

## IMPORTANT NOTICE

**IMPORTANT: You must read the following before continuing.** The following notice applies to the Prospectus (the **Prospectus**) following this page, whether received by email, accessed from an internet page or otherwise received as a result of electronic communication, and you are therefore advised to read this notice carefully before reading, accessing or making any other use of the Prospectus. In reading, accessing or making any other use of the Prospectus, you agree to be bound by the following terms and conditions and each of the restrictions set out in the Prospectus, including any modifications made to them any time you receive any information from us as a result of such access.

NOTHING IN THIS ELECTRONIC TRANSMISSION CONSTITUTES AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITIES OF THE ISSUER IN THE UNITED STATES OR ANY OTHER JURISDICTION WHERE IT IS UNLAWFUL TO DO SO. ANY SECURITIES TO BE ISSUED WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE **SECURITIES ACT**), OR THE SECURITIES LAWS OF ANY STATE OF THE U.S. OR OTHER JURISDICTION AND THE SECURITIES MAY NOT BE OFFERED OR SOLD WITHIN THE U.S. OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS (AS DEFINED IN REGULATION S UNDER THE SECURITIES ACT (**REGULATION S**)), EXCEPT PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND APPLICABLE STATE OR LOCAL SECURITIES LAWS.

THE PROSPECTUS MAY NOT BE FORWARDED OR DISTRIBUTED OTHER THAN AS PROVIDED BELOW AND MAY NOT BE REPRODUCED IN ANY MANNER WHATSOEVER. ANY FORWARDING, DISTRIBUTION OR REPRODUCTION OF THIS PROSPECTUS IN WHOLE OR IN PART IS UNAUTHORISED. FAILURE TO COMPLY WITH THIS DIRECTIVE MAY RESULT IN A VIOLATION OF THE SECURITIES ACT OR THE APPLICABLE LAWS OF OTHER JURISDICTIONS.

**Confirmation of your representation:** This Prospectus is being sent to you by electronic transmission at your request and by accepting this email and accessing, reading or making any other use of the Prospectus, you shall be deemed to have represented to us that: (1) you have understood and agree to the terms set out herein; (2) the electronic mail (or email) address to which, pursuant to your request, the attached document has been delivered by electronic transmission is not located in the United States, its territories, its possessions and other areas subject to its jurisdiction; and its possessions include Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island and the Northern Mariana Islands; (3) you are outside the United States and are not a U.S. Person (as defined in Regulation S under the Securities Act) and/or are not acting for the account or benefit of a U.S. Person (as defined in Regulation S under the Securities Act); (4) you consent to delivery of the Prospectus by electronic transmission; and (5) you will not transmit the attached Prospectus (or any copy of it or part thereof) or disclose, whether orally or in writing, any of its contents to any other person except with our consent.

You are reminded that the Prospectus has been delivered to you on the basis that you are a person into whose possession the Prospectus may be lawfully delivered in accordance with the laws of the jurisdiction in which you are located and you may not, nor are you authorised to, deliver the Prospectus to any other person and in particular to any U.S. Person or any U.S. address. Failure to comply may result in a direct violation of the Securities Act or the applicable laws of another jurisdiction.

The materials relating to the offering do not constitute, and may not be used in connection with, an offer or solicitation in any place where offers or solicitations are not permitted by law. If a

jurisdiction requires that the offering be made by a licensed broker or dealer and the Joint Bookrunners or any affiliate of the Joint Bookrunners is a licensed broker or dealer in that jurisdiction, the offering shall be deemed to be made by the Joint Bookrunners or by such affiliate on behalf of the Issuer (as defined in the Prospectus) in such jurisdiction.

Under no circumstances shall the Prospectus constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Bonds in any jurisdiction in which such offer, solicitation or sale would be unlawful. The Prospectus may only be communicated to persons in the United Kingdom in circumstances where section 21(1) or the Financial Services and Markets Act 2000 does not apply to the communication.

The Prospectus has been sent to you in electronic form. You are reminded that documents transmitted via this medium may be altered or changed during the process of electronic transmission and consequently none of the Issuer or the Joint Bookrunners nor any person who controls any of the foregoing nor any director, officer, employee or agent of any of the foregoing nor any affiliate of any such person accepts any liability or responsibility whatsoever in respect of any difference between the Prospectus distributed to you in electronic format and the hard copy version available to you on request from the Issuer or the Joint Bookrunners (as defined in the Prospectus).

The distribution of this Prospectus in certain jurisdictions may be restricted by law. Persons into whose possession the attached document comes are required by us to inform themselves about, and to observe, any such restrictions.

# GWYNT Y MOR OFTO PLC

*(a public limited liability company in England and Wales with registered number 08796159)*

## **£339,215,000 2.778 per cent. Secured Bonds due February 2034 (the Bonds)**

**unconditionally and irrevocably guaranteed by**

**Gwynt y Môr OFTO Intermediate Limited**

**(incorporated with limited liability in England and Wales with registered number 08796181)**

**and**

**Gwynt y Môr OFTO Holdings Limited**

**((incorporated with limited liability in England and Wales with registered number 08796189))**

**Issue price: 100 per cent. of their initial principal amount**

The £339,215,000 2.778 per cent. Secured Bonds due 17 February 2034 (the **Bonds**) are issued by Gwynt y Môr OFTO plc (the **Issuer**) and will be constituted by a bond trust deed (the **Bond Trust Deed**) to be dated on or about 17 February 2015 (the **Issue Date**) between the Issuer and Deutsche Trustee Company Limited as bond trustee (the **Bond Trustee**, which expression shall include its successors as bond trustee for the holders of the Bonds for the time being (the **Bondholders**)).

Each of Gwynt y Môr Intermediate Limited (**IntermediateCo**) and Gwynt y Môr Holdings Limited (**Holdco**) and, together with IntermediateCo, the **Guarantors**) has guaranteed the payments of all amounts due in respect of the Bonds pursuant to guarantees which are secured over certain property of each of the Guarantors.

This document constitutes a prospectus (the **Prospectus**) for the purposes of Directive 2003/71/EC (as amended) (the **Prospectus Directive**) and/or the Prospectus (Directive 2003/71/EC) Regulations 2005 (as amended). The Prospectus has been approved by the Central Bank of Ireland (the **Central Bank**) as competent authority under the Prospectus Directive. The Central Bank of Ireland only approves this Prospectus as meeting the requirements imposed under Irish and EU law pursuant to the Prospectus Directive. Application has been made to the Irish Stock Exchange plc (the **Irish Stock Exchange**) for the Bonds issued by the Issuer to be admitted to the Official List and to trading on its regulated market.

The Issuer will apply the proceeds of the issuance towards the acquisition by it of the Transmission Assets (as defined below) from Gwynt y Môr Offshore Wind Farm Limited. The Conditions of the Bonds will be subject to, and have the benefit of, a common terms agreement (the **Common Terms Agreement**) between, *inter alia*, the Issuer, the Bond Trustee, the Security Trustee, the Hedge Counterparties and the PBCE Provider (each as defined below).

The European Investment Bank (the **PBCE Provider**) has provided a letter of credit in an amount of £50,882,250 (the **PBCE Letter of Credit**) as a form of subordinated credit enhancement instrument for the Issuer in relation to the Bonds and the Hedging Agreements (as described in "*Description of the PBCE Letter of Credit*"). Initially, HSBC Bank plc, Sumitomo Mitsui Banking Corporation and Mitsubishi UFJ Securities International plc (the **Initial Hedge Counterparties**) have agreed to enter into certain revenue hedging arrangements with the Issuer pursuant to the hedging agreements (the **Hedging Agreements**) (as described in "*Description of the other Transaction Documents – Hedging Agreements*").

The obligations of the Issuer under the Bonds and in respect of the PBCE Letter of Credit, the Hedging Agreements and each other Authorised Credit Facilities will be secured in favour of Deutsche Trustee Company Limited as Security Trustee (the **Security Trustee**, which expression shall include its successors for the time being). The security granted to the Security Trustee (the **Security**) will comprise security granted by the Issuer, IntermediateCo and Holdco pursuant to a security agreement (the **Security Agreement**). In accordance with a security trust and intercreditor deed (the **STID**) entered into by, *inter alia*, the Issuer, the Security Trustee, the Bond Trustee, the PBCE Provider (as defined below) and the Security Trustee,

the Security will be held by the Security Trustee for itself and on behalf of the Bondholders, the PBCE Provider (as defined below) and the other Secured Creditors (as defined below). See "*Description of the other Transaction Documents*".

Interest accrues on the Bonds at a rate of 2.778 per cent. per annum from (and including) the Issue Date. Interest is payable semi-annually in arrear on each 31 March and 30 September in each year (each a **Payment Date**), commencing on 31 March 2015. The Bonds will be redeemed in instalments on each Payment Date. To the extent not previously redeemed, the Bonds will be redeemed at their outstanding principal amount on 17 February 2034 (the **Final Redemption Date**).

The Bonds will be rated A3 by Moody's. Moody's is established in the European Union and is registered under the Regulation (EC) No. 1060/2009 (as amended) (the **CRA Regulation**). As such, Moody's is included in the list of credit rating agencies published by the European Securities and Markets Authority (**ESMA**) on its website (at <http://www.esma.europa.eu/page/List-registered-and-certified-CRAs>) in accordance with the CRA Regulation. A security rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating organisation.

The Bonds will initially be represented by a temporary global bond (the **Temporary Global Bond**), without interest coupons or principal receipts, which will be deposited on or about the Issue Date with a common safekeeper for Euroclear Bank S.A./N.V. (**Euroclear**) and Clearstream Banking, *société anonyme* (**Clearstream, Luxembourg**). Interests in the Temporary Global Bond will be exchangeable for interests in a permanent global bond (the **Permanent Global Bond** and, together with the Temporary Global Bond, the **Issuer Global Bonds**), without interest coupons or principal receipts, on or after 29 March 2015 (the **Exchange Date**), upon certification as to non-U.S. beneficial ownership. Interests in the Permanent Global Bond will be exchangeable for definitive Bonds only in certain limited circumstances – see "*Form of the Bonds*".

