

Dated

SONI LIMITED

and

[**COMPANY NAME**]

**TRANSMISSION USE OF SYSTEM AGREEMENT
FOR A GENERATOR CONNECTED TO THE
NORTHERN IRELAND DISTRIBUTION SYSTEM**

([**Project Name**]: MEC = [**xx.x**] MW)

THIS AGREEMENT is made on

BETWEEN:

- (1) **SONI LIMITED** a company registered in Northern Ireland with company number NI038715 whose registered office is at 12 Manse Road, Belfast BT6 9RT (hereinafter called "**SONI**", which expression shall include its permitted successors and assigns); and
- (2) [**COMPANY NAME**] a company registered in [**Northern Ireland**] with company number [**Company Number**] whose registered office is situated at [**Company Registered Address**] (hereinafter called "**the User**" which expression shall include its permitted successors and assigns).

WHEREAS

- (A) The User and a Distribution Network Owner are parties to a Connection Agreement dealing with the connection of the User's Connection Plant and Apparatus (which has the meaning given to the "*Generator's Connection Plant and Apparatus*" in the Connection Agreement) to the NI Distribution System.
- (B) The point at which the User's Connection Plant and Apparatus is connected to the NI Distribution System is more particularly described in the Connection Agreement (and is hereinafter referred to as the "**Connection Point**").
- (C) The Bulk Supply Point via which the User's energy flows between the NI Distribution System and the Transmission System is more particularly described in Schedule 1 (and is hereinafter referred to as the "**Relevant Bulk Supply Point**").
- (D) The User is using the All-Island Transmission Networks and accordingly has applied to SONI to use the All-Island Transmission Networks on the terms of this Agreement.

IT IS HEREBY AGREED that SONI shall make available the All-Island Transmission Networks to the User for transportation of energy in relation to exports from the Connection Point as follows:

1. CONDITIONS APPLICABLE AND DEFINITIONS

The **General Conditions** as set out in Schedule 4 shall apply to this **Agreement**. In the event of any conflict between the **General Conditions** and provisions of this Agreement, the provisions of this **Agreement** shall prevail.

- 1.1 In this **Agreement**, unless the context requires otherwise, the following words and phrases have the meaning set out next to them:

"Affiliate" means in relation to a **Party** or any subsidiary of a holding company of the **Party**, any holding company of the **Party** or any subsidiary of the **Party** or any subsidiary of a holding company of the **Party**, in each case within the meaning of section 1159 Companies Act 2006;

- “Agreement”** means this **Transmission Use of System Agreement**, including the schedules hereto;
- “All-Island Transmission Networks”** has the meaning given to that term in the **Licence**;
- “Apparatus”** means all equipment in which electrical conductors are used, supported or of which they may form a part;
- “Approved Credit Status”** means:
- (a) a long term credit rating by Standard and Poor’s Corporation or Moody’s Investors Service as SONI may from time to time specify based on the relevant sections of SONI’s prevailing **Payment Security Policy**; or
 - (b) such credit status which, in the opinion of SONI, provides equivalent comfort as that set out in paragraph (a) above;
- “Authority”** means the Northern Ireland Authority for Utility Regulation;
- “Bulk Supply Point”** a point at which the **NI Distribution System** connects to the **Transmission System**;
- “Business Day”** means any day (excluding Saturdays and Sundays) on which banks are open for domestic business in Belfast;
- “Capacity Market Code”** means the code of that name which, inter alia, makes provision for arrangements to secure generation adequacy and capacity to meet the demands of consumers including (without limitation) rules and procedures for the application for, and allocation of, agreements to remunerate the provision of electricity capacity (whether through the provision of generation, electricity supplied via interconnectors, reduction in demand or otherwise) across the island of Ireland and sets out the responsibilities of the parties to the code;
- “Charging Period”** means the period over which charges are levied and invoiced as defined in the **Agreement** and the **Statement**;
- “Commencement Date”** means the date and time specified in Schedule 1;
- “Competent Authority”** includes the Department for the Economy, the **Authority**, and any local, national or supra-national

agency, authority, department, inspectorate, minister, ministry, official, court, tribunal or public or statutory person (whether autonomous or not) of, or of the government of, the United Kingdom or the European Union;

“Connection Agreement” means the agreement between a **Distribution Network Owner** and the User for connection to the **NI Distribution System**, as referenced in Recital A and Clause 2.2 of this **Agreement**, and as amended, restated or novated from time to time;

“Connection Equipment” means the part of a **Distribution Network Owner’s Plant and Apparatus** which has been or is to be provided and installed for the purposes of providing a connection between the **NI Distribution System** and the **Generator’s Connection Plant and Apparatus** at the **Connection Point**;

“Connection Point” has the meaning given in Recital B;

“De-energise” means the movement of any isolator, breaker or switch or the removal of any fuse or the taking of any other step whereby no electrical current can flow to or from the **NI System** through the **Connection Point**, and **“De-energisation”** and **“De-energised”** shall be construed accordingly;

“Deposit Account” means a deposit account at a bank in the UK that satisfies the criteria outlined in the definition of **Qualifying Issuer** where:

- (a) the account is in the joint name of SONI and the User;
- (b) interest on the amount deposited in the account accrues for the benefit of the User, after any deduction for any tax or bank charges;
- (c) SONI and the User have irrevocably instructed the bank to make payments to SONI against the sole signature of SONI;
- (d) the bank has agreed that the amounts deposited in the account must not be set off or otherwise applied by the bank in respect of any indebtedness of the User or any other person; and
- (e) amounts (other than interest) standing to the credit of the account will not be paid to the User without the prior written agreement of SONI;

