Act;

13.3.6 (by the Company) to the Other TSO and otherwise as may be necessary to enable the Company to operate the Transmission System and carry out its obligations in relation thereto in accordance with Good Industry Practice (including in relation to the application by any person for connection to the Transmission System), provided that:

(a) only Confidential Information which is necessary for such purpose is disclosed by the Company; and

(b) the Company notifies the recipient in advance of such disclosure that the information is confidential and should not be disclosed by the recipient to third parties;

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13.3.7 as may be required by a Court, arbitrator or administrative tribunal or an expert in the course of proceedings before it to which the disclosing Party is a party; or

13.3.8 as may be agreed in writing by the Parties prior to disclosure by the Party disclosing such Confidential Information.

13.4 All information supplied by or on behalf of a Party shall remain the sole and exclusive property of such Party and this Agreement shall not operate to transfer ownership or any interest whatsoever therein, and the other Party shall, if requested by the Party disclosing the information following termination of this Agreement, promptly return to such Party all documents and any copies, extracts, notes or similar materials containing or based in whole on such information.

13.5 With effect from the date of this Agreement both Parties shall adopt procedures within their organisations for ensuring the confidentiality of all information which they are obliged to preserve as confidential under this Clause 13. Those procedures shall be as follows:

13.5.1 the Confidential Information will be disseminated only to persons who need such information for the purpose of carrying out those functions which they are employed to carry out;

13.5.2 the Confidential Information shall not be used by either Party for the purpose of obtaining for itself or any of its Affiliates or for any other person any contract or arrangement for the supply of electricity to any person without the prior consent of the Party disclosing such Confidential Information;

13.5.3 employees, directors, Affiliates, agents, proposed assignees, bona fide prospective purchasers of all or substantially all of the shares of a Party, consultants and professional advisers of both Parties in receipt of Confidential Information will be made fully aware of the Party's obligations of confidence in relation thereto and the Party will be responsible for any failure by such persons to comply with such obligations as if they were parties to this Agreement; and

13.5.4 any copies of the Confidential Information will, insofar as is reasonably practicable, whether in hard copy or computerised form, clearly identify the Confidential Information as confidential.

13.6 The provisions of this Clause 13 shall continue to bind a Party for five (5) years after termination of this Agreement.

13.7 Subject to Clause 13.3, no public announcement or statement regarding the signature, performance or termination of, or otherwise in relation to, the Agreement shall be issued

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or made by a Party unless the other Party shall have first been furnished with a written copy of the proposed announcement or statement and shall have approved it (such approval not to be unreasonably withheld or delayed).

14 Dispute Resolution

14.1 If any dispute or difference arises between the Parties in connection with this Agreement, it shall, subject to any express provision to the contrary contained herein, be resolved in accordance with the provisions set out in the Dispute Resolution Procedure.

15 Miscellaneous

15.1 Counterparts

This Agreement may be executed in any number of counterparts and by each Party on a separate counterpart, each of which when executed and delivered shall be an original, but all the counterparts together shall constitute one and the same document.

15.2 Entire Agreement

This Agreement contains and expressly refers to the entire agreement between the Parties with respect to its subject matter and expressly excludes, to the extent permissible in law, any warranty, condition or other undertaking implied at law or by custom and with effect from the Effective Date supersedes all previous agreements and understandings between the Parties (other than as provided for in this Agreement) with respect to its subject matter and each of the Parties acknowledges and confirms that it does not enter into this Agreement in reliance on any representation, warranty or other undertaking by the other Party not fully reflected in this Agreement.

15.3 Severability

If any provision of this Agreement is or becomes invalid, unenforceable or illegal by a judgement or decision of any court of competent jurisdiction or any Competent Authority to which it is subjector by order of the relevant body of the European Union, the same shall be deemed severable and the remainder of this Agreement shall remain in full force and effect. In any such case, the Parties will negotiate in good faith with a view to agreeing one or more provisions which may be substituted for such invalid or unenforceable provision in order to give effect, so far as practicable, to the spirit of this Agreement.

15.4 Waivers

No delay or forbearance by either Party in exercising any right, power, privilege or remedy under this Agreement shall operate to impair or be construed as a waiver of the

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right, power, privilege or remedy. For the avoidance of doubt any waiver by either Party of the obligations of the other Party shall be evidenced by an agreement in writing signed by both Parties. A single or partial exercise of any such right, power, privilege or remedy shall not preclude any further exercise thereof or the exercise of any other right, power, privilege or remedy.

15.5 Notices

Except for notices to be given pursuant to the Grid Code (as to which, for the avoidance of doubt, the provisions of the Grid Code shall apply) or the Distribution Code (as to which, for the avoidance of doubt, the procedures provided for in the Distribution Code shall apply), any notice given by one Party to the other under this Agreement shall be in writing (unless emergency conditions exist reasonably preventing such notice from being given in writing) and shall be sent or delivered to the address, and marked for the attention of the person specified in Schedule 6. Either Party may, by notice to the other, given in compliance with this Clause 16.5, change its address or the person in that Party to which such notices are to be sent or delivered.

All such written notices shall either be personally delivered or be sent by pre-paid registered post (airmail if overseas) or electronic transfer. Communication by electronic means shall be confirmed by forwarding a copy of same by pre-paid registered post.

Any notice so delivered, posted or transferred shall be deemed to have been given:

15.5.1 in the case of personal delivery, when delivered;

15.5.2 in the case of pre-paid registered post, on the second day following the date of posting (or, if airmailed to or from overseas, on the fifth day following the date of posting);

otherwise on the next following Business Day.

15.6 Compliance with the Law

The Parties agree that, in performing their respective obligations pursuant to this Agreement, the Company and the Service Provider shall be required to comply with relevant statutes, statutory instruments and the general law and applicable obligations in the fields of environmental, social and labour law that have been established by EU law, national law, collective agreements and by international, environmental, social and labour laws listed in Schedule 11 of the European Union (Award of Contracts by Utility Undertakings) Regulations 2016. Neither Party shall be liable for any failure to perform its obligations in accordance with this Agreement where to do so would put it in breach of any of the foregoing

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15.7 Survival

The cancellation, expiry or termination of this Agreement shall not affect any rights or obligations which may have accrued prior to such cancellation, expiry or termination and shall not affect any continuing obligations of either of the Parties under this Agreement including obligations that by their nature should survive such termination, cancellation or expiry or any other terms of this Agreement by which rights or obligations are expressed to continue after cancellation, expiry or termination of this Agreement.

15.8 Independent Contractors

The relationship between the Company and the Service Provider shall be that of two independent contracting parties. Each Party shall be solely liable for the payment of all wages, taxes and other costs related to the employment by that Party of persons to meet its obligations under this Agreement.

15.9 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Service Provider and the Company. Neither the Service Provider nor the Company shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or to be an agent or representative of, or to otherwise bind, the other Party.

15.10 No Third Party Beneficiaries

This Agreement is intended solely for the benefit of the Parties to it. Other than as specifically provided in this Agreement, nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person or entity not a party to this Agreement.

15.11 Language

Each notification, notice, submission, demand, consent, request or other communication given by one Party to the other under this Agreement shall be in the English language.

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16 Governing Law and Jurisdiction

16.1 This Agreement shall be interpreted, construed and governed by the laws of the Jurisdiction.

16.2. Subject to the terms of the Dispute Resolution Procedure, resolution of any dispute shall, unless the Parties otherwise agree, be subject to the non-exclusive jurisdiction of the courts of the Jurisdiction.

16.3 Each Party further agrees that a lawful finding or conclusion of the Regulatory Authority under this Agreement shall be conclusive and binding upon such Party and may be enforced in the courts of any jurisdiction.

16.4 Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any proceedings in any court as is referred to in this Clause and any claim that any proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any proceedings brought in the courts of the Jurisdiction shall be conclusive and binding upon each Party and may be enforced in the courts of any other jurisdiction.

17 Data Protection

The Company and the Service Provider shall enter into the form of supplemental data protection agreement, or agreements as applicable, set out at Schedule 10 to this Agreement.

IN WITNESS WHEREOF this Agreement has been executed on the day and year first above written.

Signed for and on behalf of:-
EirGrid plc

Signed for and on behalf of:-
[Service Provider]

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Schedule 1

Definitions

"Achieved" means the actual level of a DS3 System Service which a Providing Unit provides in response to a Performance Incident;

"Act" means the Electricity Regulation Act, 1999 (as amended);

"Active Power" has the meaning given to it in the Grid Code;

"Additional Grid Code Characteristics Notice" has the meaning given to it in the Grid Code;

"Affiliate" means, in relation to either Party, any holding company or subsidiary or any subsidiary of a holding company of the relevant Party, in each case within the meaning of the Companies Act 2014;

"Aggregated Generating Unit" has the meaning given to it in the Grid Code;

"**Aggregator**" means **Aggregated Generating Unit**

"All Island Transmission Network" means the Transmission System together with the "transmission system" as defined in the licence granted to the Other TSO under Article 10(1) (b) of the Electricity (Northern Ireland) Order 1992;

"Applicable Tolerance" means in relation to a DS3 System Service, the amount a Providing Unit's Achieved response is allowed to vary from its Expected response and still be considered as a 'Pass'. If this Applicable Tolerance is exceeded for a Performance Incident, the Performance Assessment will be deemed a Fail;

"Assessment Period" means the time period over which a Performance Scalar is calculated. It is dependent on a number of criteria including the Data Start Date, Data Backstop Timeframe and the Data Backstop Limit;

"Automatic Voltage Regulation" or **"AVR"** means the automatic maintenance of a Providing Unit's terminal voltage or the automatic maintenance of a Providing Unit's Voltage setpoint, Reactive Power setpoint or Power Factor setpoint at its Connection Point, as appropriate;

"Automatic Voltage Regulator Status" or **"AVR Status"** means the status of the AVR of a Providing Unit, as further defined in of Schedule 2;

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"Available Volume" means, in relation to any of the DS3 System Services, the capability of the Providing Unit to provide such DS3 System Services to the Power System as calculated in accordance with the provisions of Schedule 2;

"Availability" has the meaning given to it in the Grid Code;

"Availability Notice" has the meaning given to it in the Grid Code;

"Availability Performance Scalar" means a multiplicative factor which adjusts the payment for a given DS3 System Service to reflect a Providing Unit's historical Available Volumes for the provision of DS3 System Services, in accordance with the Protocol;

"Business Day" means a weekday which is not a public holiday or bank holiday in the Jurisdiction;

"Central Dispatch" has the meaning given to it in the Grid Code;

"Centrally Dispatched" means subject to Central Dispatch;

"Charging Period" means a period of one calendar month;

"Cold" means a cold Warmth State;

"Company" means EirGrid plc and any legal successors in title under any restructuring of EirGrid plc;

"Competent Authority" means the Regulatory Authority or any local, national or supra-national agency, authority, department, inspectorate, minister, official, Court, tribunal or public or statutory person (whether autonomous or not) of Ireland (or the government thereof) or the European Union which has jurisdiction over a Party on the subject matter of the Agreement;

"Compliance Test" means the process of assessing that Operational Requirements are satisfied;

"Confidential Information" has the meaning set out in Clause 12;

"Connection Agreement" means in relation to a Service Provider's Installation, the agreement between the Company or the Distribution System Operator and the Service Provider which provides the right for that Service Provider's Installation to be and remain connected to the Transmission System or the Distribution System;

"Connection Conditions" has the meaning given to it in the Grid Code;

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"Connection Offer" means the offer letter to Service Provider for a Connection Agreement"

"Connection Point" means the physical point where the Providing Unit is joined to the Power System;

"Connection Site" has the meaning given to it in the Grid Code;

"Contracted" means, in relation to POR, SOR, TOR1, TOR2, FFR, or Over-Frequency Response (OFR) and in relation to a Trading Period, the maximum value for the response of the Providing Unit determined from the POR Reserve Characteristic, SOR Reserve Characteristic, TOR1 Reserve Characteristic, TOR2 Reserve Characteristic, FFR Characteristic or OFR Reserve Characteristic respectively by reference to the MW Output of the Providing Unit for that Trading Period and in relation to Kinetic Energy means the value stated in Schedule 9 part 2 Operating Parameters;

"Controllable WFPS" has the meaning given to it in the Grid Code;

"Declaration" has the meaning given to it in the Grid Code;

"Declared" means, in relation to any DS3 System Service and in relation to a Trading Period, the Time-Weighted Average value, unless specified otherwise as the lowest value, for the capability of the Providing Unit to provide such DS3 System Service during that Trading Period as notified by the Service Provider in accordance with the Grid Code or as stipulated by the Company as appropriate. The "**Declared"** value must accurately reflect the true capability of the Providing Unit to provide such DS3 System Service;

"Declared Automatic Voltage Regulator Status" means the AVR Status for the Trading Period as notified by the Service Provider to the Company;