**The Bonds and the Guarantee (defined below) have not been and will not be registered under the United States Securities Act of 1933, as amended (the Securities Act), or with any securities regulatory authority of any state or other jurisdiction of the United States. The Bonds may be offered, sold or delivered only outside the United States to persons who are not "U.S. Persons" as defined in Regulation S under the Securities Act (Regulation S) (each, a U.S. Person) in offshore transactions in reliance on Regulation S under the Securities Act. Each purchaser of the Bonds in making its purchase will be deemed to have made certain acknowledgements, representations and agreements (see "*Subscription and Sale*" in this Prospectus).**

**An investment in Bonds involves certain risks. Prospective investors should have regard to the factors described under the heading "Risk Factors" on page 21.**

#### **Sole Arranger**

HSBC

#### **Joint Bookrunners**

HSBC

MUFG

SMBC Nikko

The date of this Prospectus is 13 February 2015.



## IMPORTANT INFORMATION

The Issuer accepts responsibility for the information contained in this Prospectus. To the best of the knowledge of the Issuer (having taken all reasonable care to ensure that such is the case) the information contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.

Holdco accepts responsibility for the information contained in this Prospectus in relation to it and the Guarantee. To the best of the knowledge of Holdco (having taken all reasonable care to ensure that such is the case) the information relating to it and the Guarantee contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.

IntermediateCo accepts responsibility for the information contained in this Prospectus in relation to it and the Guarantee. To the best of the knowledge of IntermediateCo (having taken all reasonable care to ensure that such is the case) the information relating to it and the Guarantee contained in this Prospectus is in accordance with the facts and does not omit anything likely to affect the import of such information.

The Issuer, having made all reasonable enquiries, confirms that this Prospectus contains all material information with respect to the Issuer and the Bonds (including all information which, according to the particular nature of the Issuer and of the Bonds, is necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the Issuer and of the rights attaching to the Bonds), that the information contained in this Prospectus is true and accurate in all material respects and is not misleading, that the opinions and intentions expressed in this Prospectus are honestly held and that there are no other facts the omission of which would make this Prospectus or any of such information or the expression of any such opinions or intentions misleading. The Issuer accepts responsibility accordingly.

Neither the Joint Bookrunners (as described under "*Subscription and Sale*" below) nor the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties or the PBCE Provider have independently verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility or liability is accepted by the Joint Bookrunners, the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties or the PBCE Provider as to the accuracy or completeness of the information contained in this Prospectus or any other information provided by the Issuer in connection with the offering of the Bonds. No Joint Bookrunner, the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties or the PBCE Provider accepts any liability in relation to the information contained in this Prospectus or any other information provided by the Issuer in connection with the offering of the Bonds or their distribution.

No person is or has been authorised by the Joint Bookrunners, the Issuer, the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties or the PBCE Provider to give any information or to make any representation not contained in or not consistent with this Prospectus or any other information supplied in connection with the offering of the Bonds and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer or by any of the Joint Bookrunners, the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties or the PBCE Provider.

Neither this Prospectus nor any other information supplied in connection with the offering of the Bonds (a) is intended to provide the basis of any credit or other evaluation or (b) should be considered as a recommendation by the Issuer or any of the Joint Bookrunners, the Bond Trustee, the Security

Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties or the PBCE Provider that any recipient of this Prospectus or of any other information supplied in connection with the offering of the Bonds should purchase any Bonds. Each investor contemplating purchasing any Bonds should make its own independent investigation of the financial condition and affairs, and its own appraisal of the creditworthiness, of the Issuer. Neither this Prospectus nor any other information supplied in connection with the offering of the Bonds constitutes an offer or invitation by or on behalf of the Issuer, any of the Joint Bookrunners or the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties or the PBCE Provider to any person to subscribe for or to purchase any Bonds.

Neither the delivery of this Prospectus nor the offering, sale or delivery of the Bonds shall in any circumstances imply that the information contained herein concerning the Issuer is correct at any time subsequent to the date hereof or that any other information supplied in connection with the offering of the Bonds is correct as of any time subsequent to the date indicated in the document containing the same. The Joint Bookrunners, the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties and the PBCE Provider expressly do not undertake to review the financial condition or affairs of the Issuer during the life of the Bonds or to advise any investor in the Bonds of any information coming to their attention.

This Prospectus does not constitute an offer to sell or the solicitation of an offer to buy the Bonds in any jurisdiction to any person to whom it is unlawful to make the offer or solicitation in such jurisdiction. The distribution of this Prospectus and the offer or sale of Bonds may be restricted by law in certain jurisdictions. The Issuer, the Joint Bookrunners, the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties and the PBCE Provider do not represent that this Prospectus may be lawfully distributed, or that the Bonds may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assume any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer, the Joint Bookrunners, the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank, the Hedge Counterparties or the PBCE Provider which is intended to permit a public offering of the Bonds or the distribution of this Prospectus in any jurisdiction where action for that purpose is required. Accordingly, no Bonds may be offered or sold, directly or indirectly, and neither this Prospectus nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Prospectus or any Bonds may come must inform themselves about, and observe, any such restrictions on the distribution of this Prospectus and the offering and sale of Bonds. In particular, there are restrictions on the distribution of this Prospectus and the offer or sale of Bonds in the United States the European Economic Area and the United Kingdom— see "*Subscription and Sale*". The Bonds may not be a suitable investment for all investors. Each potential investor in the Bonds must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor may wish to consider, either on its own or with the help of its financial, independent technical or insurance advisers and other professional advisers, whether it:

- (i) has sufficient knowledge and experience to make a meaningful evaluation of the Bonds, the merits and risks of investing in the Bonds and the information contained in this Prospectus or any applicable supplement;
- (ii) has access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Bonds and the impact the Bonds will have on its overall investment portfolio;

- (iii) has sufficient financial resources and liquidity to bear all of the risks of an investment in the Bonds, including Bonds where the currency for principal or interest payments is different from the potential investor's currency;
- (iv) understands thoroughly the terms of the Bonds and is familiar with the behaviour of financial markets; and
- (v) is able to evaluate possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

Each potential investor needs to consider carefully whether it requires independent advice with respect to the legal, technical, tax, financial and insurance matters to which reference is made in this Prospectus.

In arriving at their decision on whether to take independent advice, potential investors must be aware that the independent technical and insurance reports obtained by the Issuer (for itself and potential creditors) in relation to the Transmission Assets are not included in this Prospectus (or in any appendix thereto) and will not otherwise be made available to prospective investors or Bondholders.

Legal investment considerations may restrict certain investments. The investment activities of certain investors are subject to legal investment laws and regulations or to review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent: (1) the Bonds are legal investments for it; (2) the Bonds can be used as collateral for various types of borrowing; and (3) other restrictions apply to its purchase or pledge of any of the Bonds. Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of Bonds under any applicable risk-based capital or similar rules.

None of the Issuer, the Guarantors, the Sole Arranger, the Joint Bookrunners, the Bond Trustee, the Security Trustee, the PBCE Provider, the Hedge Counterparties, the Principal Paying Agent or the Account Bank accept responsibility to investors for the regulatory treatment of their investment in the Bonds (including (but not limited to) whether any transaction or transactions pursuant to which Bonds are issued from time to time is or will be regarded as constituting a "securitisation" for the purposes of EU Regulation No 575/2013 and EU Regulation No 231/2013 (together the **EU Regulations**) in any jurisdiction or by any regulatory authority. Prospective investors should note that the Issuer is of the opinion that the EU risk retention and due diligence requirements set out in the Regulations do not apply to the Bonds. If the regulatory treatment of an investment in the Bonds is relevant to an investor's decision whether or not to invest, the investor should make its own determination as to such treatment and for this purpose seek professional advice and consult its regulator. Prospective investors are referred to the *"Risk Factors– Implementation of and/or changes to the Basel III framework may affect the capital requirements and/or the liquidity associated with a holding of the Bonds for certain investors"* and *"Risk Factors - Regulatory initiatives may result in increased regulatory capital requirements and/or decreased liquidity in respect of the Bonds"* sections of this Prospectus for further information.

The Bonds and the Guarantee have not been and will not be registered under the Securities Act, or with any securities regulatory authority of any state or other jurisdiction of the United States. The Bonds may be offered, sold or delivered only outside the United States to persons who are not "U.S. Persons" as defined in Regulation S under the Securities Act in offshore transactions in reliance on Regulation S under the Securities Act. The Bonds are also subject to U.S. tax law requirements. See *"Subscription and Sale"* of this Prospectus for further information.

## **PRESENTATION OF INFORMATION**

References in this document to **£**, **pounds** and **sterling** are to the lawful currency for the time being of the United Kingdom of Great Britain and Northern Ireland.

## **FORWARD-LOOKING STATEMENTS**

Certain statements contained in this Prospectus, including any forecasts, projections, descriptions or statements regarding the possible future results of operations, any statement preceded by, followed by or including the words "believes", "expects", "plans" or "will" or similar expressions, and other statements that are not historical facts, are or may constitute "forward-looking statements". Because such statements are inherently subject to risks and uncertainties, actual results may differ from those expressed or implied by such forward-looking statements. Although the Issuer believes that the projections contained in this Prospectus are reasonable, the Issuer cannot give any assurance that such projections will prove to have been correct. Important factors that could cause actual results to differ from such projections are disclosed in this Prospectus, including, without limitation, those contained under "*Risk Factors*" and any such projections are qualified in their entirety accordingly.

All descriptions of documents referred to in this Prospectus are qualified in their entirety by reference to the terms of the original documents.