- “Directive”** includes any present or future Directive, request, requirement, instruction, direction or rule of any **Competent Authority** (but only, if not having the force of law, if it is reasonable in all the circumstances for it to be treated as though it had legal force) and includes any modification, extension or replacement thereof then in force;
- “Distribution Code”** means the code prepared pursuant to a **Distribution Network Owner Licence**, as from time to time revised in accordance with a **Distribution Network Owner Licence** that may incorporate, by reference, sections of the **Grid Code**;
- “Distribution Interface Arrangements”** or **“DIA”** the distribution interface arrangements prepared by SONI and a **DNO** pursuant to the **Licence** and the **DNO Licence**;
- “Distribution Network Owner”** or **“DNO”** means a licenced distribution network owner of a distribution system in Northern Ireland under article 10(1)(bb) of the **Order** or a party exempt from licensing under article 9 of the **Order**;
- “Distribution Network Owner Licence”** or **“DNO Licence”** means an electricity distribution licence granted to a **Distribution Network Owner** under the **Order**;
- “Distribution Network Owner’s Plant and Apparatus”** has the meaning given to that expression in the **Connection Agreement**;
- “Distribution Use of System Agreement”** means an agreement between a **Distribution Network Owner** and any other person pursuant to which, *inter alia*, such other person has the right to use the **NI Distribution System**;
- “Equivalent Agreement”** means the use of system agreement that the User would have had with the **Other TSO** if the **Connection Point** was in the Republic of Ireland, if the User applied to the **Other TSO** for a use of system agreement, and if the **Other TSO** entered into such an agreement in accordance with its licence;
- “Equivalent Waiver”** means an undertaking by **ESB** not to bring any claim in negligence, other tort, or otherwise howsoever against the User in respect of any act or omission of the User in relation to the subject matter of this **Agreement**, save in respect of claims against the User under any contract to which the User and **ESB** are (from time to time) party or in respect of

fraudulent misrepresentation or death or personal injury resulting from the negligence of the User;

“ESB” means the Electricity Supply Board in the Republic of Ireland (being the owner of the transmission system in the Republic of Ireland);

“Force Majeure” means any event or circumstances which is beyond the reasonable control of either **Party** and which results in or causes the failure of that **Party** to perform any of its obligations under this **Agreement** including act of God, strike, lockout or other industrial disturbance, act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, lack of water arising from weather or environmental problems, explosion, fault or failure of **Plant** and **Apparatus** (which could not have been prevented by **Good Industry Practice**), governmental restraint, Act of Parliament, other legislation, by law and **Directive** (not being any order, regulation or direction under Article 35, 36, 37 or 38 of the **Order** or any other event or circumstance which could not have been prevented by the exercise of **Good Industry Practice** by SONI provided that lack of funds shall not be interpreted as a cause beyond that **Party’s** reasonable control;

“General Conditions” means the Conditions Applicable to Electricity Agreements, set out in Schedule 4 to this **Agreement**;

“Generator’s Connection Plant and Apparatus” has the meaning given to that expression in the **Connection Agreement**;

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

“Grid Code” the code prepared pursuant to Condition 16 of the **Licence**, as from time to time revised in accordance with the **Licence**;

“Industry Arrangements” means:
(a) the **Order** and any direction or instruction issued under the **Order**, and any deemed agreement under the **Order**;

- (b) any standard, code, code of practice or associated instrument or agreement or other instrument or document established pursuant to the **Order** or any licence granted under the **Order** with which SONI and/or the User, as applicable, is required to comply or enter into and (for the avoidance of doubt) includes those instruments or documents referred to by name elsewhere in this **Agreement**; and
- (c) the **Trading and Settlement Code** and any agreed procedures under that Code;

“Letter of Credit” means an unconditional irrevocable stand-by letter of credit issued on behalf of the User by a **Qualifying Issuer**, in sterling and in favour of SONI, allowing for partial drawings and providing for payment to SONI by the **Qualifying Issuer** forthwith on demand at a branch of the issuing **Qualifying Issuer** and otherwise on terms approved by SONI. The wording of a **Letter of Credit** from a Bank must be approved in advance by SONI or, alternatively, be set out in a standard form previously approved by SONI;

“Licence” means the licence to participate in the transmission of electricity granted to SONI under the **Order**;

“Maximum Export Capacity” or **“MEC”** means the maximum amount (in conditions other than system fault conditions) of electricity to be exported at the **Connection Point** (as set out in Schedule 1);

“Metering Code” means the metering code of the **Grid Code** and the relevant provisions of the **Distribution Code** relating to metering;

“Network Codes” means:

- Commission Regulation (EU) 2015/1222,
- 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, &
- Commission Regulation (EU) 2017/1485,

as each is amended, augmented or replaced and to the extent applicable to Northern Ireland;

“Metering Equipment” has the same meaning as *“Tariff Metering”* in the **Metering Code**;

“Northern Ireland Electricity Networks Limited” or “NIE”	means a company registered in Northern Ireland with company number NI026041 whose registered office is at 120 Malone Road, Belfast, BT9 5HT;
“NIE Transmission Licence”	means the licence to participate in the transmission of electricity granted to NIE under the Order ;
“NIE’s Plant and Apparatus”	means the Plant and Apparatus owned by NIE that forms part of or relates to the Transmission System together with Plant and Apparatus owned by SONI;
“NI Distribution System”	has the meaning given to “ <i>distribution system</i> ” in the Licence ;
“NI System”	means the Transmission System and the NI Distribution System , taken together;
“Order”	means the Electricity (Northern Ireland) Order 1992;
“Other TSO”	has the meaning given to “Republic of Ireland System Operator” in the Licence ;
“Party”	means each person who is a party to this Agreement and any successor(s) in title to, or permitted assign(s) of, such person;
“Party Liable”	means in relation to Clause 3 of the General Conditions the Party which is liable to the other Party for loss arising from any breach by it as referred to in Clause 3 of the General Conditions ;
“Payment Security Policy”	the policy prepared by SONI and approved by the Authority pursuant to Condition 31 of the Licence , as from time to time revised in accordance with the Licence , the relevant sections of which shall be provided to a User where the User requests a copy in relation to the relevant agreement;
“Plant”	means fixed and moveable items other than Apparatus ;
“Qualified”	has the meaning given to it in the Capacity Market Code ;
“Qualifying Issuer”	means a legal person which either: <ul style="list-style-type: none"> (a) possesses a rating awarded by Standard and Poor’s Rating Services or a rating awarded by Moody’s Investors Service as SONI may specify from time to time based on the relevant sections of SONI’s prevailing Payment Security Policy in respect of its most recent unsecured (and unsubordinated) long term debt issue on any capital market or,

if those agencies should both cease to publish such ratings, possesses an equivalent rating from another ratings agency of equal repute; or