"Declared MinGen" means the Time-Weighted Average of Minimum Generation in a Trading Period as notified by the Service Provider in accordance with the Grid Code or in such other manner as stipulated by the Company as appropriate;

"Decommission" means cessation of use by the Service Provider of the Service Provider's Installation at any given Connection Site for a continuous period exceeding 12 months and "**Decommissioned**" shall be construed accordingly;

"De-Energise" has the meaning given to it in the Grid Code;

"Demand" has the meaning given to it in the Grid Code;

"De-synchronised" has the meaning given to it in the Grid Code;

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"Demand Side Unit" has the meaning given to it in the Grid Code;

"Directive" means any present or future legislation, statutory instrument, directive, requirement, instruction, order, direction or rule of any Competent Authority binding on either or both of the Company and the Service Provider (but only, if not having the force of law, if compliance with the Directive is in accordance with the general practice of persons to whom the Directive is addressed) and includes any modification, extension or replacement thereof then in force;

"Disconnection" has the meaning set out in the Grid Code and "**Disconnected**" and **"Disconnect"** shall be construed accordingly;

"Dispatch" means the issue by the Company of instructions to a Service Provider in respect of the Providing Unit and the term **"Dispatched"** shall be construed accordingly;

"Dispatchable" means a Providing Unit that is capable of being Dispatched;

"Dispatchable WFPS" has the meaning given to it in the Grid Code;

"Dispatch Instruction" means an instruction given by the Company to the Service Provider in respect of the Providing Unit to change the output, fuel or manner of operation of the Providing Unit and "Instruct" and "Instructed" shall be construed accordingly;

"Dispute Resolution Procedure" means the procedure set out in Schedule 6;

"Distribution Code" means the Distribution Code required to be prepared by the Distribution System Operator pursuant to section 33 of the Act, and approved by the Regulatory Authority, as from time to time revised, amended, supplemented or replaced with the approval of or at the instance of the Regulatory Authority;

"Distribution System" has the meaning given to it in the Grid Code;

"Distribution System Operator" has the meaning given to it in the Grid Code;

"DS3 System Services" for the purposes of this Agreement means the provision of POR, SOR, TOR1, TOR2 and FFR;

"DS3 System Services Payments" has the meaning given to it in Clause 5.1.2;

"DSUSOIA" means an agreement between the Service Provider and the Company which provides the right for the Providing Unit to be and remain connected to the Transmission System or the Distribution System to the extent that the Providing Unit is a Demand Side Unit;

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"Dynamic Response" means a response provided by the Providing Unit by increases in MW Output or MW Reduction in a continuously controlled manner proportional to the Power System Frequency;

"Effective Date" means the date of this Agreement;

"Energy Storage Providing Unit" means a Providing Unit which uses storage devices to generate and consume electricity;

"Euro" or **"€"** means the single currency of participating Member States of the European Union;

"Event" means an unscheduled or unplanned (although it may have been anticipated) occurrence on the Power System or on the Other Transmission System including, without limiting that general description, faults, incidents and breakdowns;

"Event Recorders" means event recorders as specified in the Metering Code or where not so specified such other metering equipment as may be used to monitor the Frequency of the Power System;

"Expenditure Cap" means the upper limit on expenditure approved by the Regulatory Authority for DS3 System Services for the relevant Tariff Year**;**

"Expert" means the person appointed to determine a dispute under this Agreement in accordance with the Dispute Resolution Procedure;

"Fail" has the meaning given to it in the Protocol;

"Fast Frequency Response" or "FFR" has the meaning given to it in Schedule 2;

"Fault Disturbance" has the meaning given to it in the Grid Code;

"FFR Fast Response Scalar" means a multiplicative factor which adjusts the payment for the FFR DS3 System Service to reflect a Providing Unit's FFR Response Time capability;

"FFR Response Time" means the length of time in seconds from the start of an Event that it takes a Providing Unit to provide the FFR DS3 System Service.

"FFR Trajectory" means the magnitude of the change in Frequency from the Under-Frequency Reserve Trigger, measured in Hz, by which the Providing Unit shall deliver 100% of its contracted FFR volume, and is set by the Company.

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"FFR Trajectory Capability" means the magnitude of the smallest change in Frequency from the Under-Frequency Reserve Trigger, measured in Hz, by which the Providing Unit is capable of delivering 100% of its contracted FFR volume.

"FFR Hysteresis Control" means the capability of a Providing Unit to deliver a response at a particular Under-Frequency Reserve Trigger as the frequency falls and not to retract its initial provided response as the frequency recovers through the Under-Frequency Reserve Trigger.

"Firm Access Quantity" has the meaning given to it in the Trading and Settlement Code (TSC).

"Force Majeure" means any event or circumstance or number of events or circumstances or combination thereof which is beyond the reasonable control of a Party and which could not have been avoided and which results in or causes the failure of a Party to perform any of its obligations under this Agreement and includes but is not limited to the following events:

(a) acts of terrorism; or

(b) war (whether declared or undeclared), threat of war, act of public enemy, blockade, revolution, riot, insurrection, public demonstration, civil commotion, invasion or armed conflict; or

(c) sabotage or acts of vandalism, criminal damage or the threat of such acts; or

(d) extreme weather or environmental conditions including lightning, earthquake, flood, wind, drought, storm, fire, landslip, accumulation of snow or ice, natural disasters and phenomena including meteorites, the occurrence of pressure waves caused by aircraft or other aerial devices travelling at supersonic speeds, impact by aircraft, volcanic eruption, explosion including nuclear explosion, radioactive or chemical contamination or ionising radiation; or

(e) any change of legislation, governmental order, restraint or Directive without justifiable cause by any relevant governmental authority having the effect of shutting down or reducing the supply of electricity to the Service Provider's Installation or which prohibits (by rendering unlawful) the operation of the Service Provider's Installation and such operation cannot be made lawful by a modification to the Service Provider's Installation or a change in operating practice; or

(f) any strike which is part of a labour dispute of a national character occurring in Ireland or which is part of a national electrical industry strike within Ireland; or

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(g) (in the event that the Providing Unit is not a Demand Side Unit) the inability at any time or from time to time of the Transmission System or Distribution System to be capable of lawfully or safely importing electricity from the Service Provider's Installation; or

failure or disruption of the systems for transferring funds between banks in Ireland;

"Frequency" has the meaning given to it in the Grid Code;

"GASOA" means an agreement between the Service Provider and the Company which provides a right for the Providing Unit to be and remain connected to the Transmission System or Distribution System to the extent that the Providing Unit is an Aggregated Generating Unit;

"Generation Unit" has the meaning given to it in the Grid Code;

"Generation Licence" means a licence to generate electricity granted pursuant to the Act;

"Go-Live Date" means the date agreed by the Company and the Service Provider at which the Service Provider's Providing Unit will commence provision of System Services, which will be [insert date] and unless the context otherwise requires, means 00:00 hours on that date;

"Good Industry Practice" means the exercise of that degree of skill, diligence, prudence and foresight which would be reasonably and ordinarily expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;

"Governor Droop" has the meaning given to it in the Grid Code;

"Grid Code" means the code prepared by the Company pursuant to section 33 of the Act, and approved by the Regulatory Authority, as from time to time revised, amended, supplemented or replaced with the approval of or at the instance of the Regulatory Authority;

"Hot" means a hot Warmth State;

"Hot Cooling Boundary" means the period of time, which must be less than that defined by the Warm Cooling Boundary, post desynchronisation of a Providing Unit after which the Providing Unit's Warmth State transfers from being Hot to being Warm;

"Hydro-electric Providing Unit" means a Providing Unit connected to a hydro turbine which is driven either by the controlled flow of water from a reservoir or by the flow of a river;

"Hz" means Hertz;

"Injury Claim" has the meaning given to it in Clause 12.3;

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"Interconnector" has the meaning given to it in the Grid Code;

"Interconnector Frequency Droop" has the meaning given to it in the Grid Code;

"Interface Agreement" means a DSUSOIA or GASOA;

"Jurisdiction" means Republic of Ireland;

"Kinetic Energy" means the energy that a Synchronous Providing Unit possesses due to its rotation;

"kVA" means kilovolt-amperes;

"kW" means kilowatts;

"Latest Expiration Date" means the latest date by which all contracts will expire, and is 6 years after the Standard Go-Live Date.

"Legal Claim" has the meaning given to it in Clause 12.1;

"Liability Cap" for the purposes of Clause 12.1, means €130,000 per occurrence and an overall annual cap of €1,300,000 in any period of twelve consecutive calendar months during the term of this Agreement;

"Locational Scalar" means a multiplicative factor which adjusts the payment for a given DS3 System Service to reflect a Providing Unit's geographical location;

"Metering Code" means the code of that name which specifies the minimum technical design and operational criteria to be complied with for metering and data collection equipment and associated procedures as required under the Trading and Settlement Code;

"Metering Equipment" has the meaning given to it in the Metering Code;

"Meters" has the meaning set out in the Metering Code;

"Milestone Deadline" means the agreed date for the achievement of each Performance Milestone (as set out in the definition of Performance Milestone);

"Minimum Generation" has the meaning given to it in the Grid Code;

"Monitoring Equipment" means equipment used to assess the performance of a Providing Unit in providing a DS3 System Service and shall include but not be limited to meters, SCADA,

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State Estimators and high-speed recorders and their associated data storage and data communications equipment;

"ms" means milliseconds;

"MW" means megawatt;

"MW Output" has the meaning given to it in the Grid Code;

"MW Reduction" means a reduction in Demand;

"Nadir Frequency" means the minimum Frequency during the POR Period;

"Network Codes" means present and future directly effective EU Regulations which set the minimum standard for all users of the Distribution System and Transmission System including Commission Regulation (EU) 2017/2196, Commission Regulation (EU) 2017/2195, Commission Regulation (EU) 2016/1388, Commission Regulation (EU) 2016/631, Commission Regulation (EU) 2016/1447 and Commission Regulation (EU) 2017/1485;

"Network Congestion" means insufficient capability of the Transmission System or Distribution System resulting in a reduction to a Providing Unit's Availability;

"Nominal Frequency" will for the purpose of this Agreement be considered to be 50Hz;

"Nominal Voltage" means the reference value of the Voltage by which any section of the Power System is designated and identified by the Company;

"Notifying Party" has the meaning given to it in Clause 13;

"OFR Response Time" means the length of time in seconds from the start of an Event that it takes a Providing Unit to provide the OFR service;

"OFR Trajectory" means the magnitude of the change in Frequency from the OFR Trigger, measured in Hz, by which the Providing Unit shall deliver 100% of its contracted OFR volume, and is set by the Company;

"OFR Trajectory Capability" means the magnitude of the smallest change in Frequency from the OFR Trigger, measured in Hz, by which the Providing Unit is capable of delivering 100% of its contracted OFR volume;

"OFR Trigger" means the Frequency above which the Providing Unit shall provide OFR as appropriate and is set by the Company;

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"OFR Trigger Capability" means the Frequency above which the Providing Unit is capable of providing OFR;

"Operating Parameters" means the performance and operating specifications of each Providing Unit (certain of which are referred to in the Grid Code as Technical Parameters) for which values are specified, as are more fully set out in Schedule 9 in accordance with this Agreement;

"Operational Requirements" means the TSO's standards that the Service Provider must satisfy in providing the DS3 System Service(s) from the Providing Unit detailed in Schedule 9;

"Other Transmission System" has the meaning given to it in the Grid Code;

"Other TSO" means SONI Limited (a company registered in Northern Ireland with company number NI 03871), or any of its legal successors or assigns, in its role as the transmission system operator in Northern Ireland;

"Over-Frequency Response" or "OFR" means the delivery of MW in response to a system frequency above the OFR Trigger, with characteristics given to it in Schedule 9;

"Party" means, as the context requires, the Company or the Service Provider; and the term "Parties" shall be construed accordingly; **"Party Liable"** has the meaning given to it in Clause 12.3;

"Party Not Liable" has the meaning given to it in Clause 12.3;

"Pass" has the meaning given to it in the Protocol;

"Payment Discount Factor" means the reduction in Payment Rate, as determined by each party during the bidding process, expressed as a percentage of the total Payment Rate.

"Payment Rate" means the rate (expressed in €/MWh, €/MVArh or €/MWs^{2}h as appropriate) for the calculation of payments for DS3 System Services which for the purposes of these arrangements will incorporate each party's Payment Discount Factor and be fixed at the time of contract execution.

"Performance Assessment" has the meaning given to it in the Protocol;

"Performance Bond is the on demand bond provided in the form and as set out in Schedule 4 of this Agreement.

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"Performance Bond Amount" means the sum of €12,000 per MW contracted due to the Company prior to the execution of this Agreement which will form security against any of the events listed in Clause 4;

"Performance Milestone" means the stage of the development which is applicable to the Providing Unit. In accordance with Clause 4, the Service Provider must complete the following Performance Milestones by the Milestone Deadlines as set out in Schedule 4 for each Providing Unit.