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## STABILISATION

In connection with the issue of the Bonds, HSBC Bank plc as **Stabilising Manager** (or persons acting on behalf of any Stabilising Manager) may over-allot Bonds or effect transactions with a view to supporting the market price of the Bonds at a level higher than that which might otherwise prevail. However, there is no assurance that the Stabilising Manager (or persons acting on behalf of Stabilising Manager) will undertake stabilisation action. Any stabilisation action may begin on or after the date on which adequate public disclosure of the terms of the offer of the Bonds is made and, if begun, may be ended at any time, but it must end no later than the earlier of 30 days after the issue date of the Bonds and 60 days after the date of the allotment of the Bonds. Any stabilisation action or over-allotment must be conducted by the relevant Stabilising Manager (or by persons acting on behalf of any Stabilising Manager) in accordance with all applicable laws and rules.

## OVERVIEW OF THE BONDS

The following overview does not purport to be complete and is taken from, and qualified in its entirety by, the remainder of the Prospectus and the Conditions of the Bonds.

Words and expressions defined in "*Conditions of the Bonds*" shall have the same meanings in this Overview.

<b>Issuer:</b>	Gwynt y Môr OFTO plc.
<b>Description of Bonds:</b>	£339,215,000 2.778 per cent. Secured Bonds due February 2034 to be issued by the Issuer on the Issue Date.
<b>Guarantors:</b>	<p>The obligations of the Issuer under the Bonds will be irrevocably and unconditionally guaranteed by the other Obligor pursuant to the terms of the guarantee made by each of them in the Security Agreement (together, the <b>Guarantee</b>).</p> <p>The obligations of each of the Guarantors under the Guarantee and the other Transaction Documents to which they are party are secured by the assets of each of the Guarantors, including share pledges granted by Holdco over the shares it owns in both the Issuer and IntermediateCo.</p>
<b>Obligors:</b>	The Issuer, IntermediateCo and Holdco.
<b>Risk Factors:</b>	There are certain factors that may affect the Issuer's ability to fulfil its obligations under the Bonds. In addition, there are certain factors which are material for the purpose of assessing the market risks associated with the Bonds. These are set out under " <i>Risk Factors</i> " and include the fact that the Bonds may not be a suitable investment for all investors and involve certain market risks.
<b>Bond Trustee:</b>	Deutsche Trustee Company Limited will act as trustee for the Bondholders (in such capacity the <b>Bond Trustee</b> ).
<b>Security Trustee:</b>	Deutsche Trustee Company Limited will act as security trustee for the Bondholders and the other Secured Creditors (in such capacity the <b>Security Trustee</b> ).
<b>Principal Paying Agent:</b>	Deutsche Bank AG, London Branch.
<b>Account Bank:</b>	Deutsche Bank AG, London Branch.
<b>PBCE Provider</b>	European Investment Bank, under the PBCE Letter of Credit and Reimbursement Deed.

<b>Hedge Counterparties:</b>	Initially, HSBC Bank plc, Sumitomo Mitsui Banking Corporation and Mitsubishi UFJ Securities International plc (the <b>Initial Hedge Counterparties</b> ), together with any other counterparty which accedes as a hedge counterparty to the STID and Common Terms Agreement as a hedge counterparty.
<b>Sole Arranger:</b>	HSBC Bank plc.
<b>Joint Bookrunners:</b>	HSBC Bank plc, Mitsubishi UFJ Securities International plc and SMBC Nikko Capital Markets Limited.
<b>Bond Trust Deed:</b>	The Bonds will be constituted by, and issued subject to, a bond trust deed (see " <i>Description of the Issuer</i> ").
<b>Security Trust and Intercreditor Deed or STID:</b>	The Bonds will be subject to, and have the benefit of, a security trust and intercreditor deed (see " <i>Description of the other Transaction Documents</i> ").
<b>Interest Payments:</b>	Interest accrues on the Bonds at a rate of 2.778 per cent. per annum from (and including) the Issue Date. Interest is payable semi-annually in arrear on each 31 March and 30 September in each year (each a <b>Payment Date</b> ), commencing on 31 March 2015.
<b>Issue Date:</b>	17 February 2015.
<b>Final Redemption Date:</b>	17 February 2034.
<b>Yield:</b>	2.778 per cent. The yield is calculated at the Issue Date on the basis of an issue price of 100 per cent. The yield indicated is calculated as the yield to maturity and is not an indication of future yield.
<b>Average life:</b>	11.4 years.
<b>Modified Duration:</b>	9.4 years.
<b>Common Terms Agreement:</b>	The terms of the Bonds are subject to, and have the benefit of, a common terms agreement (the <b>Common Terms Agreement</b> ) between, <i>inter alia</i> , the Issuer, the Bond Trustee, the Hedge Counterparties and the PBCE Provider (as defined below) containing, <i>inter alia</i> , undertakings and events of default.
<b>Authorised Credit Facilities:</b>	In addition to the PBCE Letter of Credit and the Hedging Agreements, the Issuer may only enter into certain other borrowing or credit arrangements from time to time in accordance with the terms of the Common Terms Agreement and the definition of Permitted Financial Indebtedness.
<b>Scheduled Redemption of the Bonds:</b>	The Bonds will be redeemed in instalments on each



Payment Date – see Condition 6.1 (*Scheduled Redemption*) of the Conditions of the Bonds. To the extent not previously redeemed, the Bonds will be redeemed at their outstanding principal amount on the Final Redemption Date.

**Withholding tax:**

All payments of principal, interest and/or premium (if any) in respect of the Bonds will be made free and clear of, and without withholding or deduction for, or on account of, any present or future taxes, unless such withholding or deduction is required by law.

**Redemption for taxation reasons and illegality:**

In the event that the Issuer satisfies the Bond Trustee that any change in tax law (or the application or official interpretation thereof) requires or will require the Issuer to make any withholding or deduction for or on account of any United Kingdom taxes from payments in respect of the Bonds, the Issuer will (broadly) be obliged to use its reasonable endeavours to mitigate the effects of these events, including by arranging for the substitution of a company incorporated in an alternative jurisdiction (approved in writing by the Bond Trustee) as principal debtor under the Bonds.

See Condition 6.5 (*Optional redemption for taxation or other reasons*) of the Conditions of the Bonds.

**Events of Default:**

Events of Default under the Bonds are set out in Condition 9 (*Events of Default*) of the Conditions of the Bonds.

**Security:**

The obligations of the Issuer under the Bonds will be secured in favour of the Security Trustee (to the extent permitted by law and regulation). The Security will comprise security granted pursuant to a security agreement entered into by the Issuer, IntermediateCo and Holdco (the **Security Agreement**). In accordance with the STID, the Security will be held by the Security Trustee for itself and on behalf of the Bondholders, the Hedge Counterparties, the PBCE Provider (as defined below) and the other Secured Creditors (as defined below). See "*Description of the other Transaction Documents*".

Additionally, the Bonds will be guaranteed by the Guarantors under the Guarantee. See "*Guarantee*" below.

**Secured Creditors:**

The Security Trustee (in its own capacity and on behalf of the other Secured Creditors), any Receiver or Delegate, the Bondholders, the Bond Trustee (in its own capacity and on behalf of the Bondholders), the Hedge Counterparties, the PBCE Provider, the Principal Paying Agent, the Account Bank and each other Agent.

<b>Status of the Bonds:</b>	<p>The Bonds, the Receipts and the Coupons are direct, unconditional and secured obligations of the Issuer.</p> <p>The Bonds will all rank <i>pari passu</i>, without preference, among themselves.</p>
<b>Guarantee:</b>	<p>Payment of amounts owed by the Issuer under the Bonds will be irrevocably and unconditionally guaranteed by the Guarantors. The obligations of the Guarantors under the Guarantee constitute direct obligations of the Guarantors secured against the assets of the Guarantors.</p>
<b>Purchase of Bonds:</b>	<p>The Issuer and any other Obligor may purchase the Bonds from time to time which shall thereafter be cancelled.</p>
<b>Meetings of Bondholders:</b>	<p>The Conditions of the Bonds and the Bond Trust Deed contain provisions for calling meetings of Bondholders to consider matters affecting their interests generally. Subject to the provisions of the STID, these provisions permit defined majorities to bind all Bondholders including Bondholders who did not attend (or were not represented) and did not vote at the relevant meeting and Bondholders who abstained or voted in a manner contrary to the majority.</p>
<b>Modification, Waiver and Substitution:</b>	<p>Subject to the provisions of the STID and the Bond Trust Deed, the Bond Trustee may, or may direct the Security Trustee to, without the consent of Bondholders, agree to any modification of (subject to certain exceptions), or to the waiver or authorisation of any breach or proposed breach of, any of the provisions of Bonds or the other Finance Documents in the circumstances and subject to the conditions described in Condition 13 (<i>Meetings of Bondholders, Modification, Waiver, Authorisation and Determination</i>).</p>
<b>Listing and admission to trading:</b>	<p>Application has been made to the Irish Stock Exchange for the Bonds to be admitted to the Official List and trading on its regulated market.</p>
<b>Governing law:</b>	<p>The Bonds, the Bond Trust Deed, the Common Terms Agreement, the Security Trust and Intercreditor Deed and the other Finance Documents and any non-contractual obligations arising out of or in connection with them will be governed by, and construed in accordance with, English law.</p>
<b>Form and Denomination of the Bonds:</b>	<p>The Bonds will be issued in bearer form in denominations of £100,000 and integral multiples of £1,000 in excess thereof, up to and including £199,000. Upon issue, the Bonds will be represented by a</p>

temporary global bond which will be exchangeable for a permanent global bond on or after 40 days from the Issue Date upon certification as to non-U.S. beneficial ownership. The permanent global bond will, in limited circumstances, be exchangeable for Bonds in definitive form.

**Initial delivery of the Bonds:**

The Temporary Global Bond will be issued in **New Global Note** form and will be delivered to the Common Safekeeper for Euroclear and Clearstream, Luxembourg.