- (b) is otherwise approved by SONI and is permitted to accept deposits pursuant to Part IV of the Financial Services and Markets Act 2000,

provided that if any person previously possessing the rating set out in (a) above should cease to possess such rating or, being admitted to be a **Qualifying Issuer** by virtue only of approval pursuant to paragraph (b), should be the subject of a notice by SONI to the User to the effect that the issuer has, in the reasonable opinion of SONI, suffered a material adverse change in its financial condition since its approval, such person shall cease to be a **Qualifying Issuer**;

“Regulations” means the Electricity Safety, Quality and Continuity Regulations (Northern Ireland) 2012;

“Relevant Act or Omission” means any act or omission by a **Relevant Person** that is a breach of a **Relevant Agreement**, or that would (in the case of the **Other TSO** only) have been a breach of an **Equivalent Agreement**;

“Relevant Agreement” means, in respect of:

- (a) a **Distribution Network Owner**, any agreement for connection to and/or use of the **NI Distribution System** to which a **Distribution Network Owner** is party, and/or the **Transmission Interface Arrangements**;
- (b) the **Other TSO**, any agreement for connection to and/or use of the **All-Island Transmission Networks** to which the **Other TSO** is party; and/or
- (c) **ESB**, the **RoI Infrastructure Agreement**;

“Relevant Bulk Supply Point” has the meaning given in Recital C;

“Relevant Person” means **NIE**, a **Distribution Network Owner**, the **Other TSO**, and **ESB**;

“RoI Infrastructure Agreement” means the ‘Infrastructure Agreement’ between the **Other TSO** and **ESB** dated 16th March 2006;

“Security Cover”	means security cover (if any) provided by the User to SONI under Clause 6 of this Agreement ;
“Single Electricity Market” or “SEM”	means the single wholesale electricity market for the island of Ireland, implemented in Northern Ireland pursuant to Section 23 of the Northern Ireland (Miscellaneous Provisions) Act 2006;
“Statement”	means the statement of charges issued by SONI under Condition 30 of the Licence ;
“System Operator Agreement”	has the meaning given to it in the Licence ;
“Trading and Settlement Code”	means the trading and settlement code for the SEM ;
“Transmission Interface Arrangements” or “TIA”	the transmission interface arrangements prepared by SONI and NIE pursuant to the Licence and the NIE Transmission Licence ;
“Transmission System”	has the meaning given to “transmission system” in the Licence ;
“Transmission Use of System Agreement” or “TUoSA”	means an agreement between SONI and any eligible person pursuant to which SONI grants rights to use the All-Island Transmission Networks as per Condition 25 of the Licence ;
“User’s Connection Plant and Apparatus”	has the meaning given to “ <i>Generator’s Connection Plant and Apparatus</i> ” in the Connection Agreement ;
“Value Added Tax” or “VAT”	means value added tax or any tax on the supply of goods and services which may hereafter replace value added tax.

- 1.2 Any reference in the Agreement to a statute, statutory instrument, order in council, Directive, regulation, order or other enactment shall be construed as a reference to such statute, statutory instrument, order in council, Directive, regulation, order or other enactment as modified, amended or re-enacted from time to time.
- 1.3 Any reference in the Agreement to another agreement or any deed or other instrument shall be construed as a reference to that other agreement, deed or other instrument as the same may have been, or may from time to time be, amended, varied, supplemented or novated.
- 1.4 Any reference in the Agreement to the Network Codes, the Grid Code, Distribution Code, Trading and Settlement Code, or Capacity Market Code or any section or provision of the Network Codes, the Grid Code, Distribution Code, Trading and Settlement Code, or Capacity Market Code shall be construed, at the particular time, as including a reference to the relevant code or the relevant section or provision in the code as it may have

been amended, varied, supplemented or substituted. Any reference in the Agreement to the neuter gender shall include references to the masculine and feminine gender and any reference to the singular shall include the plural and vice versa.

- 1.5 Any table of contents and clause headings are inserted for ease of reference only.
- 1.6 The word "*including*" and its variants shall be construed without limitation.
- 1.7 SONI may exercise its rights and perform its obligations under this Agreement itself or through agents or subcontractors. The use of such agents or subcontractors shall not relieve SONI of its obligations under this Agreement.

2. CONDITIONS PRECEDENT

The obligation of SONI to ensure the transportation of energy from the Commencement Date on the All-Island Transmission Networks via the Relevant Bulk Supply Point from the Connection Point is in each case subject to:

- 2.1 the User being authorised to generate electricity by virtue of a licence granted under Article 10(1)(a) of the Order (or exempt from the requirement to be so licensed under Article 9 of the Order) to the Connection Point;
- 2.2 there being a subsisting Connection Agreement between the User and a Distribution Network Owner in respect of the Connection Point and which confirms the MEC at the Connection Point;
- 2.3 the User being a party to the Trading and Settlement Code and remaining a party for the duration of this Agreement (or exempt from the requirement to be a party to the Trading and Settlement Code);
- 2.4 the User providing SONI with Security Cover in accordance with Clause 6 and otherwise complying with its obligations under Clause 6; and
- 2.5 the User being a party to the Capacity Market Code, solely to the extent that the User has prior to the date of this Agreement applied to register and to become Qualified.