"Performance Scalar" means a multiplicative factor which adjusts the payment for a given DS3 System Service to reflect a Providing Unit's delivery of a given DS3 System Service as determined in accordance with the provisions of the Protocol;

"Period" means, in relation to POR, SOR, TOR1 or TOR2, the period in which POR, SOR, TOR1 or TOR2 is required to be provided as further defined in Schedule 2;

"Power Park Module" has the meaning given to it in the Grid Code;

"Power System" means the Transmission System or Distribution System;

"Primary Operating Reserve" or **"POR"** has the meaning given to it in the Grid Code;

"Product Scalar" means a multiplicative factor which adjusts the payment for a given DS3 System Service to reflect a Providing Unit providing a given DS3 System Service with an enhanced performance that is of value to the Power System or a reduced performance that is of less value to the Power System;

"Protocol" means the document entitled "DS3 System Services Protocol" as published on the Company's website (www.eirgridgroup.com);

"Providing Unit" means the unit described in Part 1 of Schedule 9;

"Pumping Mode" means the state of a Pumped Storage Providing Unit when pumping;

"Pumped Storage Providing Unit" means a Providing Unit within a pumped storage plant where a fluid is pumped to a storage container when in Pumping Mode and the fluid's flow back is used to drive a turbine which powers a generator when in generating mode;

"Reactive Current" means in the phasor representation of alternating current, the component of the current perpendicular to the voltage;

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"Reactive Power" or **"Mvar"** means the product of voltage and current and the sine of the phase angle between them measured in units of volt-amperes reactive and standard multiples thereof;

"Reactive Power Control" means the control of the production and absorption of Reactive Power by the Providing Unit as detailed in Schedule 2**;**

"Reactive Power (Lagging)" means the production of Reactive Power by a Providing Unit;

"Reactive Power (Leading)" means the absorption of Reactive Power by a Providing Unit;

"Registered Capacity" for Generation Units has the meaning defined in the Grid Code and for all other Providing Units means the maximum capacity, expressed in whole MW, that a Providing Unit can deliver on a sustained basis, without accelerated loss of equipment life, at the Connection Point;

"Regulatory Authority" means the Commission for Energy Regulation for EirGrid

"Relevant Legislation" means Section 570 of the Companies Act 2014 (and the Service Provider shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by the Service Provider with recourse to all appropriate measures and procedures). For the purpose of this definition, Section 570 of the Companies Act, 2014 shall have effect as if for "€10,000" (in Section 570(a)) there was substituted "€50,000" and as if for "€20,000" (in Section 570(b)) there was substituted "€100,000" or such higher figure as the Company may from time to time notify in writing to the Service Provider;

"Reserve Characteristic" means in relation to POR, SOR, TOR1, TOR2, FFR, and OFR the diagrams set out in Schedule 9;

"Reserve Droop" means:

- Governor Droop if the Providing Unit is a Generation Unit or a Controllable WFPS;
- Interconnector Frequency Droop if the Providing Unit is an Interconnector; or
- in the event that the Providing Unit is not a Generation Unit, a Controllable WFPS or an Interconnector, the percentage drop in the Frequency that would cause the Providing Unit to change its POR,SOR and/or TOR1 from zero to its Contracted POR,SOR and/or TOR1 and is set by the Company at a value between 0.2% and 2%;

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"Reserve Trigger Scalar" has the meaning set out in Schedule;

"Rise Time" means, in relation to Reactive Current response from a Providing Unit, the length of time from Voltage Dip inception for Reactive Current to reach 90% of its steady-state value;

"**SCADA**" or "**Supervisory Control and Data Acquisition**" means the metering data collection system used by the TSO for the storage, display and processing of metering data by the TSO (currently comprising a communication system and computer system) or such other data collection system as the TSO may reasonably specify to be used for such purpose with the prior agreement of the Regulatory Authority and after consultation; "Scaling Factor" means, in relation to a DS3 System Service, the scaling factor used in the calculation of payments for that DS3 System Service, as described in Schedules 2, 3 and 4 of this Agreement;

"Scheduled Outage" has the meaning given to it in the Grid Code;

"Secondary Operating Reserve" or "**SOR**" has the meaning given to it in the Grid Code;

"Service Provider's Installation" means any structures, equipment, lines, appliances or devices used or to be used by any Service Provider and connected or to be connected directly or indirectly to the Transmission System or to the Distribution System;

"Settling Time" means in relation to Reactive Current response from a Providing Unit, the length of time from Voltage Dip inception for Reactive Current to settle within +/-10% of its steady-state value;

"Single Electricity Market or "SEM" has the meaning given to it in the TSC and shall include any replacement wholesale all-island electricity market for Ireland and Northern Ireland;

"SNSP" or "System Non-Synchronous Penetration" means a value calculated by the Company which specifies the percentage of generation provided by non-Synchronous sources, including HVDC Interconnector imports, relative to the total all-island generation, where total all-island generation includes HVDC Interconnector exports.

"State Estimator" means a system for estimating the value of a parameter;

"Static Response" means a response provided by the Providing Unit in discrete step increases in MW Output or discrete steps in MW Reduction;

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"Static Steps Capability" means, in the event that the Providing Unit provides FFR in discrete increases in MW Output or MW Reduction, the maximum number of such discrete changes in MW Output or MW Reduction that the Providing Unit is capable of;

"Supply Licence" means a licence to supply electricity granted pursuant to the Act;

"Synchronised" (and like terms) has the meaning given to it in the Grid Code;

"Synchronous Motor" means a motor which is Synchronised to the Power System;

"Synchronous Providing Unit" means a Providing Unit which is connected and Synchronised to the Transmission System or Distribution System;

"Synchronous Start-Up Time Cold" has the meaning given to it in the Grid Code;

"Synchronous Start-Up Time Hot" has the meaning given to it in the Grid Code;

"Synchronous Start-Up Time Warm" has the meaning given to it in the Grid Code;

"Technical Offer Data" has the meaning given to it in the Trading and Settlement Code;

"Technical Parameters" has the meaning given to it in the Grid Code;

"Technical Parameters Notice" has the meaning given to it in the Grid Code;

"Tender" means collectively the information, documentation and submissions provided by the Service Provider to the Company as part of the DS3 System Services procurement process.

"Tertiary Operating Reserve 1" or "TOR1" has the meaning given to it in the Grid Code;

"Tertiary Operating Reserve 2" or "TOR2" has the meaning given to it in the Grid Code;

"Time Weighted Average" means, in relation to a parameter (P) which has more than one value for a Trading Period, the time weighted average value of that parameter ("Parameter Value (Trading Period)"), calculated by the application of the following formula:

$$\text{Parameter Value (Trading Period)} = \sum_{Pv=1,N} \{(P_{V1} \times T_1)/TPD\}$$

Where:

$\sum_{Pv=1,N}$ is the summation for the N values of P during the Trading Period and where Pv=1 denotes the first value of P during the Trading Period;

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T_1 is the period (expressed in minutes) for which the value of P was equal to P_{v1} during the Trading Period; and

TPD is the Trading Period Duration;

"Trading and Settlement Code" or "TSC" means the Single Electricity Market Trading and Settlement Code or any replacement thereof which sets out the rules for trading in electricity and settling energy imbalances and the responsibilities of parties to the code;

"Trading Period" has the meaning set out in the TSC;

"Trading Period Duration" means a period equal to the duration of a Trading Period under the Trading and Settlement Code (as at the date of this Agreement it is 0.5 hours);

"Trading Period Payment" means, in relation a DS3 System Service and in relation to a Trading Period, the payment to which a Service Provider is entitled for providing the DS3 System Service(s) from the Providing Unit in that Trading Period as calculated under the relevant Sections of Schedule 2;

"Transmission System" has the meaning given to it in the Grid Code;

"Transmission System Operator" or "TSO" has the meaning given to it in the Grid Code;

"TSO Licence" means the licence to operate the Transmission System granted by the Regulatory Authority pursuant to Section 14(1) (e) of the Electricity Regulation Act;

"Under-Frequency Reserve Trigger" means the Frequency below which the Providing Unit shall provide POR, SOR, TOR1 and/or FFR as appropriate and is set by the Company;

"Under-Frequency Reserve Trigger Capability" means, in the event that the Providing Unit provides POR, SOR, TOR1 and/or FFR, the Frequency below which the Providing Unit is capable of providing POR, SOR, TOR1 and/or FFR as appropriate;

"Use of System Agreement" means the agreement between the Company and the Service Provider which provides the right for the use of the All-Island Transmission Network;

"Value Added Tax" or **"VAT"** means the value added tax chargeable under the provisions of the Value Added Tax Act 1972 (as amended) or any tax on the supply of goods and or services which may hereafter replace or supplement value added tax;

"Voltage" means the voltage of the relevant section of the Power System;

"Voltage Dip" has the meaning given to it in the Grid Code;

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"Warm" means a warm Warmth State;

"Warm Cooling Boundary" means the period of time, which must be greater than that defined by the Hot Cooling Boundary, post desynchronisation of a Providing Unit after which the Providing Unit's Warmth State transfers from being Warm to Cold;

"Warmth State" means either cold, warm, or hot, dependent upon the period of time which has elapsed post Desynchronisation of a Providing Unit relative to its Hot Cooling Boundary and its Warm Cooling Boundary. Up until the Hot Cooling Boundary, the Providing Unit is hot. At and below the Hot Cooling Boundary and up until the Warm Cooling Boundary, the Providing Unit is warm. At and below the Warm Cooling Boundary, the Providing Unit is cold;

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Schedule 2

A Providing Unit must be available for the provision of all DS3 System Services under this Schedule;

Operating Reserves

1 Operating Reserve Services

The DS3 System Services Primary Operating Reserve, Secondary Operating Reserve, Tertiary Operating Reserve 1, Tertiary Operating Reserve 2 and FFR are covered by this Schedule 2.

The provision of Over-Frequency Response (OFR) is also covered by this schedule.

2 Minimum Technical Requirements

The Service Provider must provide reserve in accordance with the technical requirements of the Grid Code and the relevant Operating Parameters of the Providing Unit.

Unless stated otherwise, all quantities used in reserve calculations are referenced at the Connection Point and conversion factors will be used to convert values that are not so provided where necessary.

The Company shall specify the Reserve Trigger, Reserve Droop, Reserve Step Sizes and Reserve Step Triggers as appropriate for reserve. Enabling and disabling POR, SOR and TOR1, and alterations to the Reserve Trigger, Reserve Droop, Reserve Step Sizes, and Reserve Step Triggers may be requested in real-time by the Company and unless otherwise agreed by the Company, shall be implemented by the Providing Unit within 60 seconds of such request.

3 Primary Operating Reserve (POR) - Available Volume, Payment and Performance Assessment

The basis for payments for Primary Operating Reserve (POR) is the calculation of the POR Available Volume of the Providing Unit over a Trading Period. The MW Output or MW Reduction and Availability of the Providing Unit for the Trading Period form the basis for calculating POR Available Volume. The POR Available Volume is the lesser of:

(i) the value of the reserve obtained from the POR Reserve Characteristic adjusted by the average Availability of the Providing Unit; and

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(ii) the Declared POR of the Providing Unit for the Trading Period.

The POR Available Volume for the Trading Period is multiplied by the POR Payment Rate to determine the payment to be made to the Service Provider for the Trading Period as set out in Section 3.1 of this Schedule 2. The payment for the Trading Period shall be adjusted by the POR Scaling Factor.

3.1 POR Available Volume

The Available Volume of the Providing Unit to provide POR in a Trading Period will be determined from the lesser of:

(a) the value of the reserve obtained from the POR Reserve Characteristic for the Time Weighted Average MW Output or MW Reduction, where the POR Reserve Characteristic has been adjusted to reflect the Time Weighted Average Availability of the Providing Unit (expressed in MW) in the manner described in the example set out in Schedule 9. The relevant value on the POR Reserve Characteristic will be determined from the average MW Output or the average MW Reduction (expressed in MW) over the Trading Period; and

(b) the Declared POR of the Providing Unit.

Where a Providing Unit has a Firm Access Quantity, if the Available Volume is reduced due to Network Congestion, the lower of the Firm Access Quantity or the Declared POR of the Providing Unit will be used to calculate POR Available Volume.

3.2 POR Payments

The Service Provider will receive a payment for each MW of POR Available Volume it provides from the Providing Unit in each Trading Period determined in accordance with the following provisions of this Section 3.2. Unless stated otherwise, all parameters used in the calculation of such payments are the Time Weighted Average for a Trading Period.

The payment to the Service Provider for POR Available Volume of the Providing Unit in a Trading Period is determined as:

POR Trading Period Payment = POR Available Volume $\times$ POR Payment Rate x POR Scaling Factor $\times$ Trading Period Duration

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Where:

a) POR Available Volume (expressed in MW) is the Available Volume of the Providing Unit in respect of POR and is calculated in accordance with Section 3.1;

b) POR Payment Rate is the Payment Rate (expressed in €/MWh) applicable to POR;

c) POR Scaling Factor = POR Event Performance Scalar x POR Availability Performance Scalar x POR Locational Scalar x POR Temporal Scarcity Scalar; and

d) the Trading Period Duration is expressed in hours.