**Credit Ratings:**

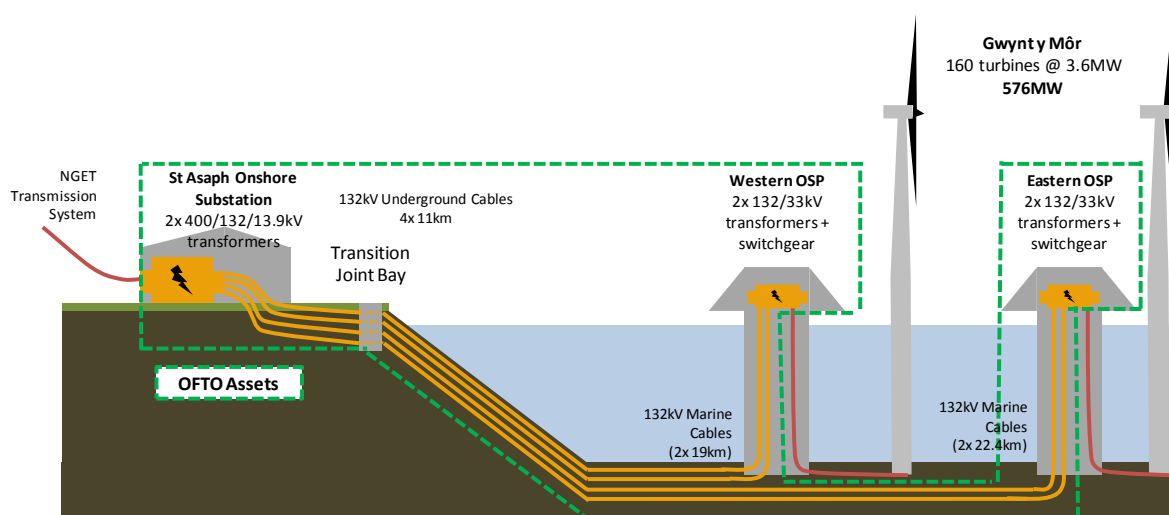
The Bonds will, upon issue, be rated A3 by Moody's. A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision, suspension or withdrawal at any time by the assigning rating organisation.

**Selling Restrictions:**

The Bonds and the Guarantee have not been and will not be registered under the Securities Act, or with any securities regulatory authority of any state or other jurisdiction of the United States. The Bonds may be offered, sold or delivered only outside the United States to persons who are not "U.S. Persons" as defined in Regulation S under the Securities Act in offshore transactions in reliance on Regulation S under the Securities Act. The Bonds are also subject to U.S. tax law requirements. The Bonds may be sold in other jurisdictions only in accordance with applicable laws and regulations. See "*Subscription and Sale*" below.

## OVERVIEW OF THE PROJECT

Gwynt y Môr OFTO plc (the **Issuer**) is owned by a consortium comprising Balfour Beatty OFTO Holdings Limited and Equitix Transmission 2 Limited, organised to, among other things, purchase from Gwynt y Môr Offshore Wind Farm Limited an offshore transmission system which includes subsea cables, offshore substations and transformers, onshore cables and an onshore substation, that connects the Gwynt y Môr Offshore Wind Farm to the UK electricity grid (the **Transmission Assets**), as outlined by the dotted green line in the diagram below:

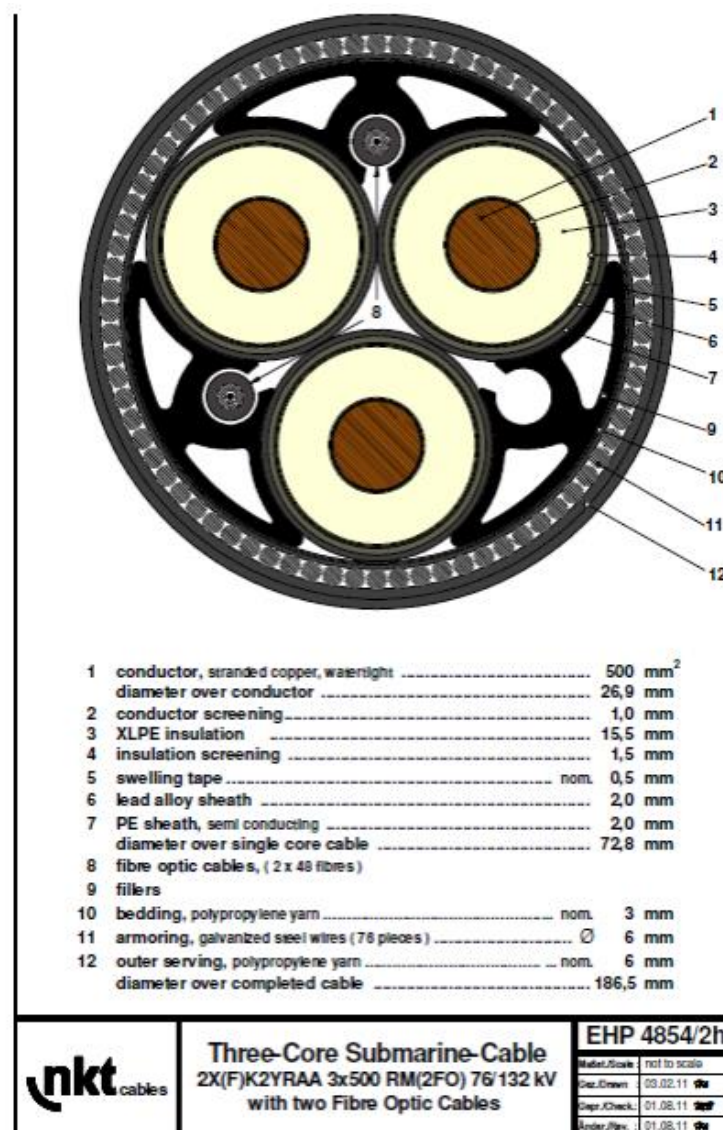


The Transmission Assets consist broadly of:

- Two Offshore Substation Platforms (**OSPs**), East (**OSPE**) and West (**OSPW**), each equipped with 132/33kV transformers and 132kV switchgear connecting to submarine cable circuits. These platforms also accommodate GyMOWFL assets, including the 33kV switchgear.
- Four 132kV 3-core export submarine cables; two 22.4km cables connecting OSPE to shore and two 19.0km cables connecting OSPW to shore.
- Four 11.0km export land cables, connecting the onshore transition joint bays to the onshore OFTO 132kV substation.
- One onshore OFTO 400/132kV substation compound adjacent to the National Grid Electricity Transmission Limited (**NGET**) 400kV Bodelwyddan Substation, with nine bays of 132kV switchgear in a double busbar arrangement and two 400/132/13.9kV auto-transformers to connect the four export circuits into the NGET 400kV network.
- Two 400kV cable interconnections, each connecting one of the 400/132/13.9kV auto-transformers to the NGET 400kV Bodelwyddan Substation.
- Two bays of 400kV switchgear within the NGET Bodelwyddan Substation building.
- Strategic offshore spares transferred under the SPA include one 132/33kV 160MVA offshore transformer (stored at Mostyn Port), 1.554km of export cable (500mm<sup>2</sup>), three joint kits for export cable (500mm<sup>2</sup>), two transition joints, two offshore hang offs, and two export cable termination kits.

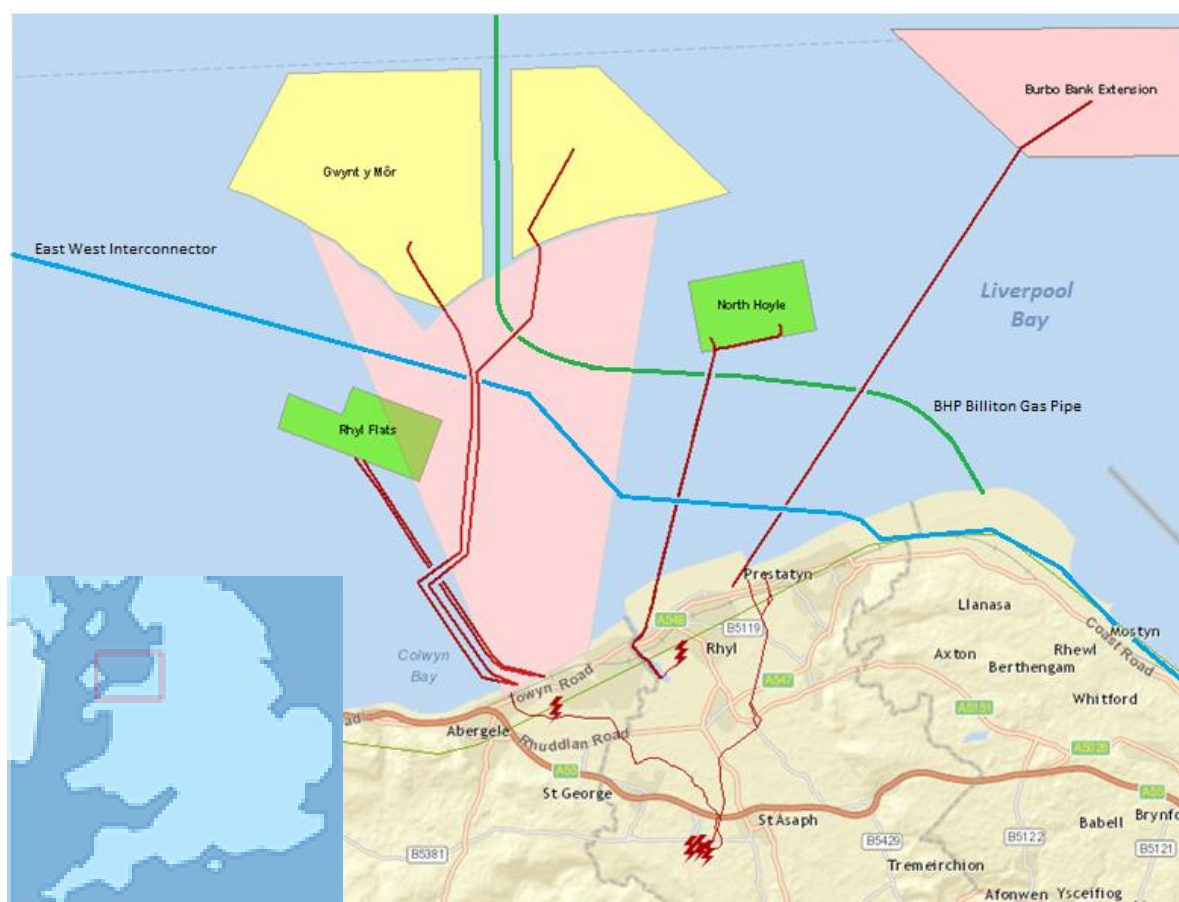
- Strategic onshore spares transferred under the SPA include one 400/132/13.9kV 320MVA transformer (installed at the Bodelwyddan Substation), 100m of land export cable on storage drum, 1km fibre cable on storage drum, six land joints (straight and sectionalised), two onshore transition pit hang offs, three land to offshore transition joints, and three sheath voltage limiters.
- The Issuer will also hold a set of operational spares, including pumps, switches, valves, batteries and filters.