3. USE OF SYSTEM

- 3.1 The User may, in relation to the Connection Point, transfer energy onto the All-Island Transmission Networks via the Relevant Bulk Supply Point (subject to any permitted variations under the Regulations or the Grid Code) up to a level commensurate with the relevant Maximum Export Capacity. This Agreement shall continue until terminated in accordance with Clause 10.
- 3.2 Subject to the applicable requirements of the Grid Code SONI shall be entitled to execute outages of parts of the Transmission System or NIE's Plant and Apparatus at any time and from time to time. The Parties acknowledge that

a Distribution Network Owner is entitled to plan and execute outages of parts of the NI Distribution System from time to time, subject to the applicable requirements of the Distribution Code.

- 3.3 In the performance of its functions as transmission system operator, SONI shall be entitled to constrain any part of the Transmission System including exports on to and imports from the Transmission System.
- 3.4 The details specific to the Connection Point (and the associated Relevant Bulk Supply Point), which are accepted for the purposes of this Agreement, are set out in Schedule 1. The User shall give notice to SONI of any additional points of connection and/or any increased or decreased capability of the Connection Point.
- 3.5 The User shall give reasonable prior notice to SONI from time to time of any modified requirements in the details applicable to the Connection Point and SONI shall be entitled to vary the charges under this Agreement accordingly.
- 3.6 The User may, by giving at least 28 days written notice to SONI or such lesser period as SONI may expressly agree to in writing, remove any Connection Point covered by this Agreement, subject to the Connection Agreement in respect of the any Connection Point covered by this Agreement having been amended or terminated (as necessary) to reflect the same. The removal of any Connection Point from this Agreement shall also be subject to Clause 10 of Schedule 4 of this Agreement. SONI shall not be required to refund any charges paid by the User in accordance with the terms of Clause 5 unless the User has complied with the notice provisions set out in the Statement.
- 3.7 The rights to use the All-Island Transmission Networks granted under this Agreement are in respect only of connection points in Northern Ireland.

4. DE-ENERGISATION/RE-ENERGISATION

- 4.1 SONI shall be entitled to request the Distribution Network Owner to De-energise the Connection Point:
 - (a) in accordance with the Connection Agreement which relates to the particular Connection Point if applicable; or
 - (b) in accordance with any Industry Arrangements applicable to the User and/or the Connection Point; or
 - (c) when Force Majeure occurs; or
 - (d) to avoid or mitigate the effect of any material danger; or
 - (e) to avoid a breach of the Regulations; or
 - (f) to enable SONI or NIE to inspect, modify, maintain, repair or add to any part of the Transmission System or where De-energisation is required due to the same being undertaken by a Distribution Network Owner on the NI Distribution System; or

- (g) in case of accident or emergency affecting or likely to affect the Transmission System or any other system through which (directly or indirectly) SONI may receive or transmit electricity; or
 - (h) to avoid interference with the regularity or efficiency of any supplies to any person; or
 - (i) where Clause 7 is no longer fully complied with; or
 - (j) on or after the expiry of notice given by SONI to the User under Clause 9.2 (relating to termination); or
 - (k) on or after the expiry of notice given by the User under Clause 10.2 (relating to termination).
- 4.2 Where De-energisation in accordance with Clause 4.1 occurs, SONI shall where practicable give the User 48 hours' notice of intention to De-energise, and shall (except following De-energisation under Clause 4.1(j) and Clause 4.1(k)) re-energise as soon as reasonably practicable.
- 4.3 SONI shall, subject to the provisions of any Industry Arrangements relating to the De-energisation of the Connection Point, as soon as reasonably practicable, issue a request to the Distribution Network Owner to De-energise the particular Connection Point where instructed to do so in writing by the User and shall promptly notify the User of the date and time at which such De-energisation was effected. The User shall reimburse SONI all reasonable costs and expenses incurred in relation to such De-energisation and shall indemnify SONI against any costs, liability, loss, or damage suffered as a result of such De-energisation provided SONI has acted in accordance with Good Industry Practice.
- 4.4 Where SONI fails to issue a request to the Distribution Network Owner to De-energise following an instruction under Clause 4.3, SONI shall indemnify the User against any cost, loss or damage suffered by the User as a result, unless SONI considers it is not reasonably practicable to De-energise and notifies the User thereof not more than 3 Business Days after an instruction under Clause 4.3 provided that if the User disagrees with SONI and the disagreement is resolved in favour of the User by arbitration under Clause 8 of the General Conditions, the indemnity set out in this Clause 4.4 shall apply.

5. CALCULATION AND PAYMENT OF CHARGES

- 5.1 From the date on which the User becomes entitled to receive a payment for the export of energy onto the NI System the User shall pay to SONI charges plus Value Added Tax pursuant to this Clause 5 and Schedule 2. The User shall notify SONI in writing of the date on which charges shall become due under this Clause 5 not less than 14 days prior to the said date. SONI shall be entitled to require, and the User where so required shall give, evidence to SONI's satisfaction confirming that charges payable under this Clause 5 have not been incurred.

- 5.2 SONI may, to the extent permitted by its Licence or other Industry Arrangements (as applicable to the charges in question), revise its charges or the basis of their calculation. The User shall pay use of system charges, which have been costed by SONI in relation to the Connection Point (and the associated Relevant Bulk Supply Point) in accordance with the Statement.
- 5.3 As soon as reasonably practicable after the end of each Charging Period SONI shall deliver to the User an invoice showing the charges payable in respect of that Charging Period.
- 5.4 The User shall pay each invoice in full within 10 Business Days of its date and SONI shall be entitled to charge interest on the amount unpaid after expiry of the said 10 days at the rate specified in Schedule 2 compounded on a quarterly basis.