For the purposes of Section 3.2(c) above, the value of the POR Locational Scalar is as defined in Schedule 9 and shall have a value equal to 1;

For the purposes of Section 3.2(c) above, the POR Temporal Scarcity Scalar is an amount equal to X [To be defined and published at least 1 month prior to procurement]

3.3 Assessment of POR Event Performance

In order to assess the quality of delivery of POR when required by the Power System, the Providing Unit will be monitored and assessed during an Event by the Company. The assessment of POR performance is carried out at the time of the Nadir Frequency during the POR time range of T+5 seconds to T+15 seconds (the "POR Period"). The value of the POR Performance Scalar will be determined based on whether the result of the Performance Assessment is a Pass or Fail.

3.4 Assessment of POR Availability Performance

In order to assess the quality of the availability of POR, the POR Availability Performance Scalar will be calculated in accordance with Section 9 of this schedule.

4 Secondary Operating Reserve (SOR) - Available Volume, Payment and Performance Assessment

The basis for payments for Secondary Operating Reserve (SOR) is the calculation of the SOR Available Volume of the Providing Unit over a Trading Period. The average MW Output or

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average MW Reduction and Availability of the Providing Unit for the Trading Period form the basis for calculating SOR Available Volume. The SOR Available Volume is the lesser of:

(i) the value of the reserve obtained from the SOR Reserve Characteristic adjusted by the average Availability of the Providing Unit; and

(ii) the Declared SOR of the Providing Unit for the Trading Period.

The SOR Available Volume of the Providing Unit (as calculated in accordance with Section 4.1) for the Trading Period is multiplied by the SOR Payment Rate to determine the payment to be made to the Service Provider for the Trading Period. The payment for the Trading Period shall be adjusted by the SOR Scaling Factor.

4.1 SOR Available Volume

The Available Volume of the Providing Unit to provide SOR in a Trading Period will be determined from the lesser of:

(a) the value of the reserve obtained from the SOR Reserve Characteristic for the Time Weighted Average MW Output or MW Reduction, where the SOR Reserve Characteristic has been adjusted to reflect the Time Weighted Average Availability of the Providing Unit (expressed in MW) in the manner described in the example set out in Schedule 9. The relevant value on the SOR Reserve Characteristic will be determined from the average MW Output or the average MW Reduction (expressed in MW) over the Trading Period; and

(b) the Declared SOR of the Providing Unit.

Where a Providing Unit has a Firm Access Quantity, if the Available Volume is reduced due to Network Congestion, the lower of the Firm Access Quantity or the Declared SOR of the Providing Unit will be used to calculate SOR Available Volume.

4.2 SOR Payments

The Service Provider will receive a payment for each MW of SOR Available Volume it provides from the Providing Unit in each Trading Period determined in accordance with the following provisions of this Section 4.2. Unless stated otherwise, all parameters used

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in the calculation of such payments are the Time Weighted Average for a Trading Period.

The payment to the Service Provider for SOR Available Volume of the Providing Unit in a Trading Period is determined as:

SOR Trading Period Payment = SOR Available Volume × SOR Payment Rate × SOR Scaling Factor × Trading Period Duration

Where:

a) SOR Available Volume (expressed in MW) is the Available Volume of the Providing Unit in respect of SOR and is calculated in accordance with Section 4.1;

b) SOR Payment Rate is the Payment Rate (expressed in €/MWh) applicable to SOR;

c) SOR Scaling Factor = SOR Event Performance Scalar x SOR Availability Performance Scalar x SOR Locational Scalar x SOR Temporal Scarcity Scalar; and

d) the Trading Period Duration is expressed in hours.

For the purposes of Section 4.2(c) above, the SOR Temporal Scarcity Scalar is X [To be defined and published at least 1 month prior to procurement]:

4.3 Assessment of SOR Event Performance

In order to assess the quality of delivery of SOR when required by the Power System, the Providing Unit will be monitored and assessed during an Event by the Company. The assessment of SOR performance is carried out during the entire SOR time range of T+15 seconds to T+90 seconds (the "SOR Period"). The value of the SOR Performance Scalar will be determined based on whether the result of the Performance Assessment is a Pass or Fail.

4.4 Assessment of SOR Availability Performance

In order to assess the quality of the availability of SOR, the SOR Availability Performance Scalar will be calculated in accordance with Section 9 of this schedule,

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5 Tertiary 1 Operating Reserve (TOR1) - Available Volume, Payment and Performance Assessment

The basis for payments for Tertiary Operating Reserve 1 (TOR1) is the calculation of the TOR1 Available Volume of the Providing Unit over a Trading Period. The average MW Output or average MW Reduction and Availability of the Providing Unit for the Trading Period form the basis for calculating TOR1 Available Volume. The TOR1 Available Volume is the lesser of:

(i) the value of the reserve obtained from the TOR1 Reserve Characteristic adjusted by the average Availability of the Providing Unit and

(ii) the Declared TOR1 of the Providing Unit for the Trading Period.

The TOR1 Available Volume (as calculated in accordance with Section 5.1) for the Trading Period is multiplied by the TOR1 Payment Rate to determine the payment to be made to the Service Provider for the Trading Period. The payment for the Trading Period shall be adjusted by the TOR1 Scaling Factor.

5.1 TOR1 Available Volume

The Available Volume of the Providing Unit to provide TOR1 in a Trading Period will be determined from the lesser of:

(a) the value of the reserve obtained from the TOR1 Reserve Characteristic for the Time Weighted Average MW Output or MW Reduction, where the TOR1 Reserve Characteristic has been adjusted to reflect the Time Weighted Average Availability of the Providing Unit (expressed in MW) in the manner described in the example set out in Schedule 9. The relevant value on the TOR1 Reserve Characteristic will be determined from the average MW Output or the average MW Reduction (expressed in MW) over the Trading Period; and

(b) the Declared TOR1 of the Providing Unit.

Where a Providing Unit has a Firm Access Quantity, if the Available Volume is reduced due to Network Congestion, the lower of the Firm Access Quantity or the Declared SOR of the Providing Unit will be used to calculate TOR1 Available Volume.

5.2 TOR1 Payments

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The Service Provider will receive a payment for each MW of TOR1 Available Volume it provides from the Providing Unit in each Trading Period determined in accordance with the following provisions of this Section 5.2. Unless stated otherwise, all parameters used in the calculation of such payments are the Time Weighted Average for a Trading Period.

The payment to the Service Provider for TOR1 Available Volume of the Providing Unit in a Trading Period is determined as:

TOR1 Trading Period Payment = TOR1 Available Volume × TOR1 Payment Rate × TOR1 Scaling Factor × Trading Period Duration

Where:

a) TOR1 Available Volume (expressed in MW) is the Available Volume of the Providing Unit in respect of TOR1 and is calculated in accordance with Section 5.1;

b) TOR1 Payment Rate is the Payment Rate for TOR1 (expressed in €/MWh); and

c) TOR1 Scaling Factor = TOR1 Event Performance Scalar x TOR1 Availability Performance Scalar x TOR1 Locational Scalar x TOR1 Temporal Scarcity Scalar;

d) the Trading Period Duration is expressed in hours.

For the purposes of Section 5.2(c) above, the value of the TOR1 Locational Scalar is as defined in Schedule 9 and shall have a minimum value equal to 1;

For the purposes of Section 5.2(c) above, the TOR1 Temporal Scarcity Scalar is an amount equal to X [To be defined and published at least 1 month prior to procurement]:

5.3 Assessment of TOR1 Event Performance

In order to assess the quality of delivery of TOR1 when required by the Power System, the Providing Unit will be monitored and assessed during an Event by the Company. The assessment of TOR1 performance is carried out during the entire TOR1 time range of T+90 seconds to T+300 seconds (the “TOR1 Period”). The value of the TOR1 Performance Scalar will be determined based on whether the result of the Performance Assessment is a Pass or Fail.

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5.4 Assessment of TOR1 Availability Performance

In order to assess the quality of the availability of TOR1, the TOR1 Availability Performance Scalar will be calculated in accordance with Section 9 of this schedule,

6 Tertiary 2 Operating Reserve (TOR2) - Available Volume, Payment and Performance Assessment

The basis for payments for Tertiary Operating Reserve 2 (TOR2) is the calculation of the TOR2 Available Volume of the Providing Unit over a Trading Period. The average MW Output or average MW Reduction and Availability of the Providing Unit for the Trading Period form the basis for calculating TOR2 Available Volume. The TOR2 Available Volume is the lesser of;

(i) the value of the reserve obtained from the TOR2 Reserve Characteristic adjusted by the average Availability of the Providing Unit; and

(ii) the Declared TOR2 of the Providing Unit for the Trading Period.

The TOR2 Available Volume (as calculated in accordance with Section 6.1) for the Trading Period is multiplied by the TOR2 Payment Rate to determine the payment to be made to the Service Provider for the Trading Period. The payment for the Trading Period shall be adjusted by the TOR2 Scaling Factor.

6.1 TOR2 Available Volume

The Available Volume of the Providing Unit to provide TOR2 in a Trading Period will be determined from the lesser of:

(a) the value of the reserve obtained from the TOR2 Reserve Characteristic for the Time Weighted Average MW Output or MW Reduction, where the TOR2 Reserve Characteristic has been adjusted to reflect the Time Weighted Average Availability of the Providing Unit (expressed in MW) in the manner described in the example set out in Schedule 9. The relevant value on the TOR2 Reserve Characteristic will be determined from the average MW Output or the average MW Reduction (expressed in MW) over the Trading Period; and

(b) the Declared TOR2 of the Providing Unit.

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Where a Providing Unit has a Firm Access Quantity, if the Available Volume is reduced due to Network Congestion, the lower of the Firm Access Quantity or the Declared SOR of the Providing Unit will be used to calculate TOR2 Available Volume.

6.2 TOR2 Payments

The Service Provider will receive a payment for each MW of TOR2 Available Volume it provides from the Providing Unit in each Trading Period determined in accordance with the following provisions of this Section 6.2. Unless stated otherwise, all parameters used in the calculation of such payments are the Time Weighted Average for a Trading Period.

The payment to the Service Provider for TOR2 Available Volume of the Providing Unit in a Trading Period is determined as:

TOR2 Trading Period Payment = TOR2 Available Volume × TOR2 Payment Rate × TOR2 Scaling Factor × Trading Period Duration

Where:

a) TOR2 Available Volume (expressed in MW) is the Available Volume of the Providing Unit in respect of TOR2 and is calculated in accordance with Section 6.1;

b) TOR2 Payment Rate is the Payment Rate for TOR2 (expressed in €/MWh) applicable to TOR2;

c) TOR2 Scaling Factor = TOR2 Event Performance Scalar x TOR2 Availability Performance Scalar x TOR2 Locational Scalar x TOR2 Temporal Scarcity Scalar; and

d) the Trading Period Duration is expressed in hours.

For the purposes of Section 6.2(c) above, the value of the TOR2 Locational Scalar is as defined in Schedule 9 and shall have a minimum value equal to 1;

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For the purposes of Section 6.2(c) above, the TOR2 Temporal Scarcity Scalar is X [To be defined and published at least 1 month prior to procurement]::

6.3 Assessment of TOR2 Performance

In order to assess the quality of delivery of TOR2 when required by the Power System, the Providing Unit will be monitored and assessed during an Event by the Company. The assessment of TOR2 performance is carried out for the entire TOR2 time range of T+5 minutes to T+20 minutes (the "TOR2 Period"). The value of the TOR2 Performance Scalar will be determined based on whether the result of the Performance Assessment is a Pass or Fail.

7. FFR Definition of Service - Available Volume, Payment and Performance Assessment

Fast Frequency Response (FFR) is the additional MW Output or MW Reduction required compared to the pre-incident MW Output or MW Reduction, which is fully available from a Providing Unit within 300 ms after the start of an Event and sustainable up to 10 seconds after the start of the Event. The extra energy provided in the 0.3 to 10 second timeframe must be greater than any loss of energy in the 10 to 20 second timeframe due to a reduction in MW Output or MW Reduction below the pre-incident MW Output or MW Reduction.

7.1 Minimum Technical Requirements

The Service Provider must provide Fast Frequency Response in accordance with the technical requirements of this Schedule and the relevant Operating Parameters for the Providing Unit.

The Company shall specify the Reserve Trigger, Reserve Droop, FFR Trajectory, Reserve Step Sizes and Reserve Step Triggers as appropriate. Enabling and disabling FFR and alterations to the Reserve Trigger, Reserve Droop, FFR Trajectory, Reserve Step Sizes and Reserve Step Triggers may be requested in real-time by the Company and, unless otherwise agreed by the Company, shall be implemented by the Providing Unit within 60 seconds.