The cable diagram below shows that there are three conductors carrying power along with two tubes each holding 48 fibre optic cables which are held together in one large steel wire armoured cable:



Source: 2.6.6.106 SC Export Cable Datasheet 500mm<sup>2</sup> rev 7

The offshore interface point on the OSP is at the 33kV connections to the 132kV transformers. At the onshore interface point, the NGET/OFTO ownership boundary is on the connections between the NGET 400kV busbars and the Issuer-owned 400kV switchgear assemblies connected to those busbars.



The Wind Farm is located within the Liverpool Bay area of the Irish Sea, approximately 15km off the North Wales coast with the onshore substation on the north coast of Wales to the south of St Asaph Business Park. The wind farm site occupies an area of approximately 79km<sup>2</sup>

The Wind Farm has a contracted export capability at the "Offshore Grid Entry Point", as defined through a Connection Agreement with National Grid of 574MW. The availability of the Transmission Assets is measured against a target of 574MW over time with availability being assessed on an annual basis.

The OFTO Licence sets out the revenue entitlement of the Issuer which is payable by NGET in accordance with the STC – this is currently around £25 million per annum and is indexed annually. The Issuer may earn credits for performance above the target set by Ofgem of 98 per cent and also suffer deductions for not meeting this target. The Issuer has been advised that, based on conservative assessments of planned and reactive maintenance periods, a lifetime availability of 99 per cent. is deliverable and availability in excess of this should be achievable. The National Electricity Transmission System Performance Report 2013-2014 published by National Grid reports that aggregate availability for the period 2013-2014 is 99.43%<sup>1</sup>.

The Issuer has received independent technical and insurance reports from established reputable independent advisers in relation to the Transmission Assets. However, such reports will not be appended to this Prospectus and will not otherwise be made available for inspection.

The Transmission Assets include the following asset characteristics:

- *Reputable suppliers and proven technology:* electrical equipment designed and installed by Siemens Transmission & Distribution Limited. Cables were made using a recognised design and by a reputable manufacturer, Nkt Cables GmbH. The Transmission Assets use cross

linked polyethylene insulated three core alternating current cables. The design of these cables is based on established technology used by all major cable suppliers.

- *Excess capacity of the Transmission Assets:* there is inbuilt redundancy in the Transmission Assets as although each platform has been designed to operate normally with two 144MW offshore circuits feeding a single 288MW onshore circuit, interconnection facilities allow alternative running arrangements to be adopted at 33kV offshore and 132kV onshore to permit temporary reconfiguration during a circuit outage. The loss of transformer or a cable does not therefore result in the full loss of availability of the relevant Transmission Asset.
- *Low probability of major equipment failure:* the two major equipment failures which have the most material impact on the OFTO's availability are transformer faults or cable damage. The Issuer has been advised that the probability of either a cable or a transformer failure is very low.
- *Favourable seabed conditions in the Gwynt y Môr Project location:* the most common seabed material along the export cable route, and in particular in areas where primary hazards (fishing and anchoring) are present, is a hard seabed with a mixture of firm and stiff clays interspersed with boulders and cobble, gravels and sand. The Issuer is advised that this soil type is resistant to penetration by anchors and fishing gear, therefore the probability of external damage to the offshore cables is low.

The Issuer has entered into a 20 year fixed price Operations and Maintenance Agreement (**O&M Agreement**) with Balfour Beatty Utility Solutions Limited as agent for Balfour Beatty Group Limited (**BBUS** or the **Operator**) (see further "*Description of the Project Documents – Operations and Maintenance Agreement*"). This agreement is backed by a parent company guarantee from Balfour Beatty Investment Holdings Limited. BBUS is an experienced operator and maintenance services provider and delivers significant transmission maintenance and construction projects worldwide, including overhead line and cable projects for the UK regulated electricity utility sector. BBUS also offers the following services to the energy, rail, public and industrial sectors: electrical cabling and jointing; fault location and repair; new connections and diversions; and repairs to subsea cables around the UK coastline (see further <http://www.bbysl.com/>). BBUS will engage specialist sub-contractors to provide certain operation and maintenance services. These subcontractors include:

- Natural Power - to provide day to day monitoring and supervision of electrical assets, daily transmission grid switching and first response services;
- Siemens Transmission and Distribution Limited (the manufacturer of the electrical equipment for the Transmission Assets) - to provide maintenance of specialised electrical equipment;
- James Fisher and Sons plc - to provide vessels for scheduled and reactive maintenance; and
- Briggs Marine Contracting Limited - to provide marine and offshore services, including subsea and jacket surveys.

In addition, BBUS has agreed with Gwynt y Môr Offshore Wind Farm Limited for RWE to perform certain operations and maintenance services on the Transmission Assets. RWE will operate and maintain the Transmission Assets under the management and oversight of BBUS during this period, which is estimated to be for six weeks post asset transfer and during this period will work alongside them to familiarise themselves with the assets.

The O&M Agreement and BBUS operations and maintenance plan are designed to minimise the downtime of the Transmission Assets including:

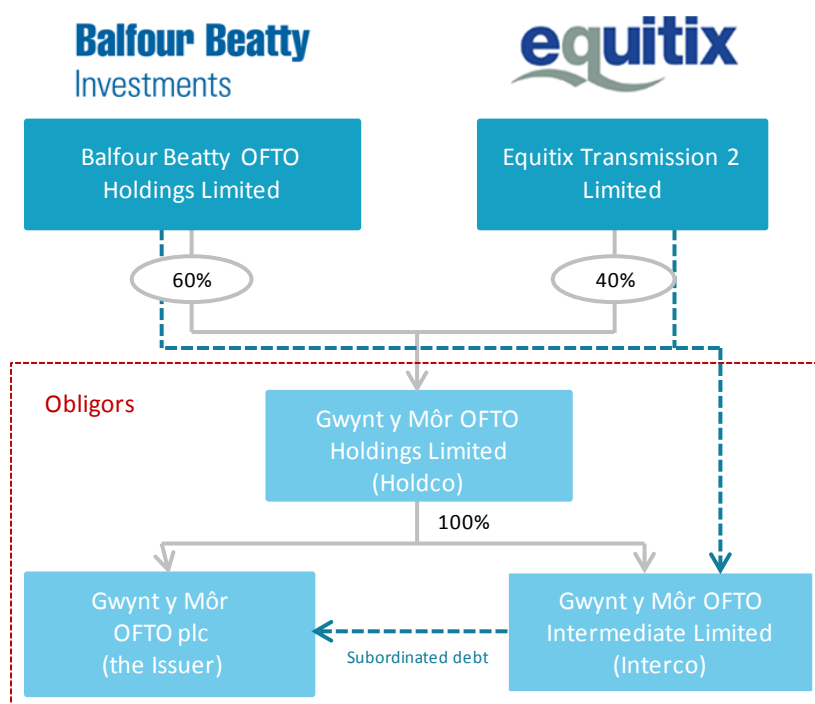
- *Incentivisation mechanism:* BBUS will receive a share of the performance credits for achieving availability above 99 per cent. BBUS will also share in the availability deductions where such deductions are attributable to BBUS's actions.
- *Routine surveys:* BBUS will perform export cable surveys to ensure that they remain adequately buried to minimise the risk from an anchor strike.
- *Performance monitoring:* BBUS will monitor the export cables in real time using the installed Distributed Temperature Sensing monitoring equipment in order to infer the condition of the cables and their real time current carrying capacity.
- *Routine maintenance:* BBUS will perform carry out maintenance of the electrical system.
- *Access to strategic or critical spares:* BBUS will have access to spares that have a long lead time for procurement – Offshore: one 132/33kV 160MVA offshore transformer, 1.554km of export cable (500mm<sup>2</sup>), three joint kits for export cable (500mm<sup>2</sup>), two transition joints, two offshore hang offs, and two export cable termination kits are included in the assets to be sold to the Issuer. Onshore: one 400/132/13.9kV 320MVA transformer, 100m of land export cable on storage drum, 1km fibre cable on storage drum, six land joints (straight and sectionalised), two onshore transition pit hang offs, three land to offshore transition joints, and three sheath voltage limiters are included in the assets to be sold to the Issuer.
- *Contingency plans:* to maximise availability as far as possible in the event of an asset failure through active management techniques such as reconfiguration of the transformers and/or cables to deliver higher than expected availability during an asset failure.
- *Access to repair vessels:* using Briggs Marine to access repair vessels in the event of an asset failure.
- *Access to BBUS jointing crew:* BBUS has specialist offshore cable repair capability through six offshore jointing teams supported by two offshore fibre teams, and can consequently carry out multiple offshore repairs simultaneously around the UK coastline.

In order to operate the Transmission Assets, the Issuer is required to obtain a licence from The Gas and Electricity Markets Authority (the **Authority**) established under Section 1 of the Utilities Act 2000 and pursuant to the Electricity Act (as amended). The Issuer's principal activities will be to own and operate the Transmission Assets in accordance with the terms of its OFTO Licence, as more fully set out in the section entitled " *Description of the OFTO Licence and the Regulatory Regime* " below.