6. SECURITY

- 6.1 The User must, at any time that it does not have an Approved Credit Status, deliver to SONI within 10 Business Days of the date on which charges become payable under Clause 5 and subsequently maintain Security Cover:
 - (a) in the form of a Letter of Credit;
 - (b) in the form of a cash deposit in a Deposit Account; or
 - (c) in such other form as SONI agrees;for payment of all monies due to SONI under this Agreement. The amount of the Security Cover is determined under Clause 6.3, 6.4 and 6.5.
- 6.2 If the User does not comply with this Clause 6, SONI may in its discretion by notice to the User given at any time terminate this Agreement with effect from the date specified in the notice.
- 6.3 The Security Cover amount that the User is required to provide and maintain shall be determined by SONI from time to time. The amount of the Security Cover shall be calculated in accordance with the relevant sections of SONI's Payment Security Policy, as prevailing from time to time.
- 6.4 SONI may from time to time, by notice, require the User to increase the amount of Security Cover if the amount of the Security Cover provided by the User is less than the amount calculated for it under Clause 6.3 (whether due to recalculation by SONI, changes to the relevant sections of SONI's Payment Security Policy, drawings or anticipated drawings on the Security Cover by SONI or any other reason). The User must within 5 Business Days of the notice procure that the Security Cover is increased or deliver to SONI additional Security Cover so as to comply with Clause 6.3.
- 6.5 The User may notify SONI that it considers that the amount of its Security Cover is more than is required under Clause 6.3 and ask for it to be reduced to the level required under Clause 6.3 SONI must not unreasonably refuse such a request, having regard to Clause 6.3.

6.6 Security Cover must at all times have a validity of at least 3 months. The User must ensure that Security Cover is replaced before this requirement is breached. The User shall in any event replace Security Cover within 5 Business Days of a request from SONI to do so, if the request is made by notice given within the last 4 months of the validity of the Security Cover in place at the time the request is made.

6.7 If:

- (a) the issuer of a Letter of Credit ceases to be a Qualifying Issuer;
- (b) the bank at which a Deposit Account is held ceases to meet the Qualifying Issuer criteria;
- (c) any condition on which SONI accepted any other form of Security Cover under Clause 6.1(c) ceases to be met;

then the User must procure replacement Security Cover within 5 Business Days of the occurrence of the relevant event referred to in Clauses 6.7(a) to 6.7(c).

6.8 The Security Cover (and in the case of a cash deposit, any interest accrued in respect of the cash deposit, less any bank and similar charges and any taxes deducted by the bank) will be released to the User within 10 Business Days after the later of (i) termination of this Agreement and (ii) the date when the User has paid all amounts owing by it in respect of this Agreement including interest. Release of Security Cover is without prejudice to the rights of SONI under this Agreement and does not relieve the User of any of its obligations or any liability in respect of this Agreement.

6.9 SONI may draw down on any Security Cover provided by the User without notice to the User if:

- (a) the User has not paid an amount owed to SONI by the due date under this Agreement;
- (b) an event of default (as defined in Clause 9 of this Agreement) occurs in relation to the User; or
- (c) the User fails to provide Security Cover as required under this Clause 6 or otherwise comply with its obligations under this Clause 6.

6.10 If any of the circumstances in Clauses 6.9(a) to 6.9(c) occurs, then all other amounts in respect of charges and other amounts payable by the User to SONI under this Agreement become payable forthwith upon demand by notice from SONI to the User, notwithstanding anything to the contrary in this Agreement.

7. COMPLIANCE WITH THE NETWORK CODES, THE GRID CODE, CAPACITY MARKET CODE, TRADING AND SETTLEMENT CODE AND GOOD INDUSTRY PRACTICE

7.1 The Parties agree to comply with all relevant provisions of the Network Codes, the Grid Code, Capacity Market Code (if Qualified) and Trading and Settlement Code (unless exempt from the requirement to be a Party to the Trading and Settlement Code).

- 7.2 In the event of any conflict between the provisions of this Agreement and industry codes the following order of precedence shall prevail:
- a) The Network Codes;
 - b) The Grid Code;
 - c) This Agreement;
 - d) The Capacity Market Code; and
 - e) The Trading and Settlement Code.
- 7.3 The Parties agree to perform their respective obligations under this Agreement in accordance with Good Industry Practice.

8. METERING EQUIPMENT

- 8.1 SONI shall have the right to meter the output from the User at the Connection Point and power flows will be metered at the Connection Point in accordance with the Metering Code.
- 8.2 The User shall ensure that its agents, employees, and invitees will not interfere with the Metering Equipment without the prior written consent of SONI, except to the extent that emergency action has to be taken to protect the health and safety of persons or to prevent serious damage to property adjacent to the Metering Equipment.

9. EVENTS OF DEFAULT

- 9.1 An event of default occurs if the User:
- (a) does not pay any valid invoice for charges within one calendar month of its date; or
 - (b) fails to perform or comply with any obligations under this Agreement or the Network Codes (as applicable), Grid Code, Capacity Market Code (if Qualified) and Trading and Settlement Code (unless exempt from the requirement to be a Party to the Trading and Settlement Code) within 28 days after receipt of notice from SONI of such failure; or
 - (c) is adjudicated bankrupt or becomes subject to an administration order, proposal for a voluntary arrangement, receivership or liquidation under the Insolvency (Northern Ireland) Order 1989; or
 - (d) is unable to pay its debts within the meaning of Article 103(1) or (2) of the Insolvency (Northern Ireland) Order 1989; or
 - (e) no longer complies with Clause 2 of this Agreement.
- 9.2 SONI may give notice of termination to the User once an event of default under Clause 9.1 occurs, whereupon this Agreement shall terminate and SONI shall be entitled to request the Distribution Network Owner to De-energise the Connection Point.