Unless stated otherwise, all quantities used in FFR calculations are referenced at the Connection Point and conversion factors will be used to convert values that are not so provided where necessary.

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7.2 Fast Frequency Response - Available Volume, Payment and Performance Assessment

The basis for payments for Fast Frequency Response (FFR) is the calculation of the FFR Available Volume of the Providing Unit over a Trading Period. The MW Output or MW Reduction and Availability of the Providing Unit for the Trading Period form the basis for calculating FFR Available Volume. The payment for the Trading Period shall be adjusted by the FFR Scaling Factor of the Providing Unit.

7.2.1 FFR Available Volume

The Available Volume of the Providing Unit to provide FFR in a Trading Period will be determined from the lesser of:

a) the value of the reserve obtained from the FFR Reserve Characteristic for the Time Weighted Average MW Output or MW Reduction, where the FFR Reserve Characteristic has been adjusted to reflect the Time Weighted Average Availability of the Providing Unit (expressed in MW) in the manner described in the example set out in Schedule 9. The relevant value on the FFR Reserve Characteristic will be determined from the average MW Output or the average MW Reduction (expressed in MW) over the Trading Period; and

b) the Declared FFR of the Providing Unit.

Where a Providing Unit has a Firm Access Quantity, if the Available Volume is reduced due to Network Congestion, the lower of the Firm Access Quantity or the Declared SOR of the Providing Unit will be used to calculate FFR Available Volume.

7.2.2 FFR Payments

The Service Provider will receive a payment for each MW of FFR Available Volume it provides from the Providing Unit in each Trading Period determined in accordance with the following provisions of this Schedule 2. Unless stated otherwise, all parameters used in the calculation of such payments are the Time Weighted Average for a Trading Period.

The payment to the Service Provider for FFR Available Volume of the Providing Unit in a Trading Period is determined as:

FFR Trading Period Payment = FFR Available Volume x FFR Payment Rate x FFR Scaling Factor x Trading Period Duration

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Where:

a) FFR Available Volume (expressed in MW) is the Available Volume of the Providing Unit in respect of FFR and is calculated in accordance with this Schedule;

b) FFR Payment Rate is the Payment Rate (expressed in €/MWh) applicable to FFR;

c) FFR Scaling Factor = FFR Performance Event Scalar x FFR Performance Availability Scalar x FFR Fast Response Scalar x FFR Locational Scalar ; and

d) the Trading Period Duration is expressed in hours.

7.2.3 FFR Fast Response

For the purposes of Section 3.2(c) of this of Schedule, the FFR Fast Response Scalar is an amount equal to:

- in the event that the FFR Response Time is = 0.15 seconds; or
- ((0.5 - FFR Response Time)/(0.35)) +2 in the event that 0.15 < FFR Response Time <0.3 seconds;

7.2.4 FFR Locational Scalar

For the purposes of Section 3.2(c) above, the value of the FFR Locational Scalar is as defined in Schedule 9 and shall have a minimum value equal to 1;

7.2.5 FFR Temporal Scarcity Scalar

For the purposes of Section 3.2(c) above, the FFR Temporal Scarcity Scalar is X [To be defined and published at least 1 month prior to procurement]::

7.3 Assessment of FFR Performance

In order to assess the quality of delivery of FFR when required by the Power System, the Providing Unit will be monitored and assessed during an Event by the Company. The value of the FFR Performance Scalar will be determined based on whether the result of the Performance Assessment is a Pass or Fail.

8. OFR Definition of Service - Available Volume and Performance Assessment

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The MW Output or MW Reduction and Availability of the Providing Unit for the Trading Period form the basis for calculating OFR Available Volume. The OFR Available Volume is the lesser of:

(i) the value of the reserve obtained from the OFR Reserve Characteristic adjusted by the average Demand Consumption of the Providing Unit; and

(ii) the Declared OFR of the Providing Unit for the Trading Period.

8.1 OFR Available Volume

The Available Volume of the Providing Unit to provide OFR in a Trading Period will be determined from the lesser of:

(a) the value of the reserve obtained from the OFR Reserve Characteristic for the Time Weighted Average MW Output or MW Reduction, where the OFR Reserve Characteristic has been adjusted to reflect the Time Weighted Average Demand Consumption of the Providing Unit (expressed in MW) in the manner described in the example set out in Schedule 9. The relevant value on the OFR Reserve Characteristic will be determined from the average MW Output or the average MW Reduction (expressed in MW) over the Trading Period; and

(b) the Declared OFR of the Providing Unit.

Where a Providing Unit has a Firm Access Quantity, if the Available Volume is reduced due to Network Congestion, the lower of the Firm Access Quantity or the Declared SOR of the Providing Unit will be used to calculate OFR Available Volume.

8.2 Assessment of OFR Event Performance

In order to assess the quality of delivery of OFR when required by the Power System, the Providing Unit will be monitored and assessed during an Event by the Company. The value of the OFR Performance Scalar will be determined based on whether the result of the Performance Assessment is a Pass or Fail.

8.3 Assessment of OFR Availability Performance

In order to reflect the quality of the availability of OFR, the OFR Availability Performance Scalar will be calculated in accordance with Section 9 of this schedule,

9. Availability Assessment of FFR, POR, SOR, TOR1, TOR2 and OFR

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The value of the Availability Performance Scalar will be dependent on the combined availability of POR, SOR, TOR1, TOR2, FFR and OFR.

9.1 Availability Performance Scalar

The value of the Availability Performance Scalar will be determined based on the Total Availability Factor, in accordance with the following table. The Total Availability Factor will be calculated based on the combined availability of POR, SOR, TOR1, TOR2, FFR and OFR in accordance with the Protocol document.

Total Availability Factor	**Availability Performance Scalar**
<60%	0%
≥60% <70%	25%
≥70% <80%	50%
≥80% <90%	70%
≥90% <95%	85%
≥95% <97%	95%
≥97%	100%

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Schedule 3

Billing and Payment Plan

1. Statement of Account and Invoicing

1.1 Within twenty five (25) Business Days after the end of each Charging Period, the Company shall submit to the Service Provider a statement of account (the "**Statement**") specifying:

(i) the volume of DS3 System Service(s) provided and (ii) the DS3 System Services Payments due in respect of that Charging Period.

The Company shall use its reasonable endeavours to provide to the Service Provider such reasonable information as may be required to enable the Service Provider to verify the DS3 System Services provided for that Charging Period. Such information shall be based on data from meters and other systems the Company may use. If, following a Charging Period, the Company is unable to obtain all or part of the information necessary to prepare a Statement, in respect of that Charging Period, then the Company shall make such estimates as are necessary to prepare a Statement for the Charging Period and provide the Service Provider with the basis for such estimates.

1.2 Following confirmation by the Company of the actual DS3 System Services provided and calculation of the correct payments due, then the Statement for the subsequent Charging Period will be revised up or down accordingly.

1.3 Within ten (10) Business Days after the date on which the Company submits to the Service Provider a Statement, the Service Provider shall either:

(a) where the Service Provider agrees with the Statement's accuracy, submit to the Company an invoice for the same aggregate amount as is specified in the Statement (the "**Invoice**") together with a written notice confirming the accuracy of the Statement; or

(b) where the Service Provider disputes the Statement's accuracy, submit to the Company an Invoice for such sum as the Service Provider, acting in good faith, believes is due together with a written notice (the "**Claim**") specifying the sum disputed and the grounds of such dispute. For the avoidance of doubt, the Service

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Provider is only permitted to issue an Invoice for the aggregate amount specified in the Statement. This does not prejudice the Service Provider's claim for resettlement of disputed amounts. Any claim under this Section 1.3 shall be subject to the dispute resolution mechanism set out in Section 3 below.

1.4 The Service Provider shall be deemed to have agreed with the accuracy of the Statement if it fails to submit the Claim to the Company in accordance with Section 1.3.

1.5 Nothing in Sections 1.3 or 1.4 above shall prevent either Party from disputing information contained in or referred to in a Statement or an Invoice at any time where it is reasonable in all circumstances to do so, which includes in the case of fraud or manifest error. No dispute in respect of a Statement and/or invoice shall be raised after the first anniversary of the date of such Statement or Invoice.

2. Invoice Payment Date

2.1 Subject to Clause 5.2.3, within ten (10) Business Days after the Company's receipt of the Invoice, the Company shall pay to the Service Provider the sum due in respect of the Invoice by electronic transfer of funds to such bank account as may be specified in Schedule 9 or otherwise communicated in writing to the Company, quoting the invoice number against which payment is made.

2.2 Subject to Section 3, if any amount included in the Invoice remains unpaid after the time period stated in Section 2.1, then the Service Provider shall be entitled to charge interest on the amount unpaid, including interest on any Value Added Tax unpaid, in accordance with the European Communities (Late Payments in Commercial Transactions) Regulations 2012.

3. Billing and Payment Reconciliation and Dispute Resolution Mechanism

3.1 Where the Service Provider pursuant to Section 1.3 (b) disputes the Statement or the Invoice and submits a Claim to the Company:

(a) the Parties shall use reasonable endeavours to resolve the dispute in good faith; or

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(b) where the dispute remains unresolved forty (40) Business Days after the Company's receipt of the Claim, either Party may refer the dispute for resolution by the Expert in accordance with the Dispute Resolution Procedure; and

(c) following resolution of the dispute, any amount agreed or determined to be payable shall be paid within ten (10) Business Days after such agreement or determination and interest shall accrue on such amounts plus Valued Added Tax (if any) from the date such amount was originally due until the date of payment in accordance with the European Communities (Late Payments in Commercial Transactions) Regulations 2012.

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Schedule 4

Performance Bond Milestones

1.1 The Performance Bond Milestones will apply with respect to the payment and collection of bonds in accordance with Section 4

1.2 For the period between execution of the contract and the beginning of service delivery as defined in this agreement, the Performance Milestones outlined in the following table will apply. The table also outlines the deadlines by which these milestones must be met and the required information and/or evidence from providers in order to fulfil each milestone.

Performance Milestone:	**Milestone Deadline**:	Completion Condition:
(Where applicable) Connection Agreement Effective Date	[•]	On acceptance of a Connection Offer.
Consents Issue Date (as defined in the Connection Agreement)	[•]	On receipt by the TSO of a grant of planning permission for the development, the MIC bond, insurances and relevant consents.
Connection works Completion Date (end of Construction Period)	[•]	On receipt by the TSO of all testing certificates, safety file and as-built drawings after precomissioning handover is complete.
Energisation Date (As defined in the Connection Agreement)	[•]	When the TSO issues an Energisation Instruction
Operational Date (As defined in the Connection Agreement)	[•]	On receipt of Operational Certificate.
Go-Live Date (As defined in this Agreement)	[•]	As defined in this Agreement

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Schedule 5

Dispute Resolution Procedure

1 Either Party may notify the other Party following the occurrence or discovery of any item or event which the notifying Party acting in good faith considers to be a dispute under this Agreement.

2 Within fifteen (15) Business Days of the notice in Paragraph 1, either Party ("first Party") may, if considered appropriate and by further notice to the other Party ("second Party"), appoint a senior company official with expertise in the area of dispute to represent it. The second Party shall then also appoint a senior company official with expertise in the area of dispute to represent it and shall notify the first Party accordingly within a further ten (10) Business Days. The Parties shall procure that their respective representatives meet within ten (10) Business Days after the date of the second Party's notice and attempt in good faith to satisfactorily resolve the dispute.

3 If the dispute shall fail to be resolved pursuant to Section 2 within thirty (30) Business Days of the meeting referred to then, save where expressly stated to the contrary, either Party may refer the matter to the Regulatory Authority for resolution.

4. If the dispute is of a type which a provision of this Agreement states may be referred for resolution by an Expert, the following provisions shall apply between the Parties in relation to such dispute:

a) The Expert shall be appointed by the Parties, or in default of agreement upon such appointment within seven (7) days of a Party notifying the other Party of its decision to refer the matter to an Expert, the Expert shall be appointed by the President for the time being of Engineers Ireland in the case of a technical dispute and the President for the time being of Chartered Accountants Ireland in the case of a financial dispute.

b) The Parties will refer matters, differences or disputes in issue between them to the appropriate Expert as determined by the reasonable agreement of the Parties. If the Parties do not agree upon whether the dispute is a technical or financial dispute within seven (7) days of a Party notifying the other Party of its decision to refer the matter to an Expert, the Expert shall be appointed by the President for the time being of Chartered Accountants Ireland.

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c) The Expert will resolve or settle such matter or dispute in such manner as he shall in his absolute discretion see fit. The Expert shall be requested to reach his decision within thirty (30) days of the matter being referred to him. Any decision of the Expert shall be final and binding on the Parties.

d) Unless otherwise determined by the Expert, the costs of the Expert in settling or determining such matter or dispute shall be borne equally by the Parties.