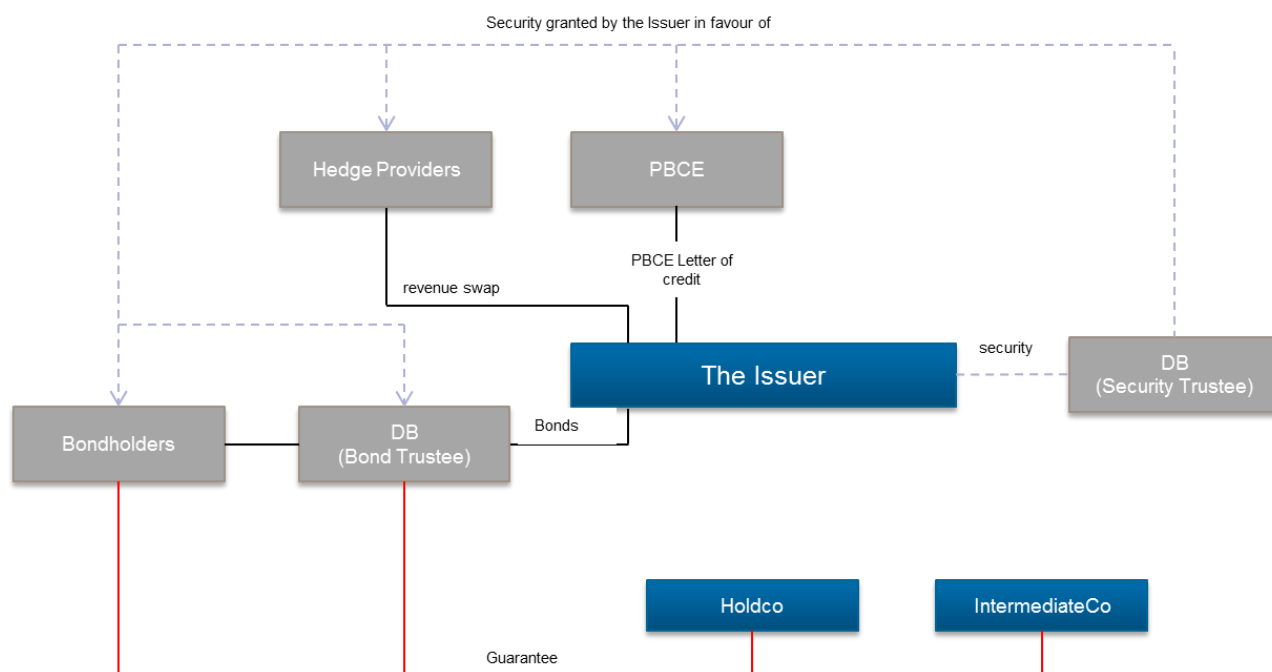
The terms of the OFTO Licence restrict the Issuer's ability to enter into other business activities than those specifically related to the OFTO Licence – see further " *Description of the OFTO Licence and the Regulatory Regime – Focus on the Transmission Business* " below. As indicated in the section entitled " *Use of Proceeds* ", the proceeds of issuance by the Issuer of the Bonds will be applied towards the acquisition of the Transmission Assets, and certain related transaction costs. As part of the terms of the sale by GyMOWFL to the Issuer, the Issuer will take the benefit of certain contracts put in place for the Transmission Assets, as more thoroughly set out in the section entitled " *Description of the Project Documents* ".



The Issuer's corporate structure is set out below:



In addition to issuing the Bonds, the Issuer will benefit from a letter of credit (the **PBCE Letter of Credit**) provided by the European Investment Bank (the **PBCE Provider**) (see "*Description of the PBCE Provider*" and "*- Description of the PBCE Letter of Credit*" below) and will enter into certain swap arrangements with the Hedge Counterparties (see "*Description of the other Transaction Documents – Hedging Agreements*" below) to hedge certain of its revenue against inflation risks. In addition, IntermediateCo and Holdco will each guarantee the payment obligations owed by the Issuer to the Bondholders under the Bonds (the **Guarantee**). Each of IntermediateCo and Holdco will grant security over their assets (see "*Description of the Guarantee and the Security*" below). The simplified debt structure in relation to these Bonds and the purchase of the Transmission Assets is set out below:



## RISK FACTORS

*The Issuer and the Guarantors believe that the following factors may affect their ability to fulfil their obligations under the Bonds and in respect of the Guarantee. All of these factors are contingencies which may or may not occur and the Issuer and the Guarantors are not in a position to express a view on the likelihood of any such contingency occurring.*

*In addition, factors which are material for the purpose of assessing the market risks associated with the Bonds are described below.*

*The Issuer and the Guarantors believe that the factors described below represent the principal risks inherent in investing in the Bonds, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with the Bonds, or the Guarantors to make payments in respect of their Guarantee, may occur for other reasons which may not be considered significant risks by the Issuer or the Guarantors based on information currently available to it or which it may not currently be able to anticipate.*

*However, investors may need to consider receiving their own independent advice with respect to legal, technical, insurance, financial and tax matters in order to make an investment decision. Prospective investors should also read the detailed information set out elsewhere in this Prospectus and reach their own views prior to making any investment decision.*

### **Risk Factors relating to the Electricity Industry and the Issuer**

The UK offshore transmission industry is subject to extensive legal and regulatory controls and the Issuer is required to comply with all applicable laws, regulations and regulatory standards, some of which are described in "*Description of the OFTO Licence and the Regulatory Regime*". While these laws, regulations and standards and policies of the Authority have historically provided a recognised, stable and protected operating environment for onshore transmission networks, the regulatory arrangements for offshore transmission networks have differences and were only introduced relatively recently in 2009 so have a limited track record<sup>1</sup>. Further, changes in such laws, regulations and standards and the policies of the Authority could have a material adverse impact on the business, financial condition or results or operations of the Issuer, which may impact the ability of the Issuer to make timely payments under the Bonds.

In this context, in particular, potential investors should be aware of the following:

#### ***The OFTO Licence***

In the electricity industry, the licences granted to transmission system operators contain restrictions on the way in which the transmission business may be undertaken, although the licences for OFTO businesses all have a similar structure in that each licence comprises a set of Terms, Standard Conditions, Amended Standard Conditions and Special Conditions (see further "*Description of the OFTO Licence and the Regulatory Regime – OFTO Licence*").

#### ***Modification of OFTO Licence***

Modifications to licence conditions can be implemented by the Authority after a consultation period and licence holders (and, in certain circumstances, other stakeholders) can challenge the modifications

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<sup>1</sup> Source: "Operational UK Offshore Transmission Owners: Solid Credit Strength Comparable to That of UK Regulated Onshore Networks" published by Moody's Investors Service on 29 May 2013.

by making an appeal to the Competition Commission. As part of a scheme for the transfer of property, rights and liabilities following an Energy Administration Order (an **Energy Transfer Scheme**), the Energy Administrator has the ability to make modifications to the licence of the existing licensee (see "*Energy Administration Orders*" below).

### ***Issuer's main revenue and revocation of OFTO Licence***

The OFTO Licence may be revoked by the Authority in certain circumstances. The Issuer understands that the Authority is likely to seek to resolve issues before resorting to licence revocation and the Authority has published guidance in relation to the OFTO of Last Resort process setting out potential measures that could be taken to avoid revocation, including liaising with all interested parties. The Issuer's business depends entirely on it being the holder of the OFTO Licence. If the OFTO Licence were to be revoked, the Issuer would be unable to earn revenue and consequently the Issuer's ability to meet its obligations (including the payment of principal and interest) under the Bonds would be impacted. If, however, the OFTO Licence were to be revoked, the Authority would be entitled to initiate an OFTO of Last Resort process. In this situation, the Authority would expect the incumbent OFTO (which would be the Issuer in this situation) and the OFTO of Last Resort to agree the terms of the transfer of assets on a commercial basis and would expect the parties to have regard to the depreciated regulatory asset value approach used to calculate the revenue stream so that the incumbent OFTO (i.e. the Issuer) would be expected to receive a transfer value reflective of the net asset value after regulatory depreciation. However, the transfer value may not be sufficient for the Issuer to meet its payment obligations under the Bonds in full.

### ***OFTO Licence enforcement, breaches and sanctions***

Breach of a licence condition can attract fines of up to 10 per cent. of the Issuer's annual turnover in the year preceding the date on which the Authority gives notice of its proposal to impose a penalty.

The Authority has published a statement of the policy that it intends to apply to the imposition of any penalty and the determination of its amount. Any such penalty can be appealed, on procedural grounds only, to the High Court. In practice, many regulatory issues arising between licensees and the Authority are settled without the need to resort to formal proceedings. However, where the Authority is satisfied that a licensee is in breach of the terms of its licence, it has powers to secure compliance by means of an enforcement order. If a licensee does not comply with the order, as well as potentially giving rise to third party action, compliance can be enforced by the courts and the Authority may revoke the licence.

The OFTO Licence contains financial ring-fencing provisions under which the Issuer may not make payment of a dividend (unless it has certified to the Authority that the Issuer has sufficient available resources) and the Issuer may not, without the consent of the Authority, make intragroup payments or loans (the definition of which may be wide enough to include the Bonds) where these are not on an arm's-length basis on normal commercial terms. The OFTO Licence does, however, state that any repayment of, or payment of interest on, an intragroup loan (such as the IntermediateCo Loan Note Instrument or loans (the definition of which may be wide enough to include the Bonds)) which is: (a) entered into on an arm's length basis on normal commercial terms and applied for a "Permitted Purpose"; and (b) entered into prior to the date of the relevant event giving rise to the payment lock-up, would be permitted under the OFTO Licence, provided that any such payment is not made earlier than the original due date for payment in accordance with its terms.

The OFTO Licence contains requirements to maintain a specified type of investment grade credit rating or alternative financial arrangements consented to by the Authority. Loss of the required credit rating would trigger the need to put in place alternative financial arrangements, such as a cash deposit or letter of credit or other arrangements satisfactory to the Authority.

The Authority can intervene in order to address breaches of regulation, in particular, with regard to licence conditions. The Authority monitors the quality of performance and, in appropriate cases, will take enforcement action.

The modification or revocation of the OFTO Licence could have a material adverse impact on the Issuer's ability to meet its payment obligations under the Bonds in full.