10. COMMENCEMENT AND TERMINATION OF AGREEMENT

- 10.1 This Agreement shall commence on the Commencement Date and shall continue in full force and effect for as long as the User has the right for the User’s Connection Plant and Apparatus to remain connected under the Connection Agreement unless otherwise terminated in accordance with Clause 6.2, Clause 9.2, or Clause 10.2 of this Agreement.
- 10.2 The User may terminate this Agreement by giving notice of termination in accordance with the Connection Agreement or such lesser period as SONI may agree.
- 10.3 Upon termination of this Agreement in accordance with Clause 6.2, Clause 9.2, Clause 10.1 or Clause 10.2, SONI shall inform the Distribution Network Owner, who has entered the Connection Agreement with the User, that this Agreement is terminated and that the User is no longer entitled to transport energy on the All-Island Transmission Networks via the Relevant Bulk Supply Point from the Connection Point and SONI shall be entitled to request the Distribution Network Owner to terminate the Connection Agreement.
- 10.4 Upon termination of this Agreement in accordance with Clause 6.2, Clause 9.2, Clause 10.1 or Clause 10.2 the User shall pay to SONI all reasonable costs and expenses incurred by SONI in terminating the connection.

11. NOTICES

All notices under this Agreement shall be sent to the addresses detailed in Schedule 3 hereto.

IN WITNESS WHEREOF the hands of the duly authorised representatives of the Parties hereto at the date first above written

Signed	by
.....(Signature)
for and on behalf of SONI LIMITED	Director/Authorised Signatory

Signed	by
.....(Signature)
for and on behalf of [COMPANY NAME]	Director

SCHEDULE 1

Commencement Date

At 23:00 on the date of the previous day to the date at which the User's Connection Plant and Apparatus is first connected to the NI Distribution System at the Connection Point.

Premises

[Project Name]
[Project Address]
[Project Address]
[Project Address]
[Project Address]

(Irish Grid Reference: [xxxxxx, xxxxxx])

Connection Point

As per the Connection Agreement (as referred to in Recital A and Clause 2.2 of this Agreement)

Relevant Bulk Supply Point

[Relevant Bull Supply Point Name]

Maximum Export Capacity

[xx.x] MW

Name of User

[Company Name]

SCHEDULE 2

Charges

1. Use of System Charges

The use of system charge shall be in accordance with the Statement. SONI will use reasonable endeavours to give users notice of changes to the Statement, nonetheless use of system charges are subject to change without notice following revision of the Statement and its approval by the Northern Ireland Authority for Utility Regulation. The User is required to pay all and any charges due in respect of use of the system as described in the Statement and the accompanying schedules.

The Maximum Export Capacity upon which the use of system charge is calculated is specified in Schedule 1 of this Agreement. Where the User has specified a Maximum Export Capacity figure in Schedule 1 which is less than that specified in the Connection Agreement then the Maximum Export Capacity specified in Schedule 1 shall apply with respect to calculation of the use of system charge.

2. Other System Charges

The User shall pay to SONI any Other System Charges applicable to generators.

3. Definitions

“Charging Period”: for the purposes of this Agreement the Charging Period shall be each calendar month during a year.

“Interest Rate”: for the purposes of this Agreement the relevant interest rate shall be the base rate of the Bank of England from time to time plus 3%.

“Other System Charges”: the charges referred to in paragraph 1(d) of Condition 30 of the Licence and set out in or calculated in accordance with or by reference to any statement (as that statement may be revised from time to time) issued in accordance with Condition 30 of the Licence.

SCHEDULE 3

Addresses for Service of Notices

SONI Limited:

The Company Secretary
SONI Limited
12 Manse Road
Belfast
BT6 9RT

[Company Name]:

The Company Secretary
[Registered Address / Alternative Address]
[Registered Address / Alternative Address]
[Registered Address / Alternative Address]
[Registered Address / Alternative Address]
[Registered Address / Alternative Address]

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SCHEDULE 4

Conditions Applicable to Electricity Agreements

General Conditions

The following conditions shall apply to this Agreement:

1. Assignment and Sub-Contracting

- 1.1 Subject to sub-clause 1.2 of this Schedule, neither Party shall assign nor novate its benefit or burden under this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.
- 1.2 The User may assign this Agreement in whole or in part without first obtaining the consent of SONI where such assignation is to an Affiliate of the User but such Affiliate shall cease to be entitled to enforce the terms of this Agreement on its ceasing to be an Affiliate of the User.
- 1.3 A Party may assign or charge its benefit under this Agreement in whole or in part by way of security.

2. Confidentiality and Announcements

- 2.1 Each Party shall take all proper steps to keep confidential the contents of this Agreement or any commercially confidential information relating to this Agreement or provided by one Party to the other Party pursuant to this Agreement, the Grid Code, or in the course of negotiating this Agreement or otherwise concerning the operations, contracts, commercial or financial arrangements or affairs of either Party, except to the extent that any such information:
 - (a) becomes public through no fault of either Party other than as a result of a breach by that party of its legal and regulatory obligations;
 - (b) is required to be disclosed by any regulatory or legal requirement;
 - (c) is required to be disclosed pursuant to a requirement of any stock exchange or regulatory authority or the Panel on Takeovers and Mergers;
 - (d) is required to be disclosed pursuant to the arbitration rules of the Electricity Arbitration Association in force from time to time or pursuant to any judicial or other arbitral process (including where determination is by an expert) or tribunal having jurisdiction in relation to the User; and/or
 - (e) may be disclosed pursuant to any Industry Arrangement.
- 2.2 No public announcement or statement, other than to the extent of any legal requirement, shall be made by either Party concerning the signature, performance or termination of this Agreement without the written consent of the other Party.
- 2.3 SONI may release such of the site-specific details in any schedule as relate to the User as are necessary to enable Transmission Use of System Agreements and Distribution Use of System Agreements to be signed.

3. Limitation of Liability

3.1 Neither Party shall, in any circumstances, be liable to the other Party for any special, indirect or consequential loss (pecuniary or non-pecuniary and including without limitation any loss of profit revenue or goodwill) or, subject to clause 3.2(b), any liability of the other Party to any other person or body howsoever arising or any other loss or damage of any nature whatsoever and howsoever caused.