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Schedule 6

Address Details, Billing Address of EirGrid and Address Details of The Service Provider

1. EirGrid plc

a) Registered Address

EirGrid plc
The Oval
160 Shelbourne Road
Ballsbridge
Dublin 4

For the attention of Chief Executive

b) Billing Address

Accounts Payable
EirGrid plc
The Oval
160 Shelbourne Road
Ballsbridge
Dublin 4

For the attention of Accounts Payable

2. SERVICE PROVIDER

[*insert address*]

For the attention of [*insert name*]

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Schedule 7

Banking Details of The Service Provider

SERVICE PROVIDER

Bank Name

Address

Account Name

Sort Code

Account Number

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Schedule 8

Operational Requirements

1. A Providing Unit must comply with the relevant Operational Requirements for POR, SOR, TOR1, TOR2, FFR and OFR as listed in this schedule.

2. A Providing Unit's compliance with the Operational Requirements shall require successful completion of an initial Compliance Test and be subject to ongoing monitoring. The Company may require a Providing Unit to undergo additional Compliance Tests during the term of the Agreement. The Company will not be liable for any costs arising from the Compliance tests.

3. A Providing Unit shall comply with the following Operational Requirements:

a) The provision of the five under frequency system services (excluding OFR) simultaneously should not impact on the ability of the Providing Unit to provide any one of those services.

b) The Available Volumes declared by a Providing Unit for each trading period must reflect its ability to provide each of its contracted services.

c) The Providing Unit shall be registered in the Single Electricity Market.

d) The Providing Unit must be able to declare Available Volumes for contracted DS3 System Services and OFR via electronic means in real-time i.e. through EDIL or a real-time signal.

e) The Providing Unit must comply with the TSOs' signal list (as may be amended during the lifetime of the Capped Contract).

f) The Providing Unit must have Monitoring Equipment installed that meets the standards set out by the TSO and found on the Company's website.

g) Responses shall be based on Reserve Triggers and not on Rate of Change of Frequency (RoCoF).

h) The Providing Unit shall be able to operate with a FFR Trajectory Capability of 0.3 Hz in response to an Under-Frequency Reserve Trigger.

i) The Providing Unit shall be able to operate with a Trajectory Capability of 0.3 Hz in response to an OFR Trigger.

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j) The Providing Unit must be capable of providing Available Volumes for POR, SOR, TOR1, and TOR2 equivalent to its capability in FFR. The Providing Unit must have the capability to maintain its response in line with the applicable frequency response curve for the extended timeframes required of FFR, POR, SOR, TOR1 and TOR2, as required by the TSOs in response to a Reserve Trigger.

k) The Providing Unit shall be able to operate without recovering its resource (e.g. charge in the case of a battery) until the system frequency has recovered (the exact timeframes shall be agreed by the TSOs).

l) The Providing Unit shall have Monitoring Equipment to enable the Performance Monitoring of the provision of the service.

m) The Providing Unit shall provide its expected response to frequency below the Under-Frequency Trigger within its FFR Response Time.

n) The FFR Response Time shall be between 150 ms and 300 ms inclusive.

o) The Providing Unit shall provide its expected response to frequency above the OFR Trigger within its OFR Response Time.

p) The OFR Response Time shall be between 150 ms and 300 ms.

q) The Providing Unit shall track changes in frequency dynamically;

r) The Providing Unit must maintain the capability to operate at its Under-Frequency Reserve Trigger Capability, which shall have a value ≤49.8 Hz unless otherwise by agreement of both parties. This value shall be agreed on the Effective Date, and may be modified at a future date by agreement of both parties.

s) The Providing Unit must maintain the capability to operate at its OFR Trigger Capability, which shall have a value ≤50.2 Hz unless otherwise by agreement of both parties. This value shall be agreed on the Effective Date, and may be modified at a future date by agreement of both parties.

4. Technology Specific Operational Requirements for Service Provision/Availability

4.1 An Energy Storage Providing Unit in its provision of FFR, POR, SOR, TOR1, TOR2, and OFR shall comply with the following Operational Requirements:

a) The Energy Storage Providing Unit may be subject to limitations in the manner in which it recharges, which must be agreed with the TSOs.

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b) The Providing Unit shall provide a real-time signal confirming its remaining energy storage available.

c) The Energy Storage Providing Unit must limit its ramp rates when outside of Frequency Control response mode in accordance with the Protocol Document.

4.2 DSUs and Aggregators in their provision of FFR, POR, SOR, TOR1 and TOR2 shall comply with the following Operational Requirements:

a. Aggregators must have the capability to remotely enable/disable services at all Individual Demand Sites (IDS).
b. The Providing Unit's Aggregator must stagger load reconnection on IDSs as directed by the TSOs.
c. The Providing Unit shall not declare down its Available Volumes in real-time during a Frequency Event, or if it does, the Available Volumes shall reflect the MW response provided.

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Schedule 9

Providing Unit and Operating Parameters

Part 1 – Providing Unit

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Part 2 - Operating Parameters

1. Reserve Characteristics

The Reserve Characteristic is a generic characteristic that is applied to POR, SOR, TOR1, TOR2, and FFR for the purpose of calculating payments and incorporating the Operating Parameters in this Schedule.

Figure 1 below illustrates the generic Reserve Characteristic of the Providing Unit. (Note: The characteristic utilises the maximum number of break points. In practice the majority of units will have a less complex structure.)

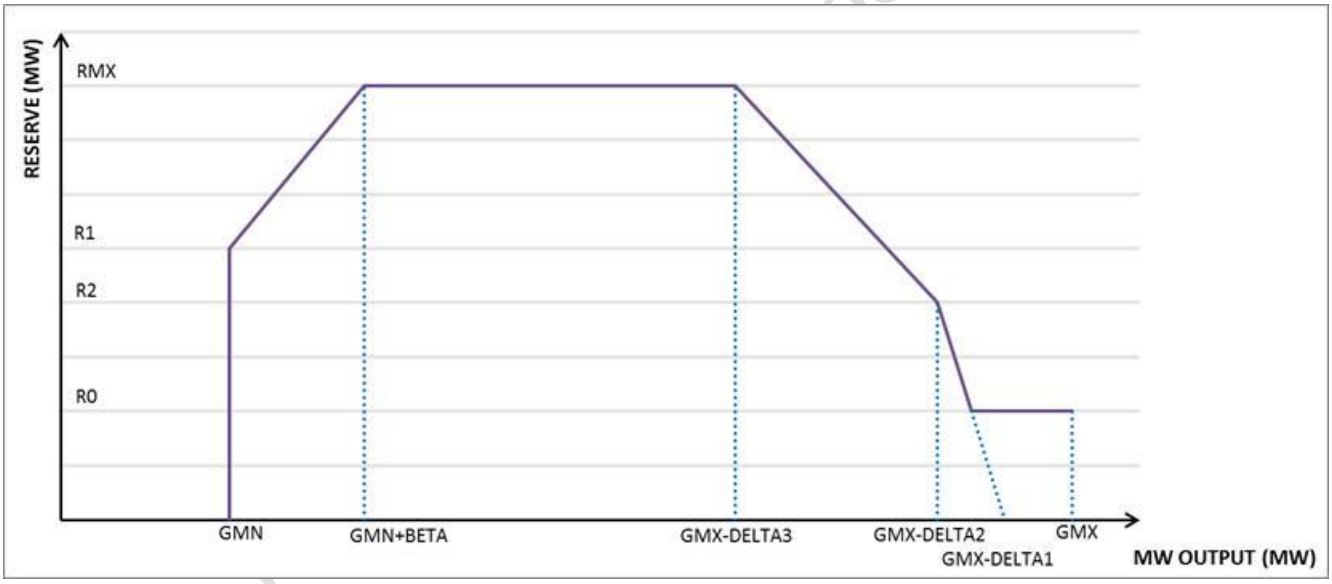


Figure 1 Reserve Characteristic

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Parameters

The parameters used in this figure are:

- RMX = the maximum reserve from the Providing Unit.
- GMN = Providing Unit's minimum output for providing reserve.
- GMX = Providing Unit's average declared MW availability of the active fuel
- R1 = reserve that can be provided when MW Output is equal to GMN
- R0 = reserve that can be provided when MW Output is equal to GMX

BETA, DELTA1, DELTA2, DELTA3, and R2 define curve break points.

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1. Reserve Characteristic Parameters

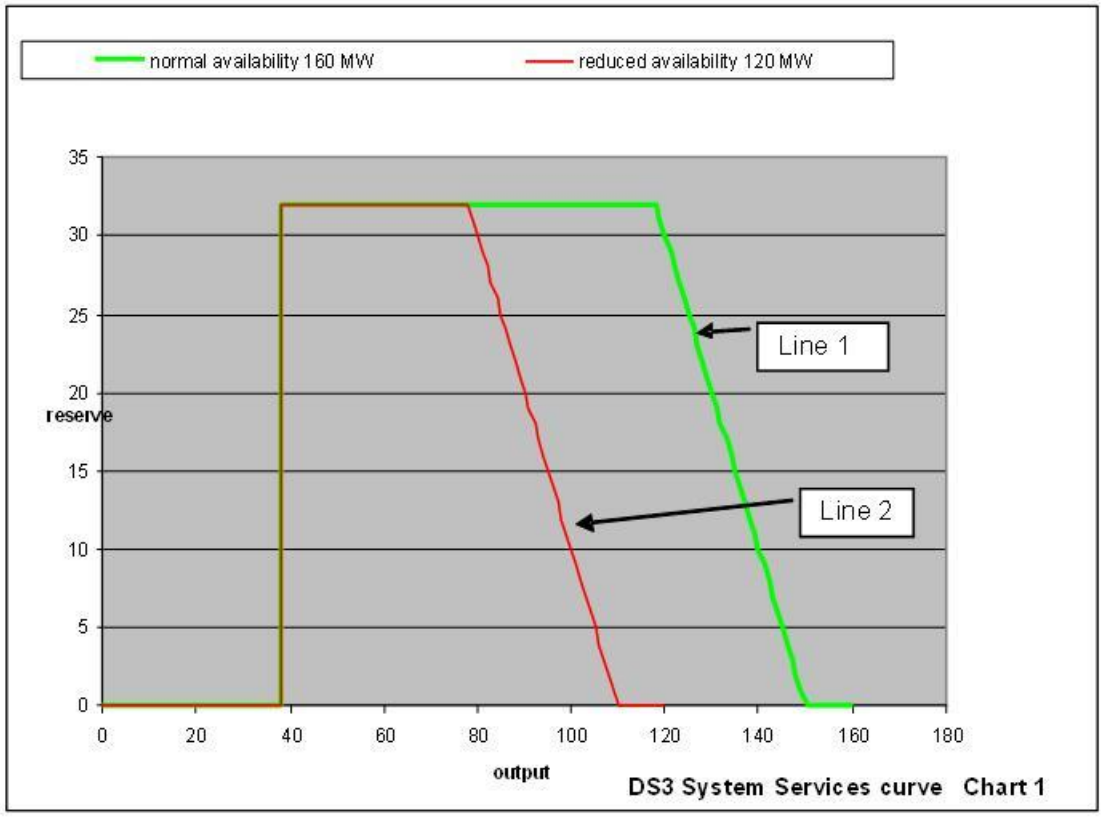
RESERVE CHARACTERISTIC PARAMETERS					
	FFR	POR	SOR	TOR1	TOR2
RMX					
GMN					
R0					
R1					
R2					
DELTA1					
DELTA2					

DELTA3					
BETA					

1. Example of Reserve Characteristics and Providing Unit Availability adjustment

Note: The following is an example for illustration purposes only.