***Risk that Retail Price Index (RPI) fluctuations could adversely affect net cashflow***

The Issuer's revenue under the OFTO Licence is linked to the Retail Price Index (**RPI**) and as such is subject to inflation rate fluctuations.

Whilst some costs (like costs under the Operations & Maintenance Agreement) are adjusted according to RPI, some other costs are market driven (for example insurance and decommissioning costs). In addition, both the interest costs and debt repayments are fixed payments that are not linked to changes in RPI. To mitigate the risks associated with lower than expected RPI, the Issuer will enter into hedging arrangements swapping a proportion of the revenue over the life of the senior debt term and adjusting the size of the ERA according to RPI movements.

***Environmental regulations could increase the Issuer's costs and adversely affect profitability***

Various environmental protection and health and safety laws and regulations govern the offshore transmission business. These laws and regulations establish, among other things, standards for electrical safety and marine management, which affect the Issuer's operations. In addition, the Issuer is required to obtain various environmental permissions from regulatory agencies for its operations. The Issuer endeavours to comply with all regulatory standards. However, there can be no assurance in the future that the Issuer will be in total compliance at all times with these existing laws and regulations. There is a risk that should the Issuer fail to comply with these laws and regulations, it could incur costs required to ensure compliance or face fines imposed by the courts or otherwise face sanctions imposed by the Authority or another regulator, any of which could adversely affect the Issuer's profitability and financial position.

Environmental laws and regulations are complex and change frequently. These laws, and their enforcement, have tended to become more stringent over time. Although the Issuer has taken into account the future capital and operating expenditure necessary to achieve and maintain compliance with current and known future changes in laws and regulations, it is possible that new or stricter standards could be imposed, or current interpretation of existing legislation amended, which will increase the Issuer's operating costs by requiring changes or modifications to the assets in order to comply with any new environmental laws and regulations. Although these costs may be recoverable in part through the regulatory process under the OFTO Licence conditions, there can be no assurance of this. Therefore, there is a risk that the costs of complying with, or discharging its liabilities under, potential future environmental and health and safety laws could adversely affect the Issuer's profitability or financial position, which, in turn, could affect the Issuer's ability to meet its payment obligations under the Bonds in full.

***Counterparty insolvency***

The Issuer's main counterparty is NGET and there is a risk that if NGET suffers an event of insolvency, such event may impact its ability to continue to pay the Issuer's revenue stream, which may, in turn, impact the Issuer's ability to meet its payment obligations under the Bonds in full. This risk is mitigated by (i) NGET's own licence requirements to maintain an investment grade credit rating and ensure financial ring-fencing around its regulated business, (ii) NGET's position in the regulatory structure which enables it to recover costs from generators and suppliers, and (iii) NGET being a "protected energy company" subject to the energy administration regime which would be

expected to result in any transferee of NGET's business assuming its obligations under the electricity industry documents, such as the obligation to make payments to the OFTO. An Event of Default will occur under the Common Terms Agreement if NGET's licence is revoked and, (i) within 12 months of revocation, a replacement licence is not granted to NGET, (ii) a replacement or successor entity with similar rights, obligations and financial strength is not appointed or (iii) alternative arrangements to ensure the revenue payment obligations of the NETSO are not put in place.

Another significant counterparty is the Operator. A parent company guarantee is provided by Balfour Beatty Investment Holdings Limited in support of the Operator's obligations under the O&M Agreement. In the event of insolvency of the Operator, the Issuer would have to replace the existing Operator under the O&M Agreement. The Issuer may not be able to replace the Operator in a timely manner, nor on the same terms as the existing O&M Agreement, which may impact the costs of the Issuer and therefore its ability to meet its obligations under the Bonds. While liability caps are in place under the O&M Agreement, the Issuer has been advised that these are in line with transactions of this type, where such roles are usually sub-contracted.

GyMOWFL is an important counterparty to the Issuer in relation to the warranties and indemnities given under the SPA as well as other contracts such as the Developer Interface Agreement. The obligations of GyMOWFL under the SPA are guaranteed up to approximately 20 % of the Purchase Price by RWE Innogy UK Holdings Limited, Siemens Aktiengesellschaft and Stadtwerke Munchen GmbH.

***Special administration regime applicable to the Issuer as a holder of an electricity transmission licence***

The Energy Act 2004 provides for a special administration regime for the holders of electricity transmission licences. This regime makes provisions for an energy administration order (**Energy Administration Order** or **EAO**) and is designed to ensure the uninterrupted operation of electricity networks essential to secure supply of electricity in the event of actual or threatened insolvency of such a licence holder. An application for an EAO can only be made by the Secretary of State, or by the Authority with the consent of the Secretary of State. Upon application, a court can only make an EAO if it is satisfied that the transmission licensee is or is likely to be unable to pay its debts or that, on a petition from the Secretary of State under the Insolvency Act, it would be just and equitable (aside from the objective of energy administration) to wind up the transmission licensee in the public interest.

Where an ordinary administration application under the Insolvency Act is made in relation to a licensee by a person other than the Secretary of State, the court must dismiss the application if: (a) an EAO is in force in relation to the licensee; or (b) an EAO has been made in relation to the licensee but is not yet in force. Where either of (a) or (b) does not apply, the court, on hearing the application for an ordinary administration, is not entitled to exercise its powers under paragraph 13 of Schedule B1 to the Insolvency Act (other than its power of adjournment) unless: (i) notice of the application has been served both on the Secretary of State and on the Authority; (ii) a period of at least 14 days has elapsed since the service of the last of those notices to be served; and (iii) there is no application for an EAO that is outstanding. Upon the making of an EAO in relation to a licensee, the court must dismiss any ordinary administration application made in relation to that company which is outstanding.

No step may be taken by the holder of a floating charge or by the company itself to appoint an administrator to a licensee under paragraph 14 or 22 of Schedule B1 to the Insolvency Act if: (a) an EAO is in force in relation to the licensee; (b) an EAO has been made in relation to the licensee but is not yet in force; or (c) an application for such an EAO is outstanding. Where these requirements have not been met, the appointment takes effect only if: (i) a copy of every document in relation to the appointment that is filed or lodged with the court in accordance with paragraph 18 or 29 of Schedule B1 to the Insolvency Act (documents to be filed or lodged for appointment of administrator) has been

served both on the Secretary of State and on the Authority; (ii) a period of 14 days has elapsed since the service of the last of those copies to be served; (iii) there is no outstanding application to the court for an EAO in relation to the licensee in question; and (iv) the making of an application for such an order has not resulted in the making of an EAO which is in force or is still to come into force.

The objective of an energy administrator appointed pursuant to an EAO is to ensure that a transmission licensee's transmission system is maintained and developed efficiently and economically, and to preserve the transmission licensee as a going concern or to transfer its undertakings as a going concern to one or more other companies. This objective takes precedence over the protection of the respective interests of members and creditors of the transmission licensee, such as the Bondholders as creditors of the Issuer. Therefore, in the event that an EAO were to be made in respect of the Issuer, this could adversely affect the ability of the Issuer to meet its obligations under the Bonds. Further, there can be no assurance that creditors would recover amounts due to them in full as a result of any Energy Transfer Scheme.

### ***Security***

Consistent with similar licensing regimes (such as regulated utilities and onshore transmission and distribution) the terms of the OFTO Licence restrict the Issuer's ability to grant security over its Transmission Assets. Furthermore, no step to enforce security over the property of the Issuer may be taken by any person unless: (a) notice of the intention to do so has been served both on the Secretary of State and on the Authority; and (b) a period of at least 14 days has elapsed since the service of the last of those notices to be served. However, neither the Secretary of State nor the Authority is entitled to prevent the enforcement of a security per se. The purpose of Section 164(1)(a) of the Energy Act 2004 is to ensure that the Secretary of State and the Authority are alerted to the financial position of the relevant company in order to give them the opportunity to apply for the company to be entered into special administration, if deemed appropriate, prior to enforcement (so as to not frustrate any action that they might wish to take).

Accordingly, the security provided over the assets of the Issuer in favour of the Security Trustee in respect of the Issuer's obligations under the Bonds affords significantly less protection to the Security Trustee (and, therefore, the Bondholders) than would be the case if the Issuer were not subject to the provisions of the OFTO Licence.

The appointment of an energy administrator (see "*Special administration regime applicable to the Issuer as a holder of an electricity transmission licence*" above) effectively places a moratorium upon any holder of security and a funder would be prohibited from enforcing security against the Issuer unless certain conditions were met. Accordingly, the Security Trustee (acting on behalf of the Secured Creditors including the Bondholders) may be delayed in taking enforcement action and such delay may result in the moneys recoverable from the enforcement of the security being less than would have been recoverable had the Security Trustee been able to enforce the security at an earlier date.

### ***OFTO of Last Resort***

Additional resources may be required from the Issuer in the event the Authority directs it to act as an OFTO of Last Resort. Under the OFTO Licence the Authority may only give an OFTO of Last Resort direction to the Issuer if it is satisfied that the Issuer will be able to recover the costs of operating the relevant transmission assets in an economic and efficient manner, including a reasonable rate of return. The guidance issued by the Authority on the OFTO of Last Resort mechanism states that the OFTO of Last Resort should receive an annual revenue stream sufficient to fund an efficiently operating business and to meet the costs of purchasing the assets. Although it is expected that the Authority would, in this circumstance, modify the Issuer's annual revenue in accordance with the provisions of the OFTO Licence, there is no certainty as to how the consideration for the assets which

would transfer to the Issuer (acting as an OFTO of Last Resort) will be calculated. Guidance from the Authority suggests that the transfer value will be reflective of the net asset value after regulatory depreciation, but as of the date of this Prospectus, no OFTO has been directed by the Authority to act as an OFTO of Last Resort and so it is unclear how the process will work and what the cost implications would be to an OFTO directed to become an OFTO of Last Resort. Accordingly, if the Issuer is directed to act as an OFTO of Last Resort, it is unclear what the costs would be to the Issuer, and if all such additional costs would be recoverable under the OFTO Licence. If not, the ability of the Issuer to meet its obligations under the Bonds may be impacted. The terms of the STID require the Issuer to obtain the consent of the Senior Creditors (as an Entrenched Right afforded to the Senior Creditors under the terms of the STID) if the Issuer is required to give its consent to receive a Section E (Offshore Transmission Owner of Last Resort) direction from the Authority. The Issuer's consent is not however required in order for the Authority to issue an OFTO of Last Resort direction (see further "*Description of the OFTO Licence and the Regulatory Regime – OFTO of Last Resort*" below).