3.2 Except in respect of death or personal injury caused by the negligence of either Party, each Party ("**the Party Liable**") shall be liable to the other Party only for:

- (a) loss or physical damage to the other Party's property; or
- (b) loss or physical damage to the property of any third party entitled to claim against that other Party in respect of such loss or physical damage,

arising directly from breach of this Agreement and which at the date of this Agreement was reasonably foreseeable as likely to result in the ordinary course of events from such breach, provided that the liability of the Party Liable in respect of claims for such loss arising shall not (otherwise than for (1) the liability of SONI under clause 3.8 in respect of the acts or omissions of the Other TSO or ESB and (2) the liability of the User referred to in clause 3.9 and relating to the property of the Other TSO or ESB) exceed, per event or incident or series of related events or incidents in respect of the Connection Point, the lower of:

3.2.1 A figure derived from the Maximum Export Capacity which shall be either:

- i. £1 million where it is based on a value greater than 1 MVA; or
- ii. £100,000 where it is based on a value between 70 kVA and 1 MVA; or
- iii. £10,000 where it is based on a value of less than 70 kVA; or

3.2.2 a sum equal to the total value of the Connection Equipment.

3.3 Without prejudice to the rights, powers, duties and obligations created by the Order, the Licence, or the Regulations, the Parties agree that all rights or remedies express or implied and provided by common law or statute are excluded from application under this Agreement to the fullest extent permitted by law, including without limitation any right a Party may possess in tort, which shall include actions brought in negligence and/or nuisance.

3.4 Each Party agrees that the other Party holds the benefit of sub-clauses 3.1 to 3.3, inclusive for itself and as trustee and agent for its officers, employees and agents.

3.5 Each of the sub-clauses of this clause 3 shall be construed as a separate and severable term and shall remain in force notwithstanding termination of this Agreement.

3.6 **Rights Against Third Parties**

In consideration of the rights conferred upon the User under this Agreement, including under clause 3.8, the right of the User to claim in negligence, other tort, or otherwise howsoever against a Relevant Person in respect of any act or omission of that Relevant Person in relation to the subject matter of the Relevant Agreement is hereby excluded and the User agrees not to pursue any such claim, provided that:

3.6.1 nothing in this clause 3.6 shall restrict the User's ability to claim against a Relevant Person under any contract to which the User and such Relevant

Person are (from time to time) party, or in respect of fraudulent misrepresentation or death or personal injury resulting from the negligence of a Relevant Person; and

3.6.2 such exclusion and agreement in respect of ESB shall only apply in respect of those periods in which the Rol Infrastructure Agreement contains the Equivalent Waiver.

3.7 Each Relevant Person may rely upon and enforce the terms of clause 3.6 against the User. The third party rights of a Relevant Person in this clause 3.7 may only be enforced by that Relevant Person subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999. Notwithstanding any other provision of this Agreement, this Agreement may be amended without the consent of any third party and section 2(1) of the Contracts (Rights of Third Parties Act) 1999 shall not apply to this Agreement.

3.8 **All-island Liability**

Any Relevant Act or Omission which causes physical damage to the Plant, Apparatus or other property of the User shall, for the purposes of determining SONI's liability under this Agreement, constitute an act or omission of SONI in breach of this Agreement, provided that the liability of SONI under this Agreement, in respect of such act or omission of:

3.8.1 the Other TSO, shall not exceed the lower of (a) the monetary cap referred to in clause 3.2, and (b) the monetary cap that would have applied to the Other TSO's liability under the Equivalent Agreement;

3.8.2 ESB, shall not exceed the lower of (a) the monetary cap referred to in clause 3.2, and (b) the monetary cap that applies to ESB's liability under the Rol Infrastructure Agreement; and

3.8.3 NIE, shall not exceed the monetary cap referred to in clause 3.2.

3.9 **Foreseeability**

For the avoidance of doubt and for the purpose of determining the User's liability under this Agreement, any liability of SONI (in respect of any acts or omissions of the User in breach of this Agreement that cause physical damage to the Plant, Apparatus or other property of a Relevant Person) to NIE under the Transmission Interface Arrangements, a Distribution Network Owner under a Distribution Interface Agreement or to the Other TSO under the System Operator Agreement, will be a reasonably foreseeable consequence of a breach of this Agreement by the User in respect of which SONI will be entitled to recover damages from the User, provided that the liability of the User under this Agreement in respect of damage to the property of:

3.9.1 the Other TSO, shall not exceed the lower of (a) the monetary cap referred to in clause 3.2, and (b) the monetary cap that would have applied to the User's liability under the Equivalent Agreement;

3.9.2 ESB, shall not exceed the lower of (a) the monetary cap referred to in clause 3.2, and (b) the monetary cap that applies to the Other TSO's liability under the Rol Infrastructure Agreement; and

3.9.3 NIE, shall not exceed the monetary cap referred to in clause 3.2.

3.10 ***Tortious Waiver***

In respect of each Relevant Person other than ESB, SONI shall obtain a waiver from such Relevant Person in favour of (and enforceable by) the User in respect of any claim such Relevant Person may have in negligence, other tort, or otherwise howsoever against the User in respect of any act or omission of the User in relation to the subject matter of this Agreement and SONI shall ensure that such waiver includes an agreement on the part of the Relevant Person not to pursue such claim, provided that SONI need not obtain such person's waiver of any claim such person may have against the User under any contract to which the User and such person are (from time to time) party or in respect of fraudulent misrepresentation or death or personal injury resulting from the negligence of the User.

3.11 In respect of ESB, SONI shall:

3.11.1 ensure that the System Operator Agreement contains an obligation on the Other TSO to enforce its obligations under the RoI Infrastructure Agreement in respect of the Equivalent Waiver; and

3.11.2 enforce its rights under the System Operator Agreement in respect of the Equivalent Waiver.

3.12 ***Other***

Upon reasonable notice, SONI shall provide to the User such information in relation to the form (but not the commercial content) of the Relevant Agreements as the User may reasonably request, including as to the monetary caps on liability thereunder.