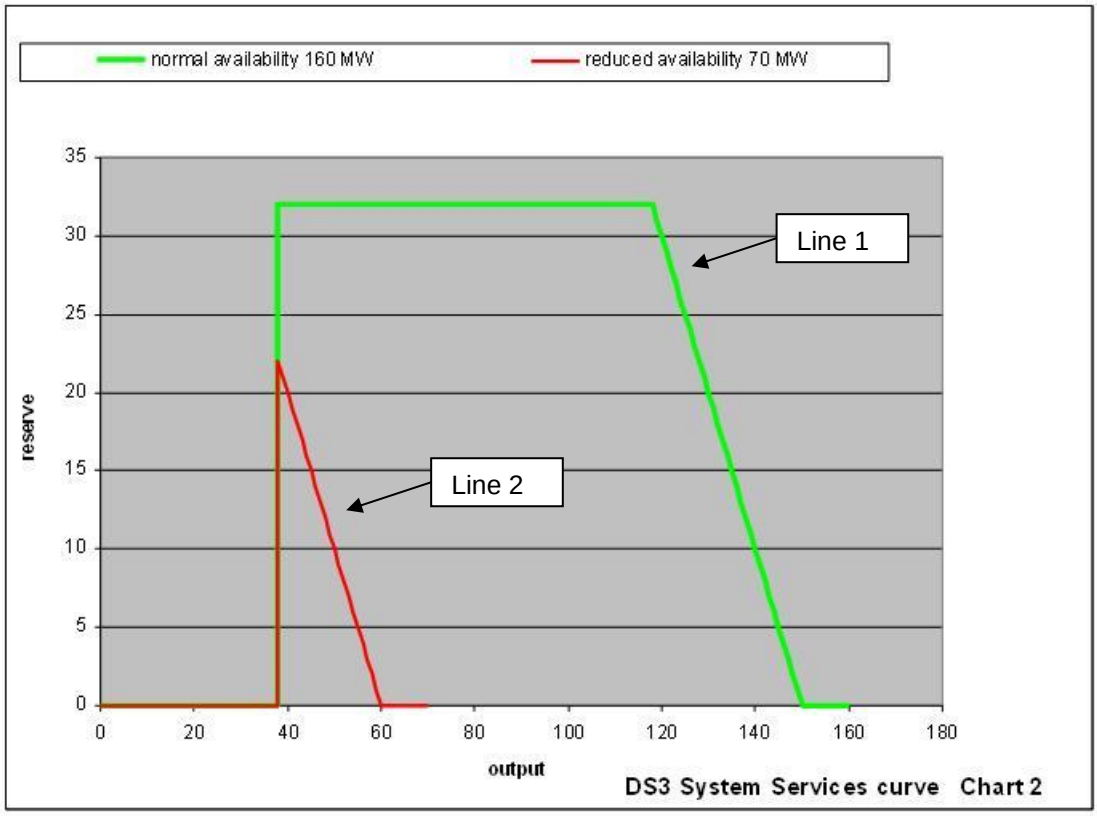
Reserve Characteristics are adjusted by the **Availability** of the **Providing Unit** in the following manner in order to determine reserve values for a given Output for different Availability values.



The example in Chart 1 above uses a 160 MW generating unit.
Line 1 (green) indicates the reserve available for a given Output when the machine has Availability of 160 MW.
Line2 (red) indicates the reserve available for a given Output when the machine has Availability of 120 MW
If the generating unit Availability is reduced the original curve moves to reflect the reduction in Availability on the X axis towards zero.

For an Output of 100 MW with Availability of 160 MW the reserve available is 32 MW.
For an Output of 100 MW with Availability of 120 MW the reserve available is 10 MW

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The example in chart 2 above uses a 160 MW generating unit.

Line 1 (green) indicates the reserve available for a given Output when the machine has Availability of 160 MW.

Line2 (red) indicates the reserve available for a given Output when the machine has Availability of 70 MW.

For an Output of 50 MW with Availability of 160 MW the reserve available is 32 MW.

For an Output of 50 MW with Availability of 70 MW the reserve available is 10 MW.

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2. Additional Operating Parameters

Name	Description	Units	Value
Declaration Flag for MDMW (Declared Generation Available)	Flags whether the Providing Unit sends declarations for MDMW through EDIL	N/A	
Declaration Flag for MNMW (Minimum Generation Available)	Flags whether the Providing Unit sends declarations for MNMW through EDIL	N/A	
Declaration Flag for FUEL (Current Fuel Being Used)	Flags whether the Providing Unit sends declarations for FUEL through EDIL	N/A	
Declaration Flag for FFR (Fast Frequency Response Availability)	Flags whether the Providing Unit sends declarations for FFR through EDIL	N/A	
Declaration Flag for POR (Primary Operating Reserve Availability)	Flags whether the Providing Unit sends declarations for POR through EDIL	N/A	
Declaration Flag for SOR (Secondary Operating Reserve Availability)	Flags whether the Providing Unit sends declarations for SOR through EDIL	N/A	
Declaration Flag for TOR1 (Tertiary 1 Operating Reserve Availability)	Flags whether the Providing Unit sends declarations for TOR1 through EDIL	N/A	
Declaration Flag for TOR2 (Tertiary 2 Operating Reserve Availability)	Flags whether the Providing Unit sends declarations for TOR2 through EDIL	N/A	
Product Scalar for the Faster Response of FFR	Value of the Product Scalar for the Fast Response of FFR applicable to FFR payments.	N/A	
Initial Performance Scalar for FFR	Value of the Initial Performance Scalar for POR payments.	N/A	
Locational Scarcity Scalar for FFR	Value of the Locational Scarcity Scalar for FFR payments.	N/A	
Contracted Response Time for the Provision of FFR	Contracted value of the fastest response time that a Providing Unit is capable of in response to the frequency falling through the Reserve Trigger.	N/A	
Contracted Reserve Trigger Capability for FFR	Contracted value of the frequency set point that represents the maximum capability of the Providing Unit in providing FFR in response to a Reserve Trigger.	Hz	
Initial Performance Scalar for POR	Value of the Initial Performance Scalar for POR payments.	N/A	
Locational Scarcity Scalar for POR	Value of the Locational Scarcity Scalar for POR payments.	N/A	
Initial Performance Scalar for SOR	Value of the Initial Performance Scalar for SOR payments.	N/A	
Locational Scarcity Scalar for SOR	Value of the Locational Scarcity Scalar for SOR payments.	N/A	

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Name	Description	Units	Value
Initial Performance Scalar for TOR1	Value of the Initial Performance Scalar for TOR1 payments.	N/A	
Locational Scarcity Scalar for TOR1	Value of the Locational Scarcity Scalar for TOR1 payments.	N/A	
Initial Performance Scalar for TOR2	Value of the Initial Performance Scalar for TOR2 payments.	N/A	
Locational Scarcity Scalar for TOR2	Value of the Locational Scarcity Scalar for TOR2 payments.	N/A	
Providing Unit Type	Defines the Providing Unit type as one of the following categories: 0 = CDGU (including AGU) 3 = CDGU with sync comp 30 = DSU 40 = Wind Farm Power Station/Power Park Module 60 = Battery	N/A	
Flag for Available Active Power signal	This parameter indicates whether a non-synchronous Providing Unit sends an Available Active Power signal through EMS, primarily a signal sent by WFPS (Wind Farm Power Station) and PPM (Power Park Module).	N/A	
Flag for Energy Storage Unit	This parameter indicates whether a non-synchronous Providing Unit is limited by Energy Storage and sends a Percentage Energy Stored signal through EMS, (primarily a signal sent by a battery).	N/A	
Minimum MW for full synchronisation	For synchronous Providing Units the MW threshold value, for which full synchronisation is assumed for that Providing Unit, when its Average MW Output is greater than or equal to this value.	MW	
Minimum MW for partial synchronisation	For synchronous Providing Units the MW threshold value, for which partial synchronisation is assumed for that Providing Unit, when its Average MW Output is greater than or equal to this value.	MW	
Minimum MW for SC Mode	For synchronous Providing Units capable of operating in synchronous compensation mode the (negative) MW threshold value, for which full synchronisation in SC mode is assumed for that Providing Unit when its Average MW Output is less than or equal to this value.	MW	
Minimum MW for partial SC Mode	For synchronous Providing Units capable of operating in synchronous compensation mode the (negative) MW threshold value, for which partial synchronisation in SC mode is assumed for that Providing Unit, when its Average MW Output is less than or equal to this value.	MW	

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Name	Description	Units	Value
Registered Capacity	The Registered Capacity for single-shaft synchronous Providing Units and for non-synchronous Providing Units.	MW	
Contracted Maximum Stored Capacity	The contracted Maximum Stored Capacity of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted FFR Energy Stored Limit Low	The contracted FFR Energy Stored Limit Low of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted FFR Energy Stored Limit High	The contracted FFR Energy Stored Limit High of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted POR Energy Stored Limit Low	The contracted POR Energy Stored Limit Low of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted POR Energy Stored Limit High	The contracted POR Energy Stored Limit High of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted SOR Energy Stored Limit Low	The contracted SOR Energy Stored Limit Low of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted SOR Energy Stored Limit High	The contracted SOR Energy Stored Limit High of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted TOR1 Energy Stored Limit Low	The contracted TOR1 Energy Stored Limit Low of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted TOR1 Energy Stored Limit High	The contracted TOR1 Energy Stored Limit High of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted TOR2 Energy Stored Limit Low	The contracted TOR2 Energy Stored Limit Low of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted TOR2 Energy Stored Limit High	The contracted TOR2 Energy Stored Limit High of the Providing Unit in the case of Energy Storage Power Station.	N/A	
Contracted Maximum FFR Available Volume	The Contracted Maximum FFR Available Volume for a Providing Unit.	MW	
Contracted Maximum POR Available Volume	The Contracted Maximum POR Available Volume for a Providing Unit.	MW	
Contracted Maximum SOR Available Volume	The Contracted Maximum SOR Available Volume for a Providing Unit.	MW	
Contracted Maximum TOR1 Available Volume	The Contracted Maximum TOR1 Available Volume for a Providing Unit.	MW	
Contracted Maximum TOR2 Available Volume	The Contracted Maximum TOR2 Available Volume for a Providing Unit.	MW	
Contracted Maximum Export Capacity	The Contracted Value of the Maximum Export Capacity of a providing unit.	MW	

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Note: The Operating Parameters table above is a generic list of Providing Unit Operating Parameters and may be amended on a Providing Unit basis.

CALCULATION VALUES TABLE

Input

All values entered through EDIL which are required for calculations in this Agreement have the precision detailed in the table below.

EDIL Parameter	Acronym as displayed in EDIL GUI	Data Type	Unit of Measurement	Precision
Fast Frequency Response	FFR	Float	MW	1
Maximum Generation Available	MDMW	Integer	MW	0
Minimum Generation Available	MNMW	Integer	MW	0
Primary Operating Reserve	POR	Float	MW	1
Secondary Operating Reserve	SOR	Float	MW	1
Tertiary 1 Operating Reserve	TOR1	Float	MW	1
Tertiary 2 Operating Reserve	TOR2	Float	MW	1
Maximum MVAR Leading	MDLD	Float	MVAr	1
Maximum MVAR Lagging	MDLG	Float	MVAr	1
Ability to act under AVR	AVR	Binary	None	Yes = 1 / No = 0
Current Fuel Being Used	FUEL	Text	None	N/A

Output-

Where input data is reflected in output reports the output data shall be displayed to the same level of accuracy as required for the corresponding input data

Where payment data is reflected in output report, the payment data shall be displayed to two decimal places.

Where payment data is calculated by the settlement system, at both the Trading Period and monthly level, it will be calculated to floating point precision (7 digits).

Output Values	Unit of Measurement	No. of Decimal Places
Sums to be Paid	€	2

Calculations

All calculations within the software used by the Company for DS3 System Services shall be calculated to floating point precision (7 digits).

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Part 3- Provision of DS3 System Service by the Providing Unit

The Service Provider shall provide the following DS3 System Services from the Providing Unit:

[list of services]

For the avoidance of doubt, the Service Provider shall have no obligation to provide the following DS3 System Services from the Providing Unit save where required under the Grid Code:

[list of services]

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Schedule 10

Data Processor Agreement

Dated the day of 201[ ]

EirGrid plc

And

[ ]

Data Processor Supplemental Agreement

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THIS SUPPLEMENTAL AGREEMENT is made the day of 201

BETWEEN: -

1) **EirGrid plc,** a registered company having its principal place of business at Block 2 The Oval, 160 Shelbourne Road, Ballsbridge, Dublin 4, Ireland (which expression shall include where the context so admits or requires include its assigns and legal successors in title under any restructuring of EirGrid plc by the Government of the Republic of Ireland) ("EirGrid"), (hereinafter referred to as "the Client") of the One Part; and

2) **[ ]** a company registered in Ireland whose registered office is at [ ] and having company registration number [ ] (hereinafter referred to as "the Service Provider") which expression shall include its employees, agents and subcontractors of the Other Part.

Each a Party, together the Parties

WHEREAS

(A) EirGrid has retained the Service Provider to provide Services in connection with **Project Name** (the "Project"). In the course of fulfilling its obligations relating to the Project the Service Provider will be processing Personal Data on behalf of EirGrid.

(B) In accordance with the Data Protection Laws and EirGrid's data protection policy, EirGrid is obliged to conduct its affairs in such a way as to maintain the protection of Personal Data in its possession and under its control.

(C) In order to ensure that Personal Data controlled by EirGrid in the circumstances described in (A) above is processed in accordance with the Data Protection Laws by the Service Provider, EirGrid and the Service Provider have entered into this Supplemental Agreement and agreed in the manner hereinafter appearing.

NOW IT IS AGREED as follows:

1. For the purposes of this Supplemental Agreement, the following terms shall have the following meanings:

"Data Protection Laws" means any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-

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enacted from time to time) which relates to the protection of individuals with regards to the processing of personal data to which a Party is subject, including the Data Protection Acts 1988 and 2003 and EC Directive 95/46/EC (up to and including 24 May 2018) and the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016 ("GDPR") (on and from 25 May 2018) or any equivalent legislation amending or replacing the GDPR;

"**Data Controller**" has the meaning given in the GDPR;

"**Data Processor**" has the meaning given in the GDPR;

"**Data Subject**" has the meaning given in the GDPR;

"**Personal Data**" has the meaning given in the GDPR;

"**Personal Data Breach**" means a breach of Clause 3.2 or 3.4; and

"**Process**" has the meaning given in the GDPR.

2. The Parties acknowledge that the factual arrangement between them dictates the classification of each Party in respect of the Data Protection Laws. Without prejudice to the above, the Parties agree and acknowledge that the Service Provider will process Personal Data on behalf of the Client as a Data Processor arising from the performance of their obligations in connection with the Project.

Appendix A Part 1 of this Agreement shall set out the subject matter and duration of the Processing of the Personal Data along with the types of Personal Data and the categories of Data Subjects (“Data Protection Particulars”).

3. To the extent that the Service Provider Processes Personal Data on behalf of the Client (the "**Relevant Data**") the Service Provider shall comply with the following in relation to such Relevant Data:

3.1 the Service Provider shall not engage another Processor (a "Sub Processor") without prior written consent of the Client. If the Client provides such written consent and the Service

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Provider engages a Sub-Processor to carry out specific Processing activities on any Relevant Data the Service Provider shall ensure that at least the same data protection obligations as set out in this Data Protection Agreement are imposed on that Sub-Processor by way of a written agreement. The Service Provider shall be liable and responsible for the acts and omissions of the Sub-Processor as if such acts and omissions were its own;

3.2 the Service Provider shall Process the Relevant Data only in accordance with the documented instructions of the Client and shall not transfer (nor instruct or permit a third party to transfer) Relevant Data outside of the European Economic Area unless it has first obtained the Client's prior written consent and has put in place measures to ensure the Client's compliance with Data Protection Laws;

3.3 the Service Provider shall take all reasonable steps to ensure the reliability and integrity of any persons authorised to Process the Relevant Data by it (including its employees, contractors, agents and subcontractors), and shall ensure that each person shall have entered into appropriate contractually-binding confidentiality undertakings;

3.4 the Service Provider shall implement appropriate technical and organisational security measures which ensure against (i) unauthorised access to, (ii) unauthorised or unlawful alteration, disclosure, destruction or other unauthorised or unlawful processing of, (iii) accidental loss or destruction of, or (iv) damage to, the Relevant Data;

3.5 the appropriate technical and organisational security measures the Service Provider shall implement arising from clause 3.4 shall include as appropriate (i) the pseudonymisation and encryption of Relevant Data, (ii) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services, (iii) the ability to restore the availability and access to Relevant Data in a timely manner in the event of a physical or technical incident, and (iv) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security for the Processing;

3.6 the Service Provider shall notify the Client, as soon as possible and in any event within two (2) days of becoming aware, of any request made by a Data Subject to access Relevant Data and shall at all times cooperate with and assist the Client to execute the Client's obligations under the Data Protection Laws in relation to such Data Subject access requests;

3.7 in addition to its obligations set out in clause 3.6, the Service Provider shall at all times cooperate with and assist the Client to execute the Client's obligations under the Data Protection Laws in relation to a Data Subject's right: (i) of rectification of Relevant Data, (ii) of erasure of Relevant Data, (iii) to restriction of Processing of Relevant Data, (iv) to

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portability of Relevant Data, (v) to object to the lawfulness of the Processing of Relevant Date, and (vi) to not be subject to a decision based solely on automated Processing;

3.8 in the case of a Personal Data Breach, the Service Provider shall without undue delay, and in any event with twenty-four (24) hours, notify the Client of the Personal Data Breach. To the extent that the Service Provider has access to such information at the time of the notification, such notification shall (i) describe the nature of the Personal Data Breach including where possible, the categories and approximate number of Data Subjects concerned and the categories and approximate number of Relevant Data records concerned, (ii) describe the likely consequences of the Personal Data Breach, and (iii) describe the measures taken or proposed to be taken by the Service Provider to address the Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects. Where, but only to the extent that it is not possible to provide such information at the same time as the notification of the Personal Data Breach, the information may be provided at a later time but as soon as reasonably practicable;

3.9 in addition to and without prejudice to, any other provision of this Agreement, at the Client's direction the Service Provider shall delete or return all Relevant Data to the Client at the end of the provision of the applicable services to which the Processing relates, and delete all copies held by the Service Provider (unless applicable law requires the storage of such Relevant Data by the Service Provider); and

3.10 the Service Provider shall comply with the obligations imposed upon a Processor under the Data Protection Laws.

4. In addition to and without prejudice to any other provision of this Agreement, the Service Provider shall on request make available to the Client all information necessary to demonstrate the Service Provider's compliance with the obligations laid down in this Data Protection Agreement and allow for and contribute to audits, including inspections, conducted by the Client or another auditor mandated by the Client.

5. The Service Provider hereby indemnifies the Client against all third party claims and proceedings and all liability, loss, costs and expenses directly incurred in connection therewith made or brought by any person in respect of any direct loss, damage or distress caused to that person as a result of the Service Provider’s unauthorised and/or unlawful processing or the Service Provider’s destruction and/or damage to any Personal Data obtained from (or held by the Service Provider or its personnel on behalf of the Client), save where such destruction was carried out at the Client’s request.

6. The Parties acknowledge and agree that the terms hereof shall be read as supplemental and additional to the Agreement and that the terms of the Agreement shall apply hereto mutatis mutandis.

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Signed by [ ] for and on behalf of **EirGrid plc** .....

[ ]

Signed by [ ] for and on behalf of **SONI Limited** .....

[ ]

Signed by [ ] for and on behalf of .....

[ ]

[ ]

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Schedule 11

Performance Bond

[To be issued on headed paper of financial institution]

To: EirGrid plc
The Oval
160 Shelbourne Road
Ballsbridge
Dublin 4
Republic of Ireland

Dear Sirs,

On Demand Bond Issued Pursuant to the [DS3 System Services Capped Agreement]

1. Background

We understand that:

1.1 Under the DS3 System Services Capped Agreement between EirGrid plc ("the Beneficiary") which includes its legal successors and any person whom the Beneficiary assigns or transfer all its rights and obligations under the DS3 System Services Capped Agreement and [ ] ("the Applicant"), which expression includes its legal successors and any person whom the Applicant assigns or transfers all its rights and obligations under the DS3 System Services Capped Agreement it was agreed that the Applicant would procure the issue of a Bond in favour of the Beneficiary in the form of this document.

2. Bond

Further to the Applicant's obligations under the DS3 System Services Capped Agreement and at the request of the Applicant, we [insert name and registered address of issuer of credit institution of an approved credit rating] ("Issuer") with an Approved Credit Rating, irrevocably and unconditionally promise to pay, as primary obligor, to the Beneficiary on a first written demand received from the Beneficiary the Demand Amount provided that the Beneficiary complies with the provisions of this bond instrument. For the avoidance of doubt, nothing in this bond instrument shall confer any third party and benefit or the right to enforce any terms of this bond instrument.

3. Definitions

In this DS3 System Services Capped Agreement Bond (and every Demand), unless the context otherwise requires:

"**Approved Credit Rating"**

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means an A2 or an A rating of long-term debt given by Moody's and/or Standard & Poor's, or another equivalent internationally recognised credit rating agency reasonably satisfactory to the Beneficiary.

"**Authorised Signatory"**

means an officer of the Beneficiary having authority to execute a Demand and whose name and specimen signature have been notified to the Issuer by the Beneficiary before service of the Demand.

"**Demand"**

means a written notice of demand served by the Beneficiary on the Issuer in the form set out in the Appendix to this DS3 System Services Capped Agreement.

"**Demand Amount"**

Means in relation to any Demand the amount specified in the Demand not exceeding in aggregate [insert maximum amount of bond].

"Expiry Date"

means the the date falling twelve (12) months after the Go Live Date.

"**URDG Rules"**

Means the contractual rules set out in the International Chamber of Commerce (ICC) Uniform Rules for Demand Guarantees, 2010 revision, ICC Publication No. 758 (URDG 758)

This Bond is subject to the URDG Rules except where otherwise stated.

4. The Issuer irrevocably and unconditionally undertakes that it will, on service of a Demand in paper form at the address specified below in Clause 9 (or such other address as agreed with the Beneficiary and the Issuer) before the Expiry Date, and within three (3) Business Days of service of the Demand pay to the Beneficiary the Specified Amount, unless in so doing the aggregate limit set out in [paragraph 5] of this Bond would be exceeded, in which case the Issuer shall pay to the Beneficiary so much of the Demand Amount as may be paid without exceeding such limit.

5. The Beneficiary may make one or more Demands under this Bond provided that the aggregate amount of all Demands and the aggregate liability of the Issuer under this Bond shall not exceed [insert maximum amount of bond].

6. Any payment under this Bond shall be made without set-off or counterclaim and free from any deduction or withholding in euro in immediately available, fully transferable, cleared funds by transfer to the following account in the Beneficiary's name;

Account Name: [Details to be inserted

Account Number:

Bank Name:

Bank Address:

Sort Code:

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Swift Code:
IBAN:

or in such other manner or to such other account at an Irish financial institution as the Beneficiary may from time to time notify to the Issuer in writing.

Where any such deduction or withholding is required by law to be made (whether by the Applicant, Issuer or otherwise) the Issuer shall pay in the same manner and at the same time such additional amounts as will result in receipt by the Beneficiary of the amount it would have received had no such deduction or withholding been required.

7. The obligations of the Issuer under this Bond shall cease on the Expiry Date, except:

7.1 in respect of any Demand received by the Issuer prior to the Expiry Date in relation to which the Issuer shall be obliged (subject to the terms of this Bond) to pay to the Beneficiary the Demand Amount.

7.2 as provided in paragraph [13] of the Bond

and the provisions of this paragraph 7 shall survive the expiration of this Bond accordingly.

8. The liability of the Issuer shall not in any way be affected by:

8.1 any time, indulgence or relief being given to or by the Beneficiary or the Applicant;

8.2 any amendment or extension of or supplement to the DS3 System Services Capped Agreement;

8.3 any invalidity in, or irregularity or unenforceability of the obligations of any person under the DS3 System Services Capped Agreement;

8.4 anything done or omitted which but for this provision might constitute a legal or equitable discharge or release of, or defence for, the Issuer.

9. Any notices or notifications (including any Demand and the requirement for supporting statement under Article 15(a) and (b) of the ICC Uniform Rules for Demand Guarantees, URDG Rules given under this Bond shall be in writing and shall be served by sending the same by post or leaving the same at:

If to the Issuer [ ]

Attention: The Company Secretary

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If to the Beneficiary: EirGrid plc
The Oval
160 Shelbourne Road
Ballsbridge
Dublin 4
Ireland

Attention: The Company Secretary

The Beneficiary and the Issuer may change its nominated address to another address in the Republic of Ireland by prior written notice to the other party. Any written notices shall be effective upon the earlier of:

9.1 actual receipt; or

9.2 two (2) days after mailing or despatch.

10. This Bond may be amended only by an instrument in writing signed on behalf of the Beneficiary or the Issuer.

11. The governing law for the purposes of this Bond shall be the laws of Ireland. The Competent Courts shall be the Courts of Ireland.

12. The Beneficiary, after receiving written consent of the issuer and the Applicant (such consent not to be unreasonably withheld), may transfer and assign all its rights and obligations under the Bond and the relevant URDG Rules related to transfer and assignment by the Applicant is hereby expressly excluded to the extent that it precludes such an assignment.

13. If this Bond expires during any interruption of the business of a kind referred to in Article 26 of the URDG Rules, the Issuer shall remain liable to make payment under this Bond in respect of any Demand served non later than fifteen (15) Business Days after the Issuer has notified the Beneficiary that its business has ceased to be so interrupted. The Issuer undertakes that it shall, within two (2) Business Days of the cessation of any interruption of business referred to in Article 26 of the URDG Rules (during which this Bond expires) notify the Beneficiary of that cessation. Article 26 of the URDG Rules is hereby amended.

14. All charges and fees under this Bond shall be for the account of the Applicant.

Yours faithfully

[ ]

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Present when the Commons Seal of [Issuer] was affixed
Hereto and this deed was delivered:

_____
Director

_____

Director/Secretary

Executed as a deed by [Issuer] on being signed by two
Directors or a director and secretary

---------- (Director)

---------- (Director/Secretary)

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Form of Demand

To: [The Issuer]

The Bond Number [ ] dated [ ] ("Bond")

We refer to the Bond dated [ ] and issued by you in our favour. In accordance with paragraph 2 and 4 of the Bond, we hereby make demand in the sum of the Eur [€] and request that you pay the same immediately to [Demand Amount].

_____

For EirGrid plc

Dated this [ ] of [ ] 20[ ]

[Authorised signatory]

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