4. Saving for Statutory Powers

4.1 Nothing in this Agreement shall prejudice or affect the rights or powers of either Party under any statute, order in council, statutory instrument, regulation or order for the time being in force.

5. Waiver of Rights

5.1 No delay or forbearance by either Party in exercising any right, power, privilege or remedy under this Agreement, or the Grid Code shall operate to impair or be construed as a waiver of such right, power, privilege or remedy. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other future exercise thereof or the exercise of any other right, power, privilege or remedy.

6. Entire Agreement

6.1 This Agreement contains and expressly refers to the entire Agreement between the Parties with respect to its subject matter and expressly excludes any warranty, condition or other undertaking implied at law or by custom and supersedes all previous arrangements and understandings between the Parties 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 the terms of this Agreement.

7. Governing Law

7.1 This Agreement shall be governed by and construed in all respects in accordance with the laws of Northern Ireland. Subject and without prejudice to clause 8, the courts of Northern Ireland shall have exclusive jurisdiction to settle any disputes, which may arise out of or in connection with this Agreement.

8. Disputes Resolution

- 8.1 Save where expressly stated in this Agreement to the contrary and subject to any contrary legal requirement, any dispute or difference associated with this Agreement between the Parties hereto shall be referred to arbitration pursuant to the arbitration rules of the Electricity Arbitration Association in force from time to time.
- 8.2 Whatever the nationality, residence or domicile of the Parties and wherever the dispute or difference or any part thereof arose the laws of Northern Ireland shall be the proper law of any reference to arbitration hereunder and in particular (but not so as to derogate from the generality of the foregoing) the provisions of the Arbitration Act 1996 shall apply to any such arbitration wherever the same or any part of it shall be concluded and the seat of the arbitration shall be in Belfast.
- 8.3 Where a third party brings any legal proceedings against either Party, that Party wishes to join the other party in such proceedings where otherwise a dispute or difference would have been referred to arbitration under sub-clause 8.1, the court in which legal proceedings have been commenced shall have jurisdiction unless such an arbitration has commenced before the legal proceedings are have been commenced.
- 8.4 If any of the provisions in any Relevant Agreement relating to any waiver by a party to that Relevant Agreement in respect of claims against either Party is or becomes or is declared invalid, unenforceable or illegal by the courts of any jurisdiction or by order of the Commission of the European Communities or of the Secretary of State, then the Parties shall meet to discuss the amendments needed to be made to this Agreement to reflect that the waiver does not then exist and shall, where such amendments cannot be agreed, refer the matter to the Authority for final determination (and subsequently amend this Agreement to in accordance with such determination).

9. Savings Clause

- 9.1 If any provision of the Agreement is or becomes or is declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject or by order of the Commission of the European Communities or by order of the Department for the Economy such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of this Agreement which shall continue in full force and effect.

10. Variation

- 10.1 No variations to the Agreement shall be effective unless made in writing and signed by both Parties. The Parties shall effect any amendment required to be made to the Agreement by the Authority as a result of a change in the Licence or an order made pursuant to the Order or as a result of settling any of the terms hereof.
- 10.2 Either Party shall at any time be entitled to propose variations to the Agreement by notice in writing to the other Party. The Parties shall negotiate in good faith the terms of any such variation, but if a variation to the Agreement has not been agreed and put into effect within one month after it has been proposed, either Party shall be entitled to refer the matter to the Authority, pursuant to Condition 26 of the Licence, as if the variation were a new agreement as referred to in that condition. The Parties shall give effect to the determination of the Authority and shall enter into any agreement supplemental to the Agreement as shall be necessary to give effect to any variation agreed or so determined.

11. Notices

- 11.1 Unless otherwise agreed, save for notices which are given pursuant to the Grid Code (as to which the procedures provided for in the Grid Code shall apply) any notice or other communication to be given by one Party to the other under, or in connection with the matters contemplated by this Agreement shall be sent to the addresses or facsimile numbers given and marked for the attention of the person specified in Schedule 3 or such other address, facsimile number or person as one Party shall from time to time designate by written notice to the other.
- 11.2 Save for notices which are given pursuant to the Grid Code any notice or other communication to be given by one Party to the other Party shall be in writing and shall be given by letter delivered by hand or sent by first class prepaid post (airmail if overseas) or facsimile transmission and shall be deemed to have been received:
- 11.2.1 in case of delivery by hand when delivered; or
 - 11.2.2 in the case of first class prepaid post, on the second day following the day of posting, or if sent airmail from overseas, on the fifth day following the day of posting; or
 - 11.2.3 in the case of facsimile transmission, at the time of actual receipt.

12. Force Majeure

- 12.1 If either Party shall be unable to carry out any of its obligations under the Agreement due to a circumstance of Force Majeure the Agreement shall remain in effect but save as otherwise provided herein both Parties' obligations other than any obligation as to payment of charges shall be suspended without liability for a period equal to the circumstance of Force Majeure provided that:
- (a) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
 - (b) (notwithstanding the suspension as aforesaid) no obligations of either Party that arose before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure;
 - (c) the non-performing Party uses all reasonable efforts to remedy its inability to perform, including in the case of SONI, enforcing any rights available to it under the Transmission Interface Arrangements.

13. Counterparts and Electronic Signatures

- 13.1 This Agreement may be executed in any number of counterparts, and by different Parties on separate counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts together shall constitute one and the same instrument.
- 13.2 Each Party agrees that this Agreement may be signed by electronic signature (whatever form that electronic signature takes) and that this method of signature shall be taken as conclusive proof of each Party's intentions to be bound by this Agreement as if signed by each Party's manuscript signature.

14. Third Party Rights

- 14.1 Subject to express provisions to the contrary in the Agreement, a person who is not a party to the Agreement has no right, and is not intended by SONI or the User to

have any right, under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this clause does not affect any right or remedy of a third party which exists or is available apart from that Act.

- 14.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any person who is a party to this Agreement.

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