#### ***Adverse Change in Circumstance – restrictions on pass-through costs***

Extraneous events or circumstances might occur during the term of the OFTO Licence that could result in a loss of revenue, increased operating costs or require additional capital expenditure by the Issuer. The Issuer is protected to an extent against revenue losses, increased costs or additional capital expenditure incurred as a result of events or changes in circumstance through the OFTO Licence to the extent that such costs or expenditures are classified as a pass-through cost such as an income adjusting event, or by means of exceptional event protection in relation to the performance incentive. Exceptional event protection was granted to Walney 2 OFTO in November 2013 for a cable failure resulting from mechanical damage to the cable which the OFTO was not aware of and which Ofgem considered to be beyond the control of the OFTO. However, there is no guarantee that such costs or expenditures will satisfy the various criteria to qualify as an income adjusting event or other form of pass-through cost, or an exceptional event, under the OFTO Licence. For example, in the event that the Authority does not consent to a cost being passed-through, the revenue entitlement of the Issuer may not be sufficient to reflect the additional expense. There is also a £1,000,000 threshold for an income adjusting event such as force majeure or an amendment to the STC. As a result, the Issuer may be exposed to increased costs and expenditures from extraneous events or circumstances from time to time. The Issuer's insurance arrangements, the PBCE Letter of Credit, the DSRA and the ERA established by the Issuer would help mitigate the impact of extraneous events or circumstances. Notwithstanding these protections, such events could impact the Issuer's ability to meet its payment obligations under the Bonds in full.

#### ***Amendments to the STC or other industry documents***

The STC sets out the Issuer's current obligations and responsibilities. Amendments to the STC may result in increased costs of complying with the Issuer's STC obligations and, as a result the Issuer's revenues may be negatively impacted to the extent such amendments do not constitute an income adjusting event under the OFTO Licence (as discussed above). However, application of the amounts standing to the credit of the DSRA and the ERA established by the Issuer would help mitigate the impact of such amendments. Increased costs of compliance or changes which do not constitute an income adjusting event may impact the ability of the Issuer to meet its payment obligations under the Bonds in full.

#### ***Third Package certification***

The Issuer has an ongoing obligation to comply with the unbundling requirements of the Third Package and with the certification conditions specified by the Authority. The Issuer's certification could be withdrawn by the Authority in certain circumstances and this may result in revocation of the OFTO Licence. The Issuer's business depends entirely on it being the holder of the OFTO Licence.

If the OFTO Licence were to be revoked, the Issuer would be unable to earn revenue and, consequently, the Issuer's ability to meet its obligations (including the payment of principal and interest) under the Bonds would be impacted. Changes in the Issuer's shareholding arrangements (such as the change of control of Equitix Transmission 2 Limited which completed on 2 February 2015) could affect its ability to remain certified, as its shareholding arrangements are a factor in the Authority continuing to certify compliance with the Third Package. There is also a risk that enforcement of share security may not comply with the certification criteria required by the Authority and the Issuer may be required to request the Authority to apply its discretion to treat certain criteria as met in these circumstances in order for the Secured Creditors to enforce the share security. As at the date of this Prospectus, there is little information available as to how the Authority would act in any of these situations. Whilst there can therefore be no guarantee as to how the Authority may choose to exercise this discretion, the Issuer has been advised that the risk of the Issuer's certification being revoked as a result of the recent change of control of Equitix Transmission 2 Limited is remote.

### ***Incremental capacity***

Due to the evolving nature of electricity transmission requirements, the Issuer may be required to make additional capacity available to new or existing electricity generators as long as the cost of the additional capacity does not exceed 20 per cent. of the capital cost of the Issuer's Transmission Assets. The Issuer intends to meet this obligation (if required to do so) by issuing Further Bonds, subject to and in accordance with Condition 15 (*Further Bonds*), which would be fungible with the existing Bonds. Although there are mechanisms provided in the OFTO Licence to adjust the Issuer's revenue stream to cover these capital costs and related operating costs, the Issuer's revenue entitlement will be determined by the Authority on a case-by-case basis and may differ from the uplift in revenue the Issuer believes it is entitled to. Accordingly, the Issuer may be required to incur costs to provide such additional capacity which may not be covered by a corresponding adjustment in the Issuer's revenue entitlement, which may impact the ability of the Issuer to meet its payment obligations under the Bonds in full. This risk is mitigated by the fact that the additional financial indebtedness incurred pursuant to the issue of those further Bonds will only be Permitted Financial Indebtedness if, among other things, (a) no Event of Default or Potential Event of Default is subsisting or would occur as a result of the issue of those further Bonds; (b) the financial ratios adjusted pro-forma as if those Further Bonds had been issued on the first day of the most recently completed Calculation Period would be equal to or greater than the higher of (i) the applicable Lock-Up Ratio Level or (ii) the level of those financial ratios on the most recent Calculation Date before the occurrence of that financial indebtedness; and (c) the issue of those Further Bonds would not cause the then current long-term credit rating of the Bonds to be reduced.

### ***Performance Security***

The Issuer may be required to provide performance security in respect of its provision of additional capacity (discussed above) in an amount equivalent to the sum of (a) 20 per cent. of the forecast offshore construction cost and (b) the liquidated damages liability, under any construction agreement entered into with NGET for the provision of that additional capacity.

To encourage adequate performance of its OFTO Licence obligations towards the end of the revenue stream, the Issuer will also be required to arrange to put in place financial security to cover future financial liabilities by no later than 16 years after the date the OFTO Licence comes into force. The amount of financial security required is not less than 50 per cent. of the base transmission revenue. The Issuer currently intends to provide this by way of a letter of credit at the relevant time. This is permitted under the Finance Documents, provided that any counter-indemnity given in respect of that letter of credit is not given by an Obligor. Accordingly, if any counter-indemnity is so given by an Obligor, the ultimate liability would remain with the Shareholders of the Obligors and not the Issuer.



### ***Availability Incentive Mechanism***

The availability target for the Issuer is currently set by Ofgem at 98 per cent, with the monthly weighted value affecting the credits earned or penalties incurred being the lowest in the months of May through August to incentivise the Issuer to carry out its maintenance when the wind farm generated output is expected to be at its lowest. The Issuer has the opportunity to earn credits for performance in excess of its availability target, which are offset against certain other performance shortfalls to reduce deductions to a certain extent (See "*Description of the OFTO Licence and the Regulatory Regime – OFTO Licence – Availability Incentive*").

The Issuer may be penalised through a reduction in its revenue stream for failing to meet its performance target for availability set out in the OFTO Licence. A number of the risks described below, for example collision, anchor strike, cable fault or offshore transformer failure, may affect the ability of the Issuer to achieve its availability target. However, this penalty is subject to an annual cap of 10 per cent. of the Issuer's base revenue. Further, this penalty will not be applied to the extent that the event which caused a reduction in availability was wholly or partially caused by an exceptional event, although there is no certainty as to what will be determined by the Authority to be an exceptional event. The risk of penalties incurred by the Issuer because of a failure to meet its performance target is also mitigated by the mechanism that any eligible credits accrued by the OFTO under the licence (for performance in excess of the relevant performance target up to a cap) are offset against any penalties, such that where sufficient credits exist, penalties will be erased by available credits first and thus not incurred as penalties. (See "*Description of the OFTO Licence and the Regulatory Regime – OFTO Licence – Availability Incentive*".)

The Issuer has been advised that, based on conservative assessments of planned and reactive maintenance periods, a lifetime availability of 99 per cent. is deliverable and availability in excess of this should be achievable. The National Electricity Transmission System Performance Report 2013-2014 published by National Grid reports that aggregate availability for the period 2013-2014 is 99.43%<sup>2</sup>.

### ***Relevant Interruptions***

The Issuer may also be liable under the STC to make payments to NGET in respect of relevant interruptions in availability. However the OFTO Licence provides for interruption payments charged by NGET to the OFTO in accordance with the STC to be a pass-through cost, which pass-through cost is stated to include any financing or other costs so as to ensure that the financial position and performance of the OFTO is, insofar as is reasonably practicable, the same as if those costs had not been incurred.

Further, given that the form of Connection Agreement provided to the Issuer contains a clause which requires GyMOWFL (except to the extent alternative operating arrangements are implemented to mitigate the outage or circuit restrictions) upon request from NGET to restrict output in the event of an outage or restriction on certain circuits, which circuits appear to correspond to various Transmission Assets of the Issuer, a relevant interruption payment under the STC may not in fact arise in the first place. This is however not in the Issuer's control so there is no guarantee that this will apply.

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<sup>2</sup> NGET consolidated data for UK OFTOs (excluding non-OFTO outages of OFTO assets) <http://www2.nationalgrid.com/UK/Industry-information/Electricity-transmission-operational-data/Report-explorer/Performance-Reports>

## ***General Operational Risks***

As at the date of this Prospectus, there is a limited operational history of the Transmission Assets. The operation of the Transmission Assets is a technical undertaking that is subject to a number of factors outside the control of the Issuer. These factors include the marine environment, which may curtail access to the OSPs under certain weather conditions and which may lead to changes in the topography of the seabed. Given the nature of such factors it is not possible to accurately predict their future impact on the operation of the Transmission Assets.

The Issuer has sought to mitigate the general operational risks of which it is aware (through contractual provisions with third parties, due diligence and insurance), but the operational risks faced by the Issuer may still impact on the Issuer's financial position, which may in turn impact the ability of the Issuer to make payments under the Bonds in full. The Operator will enter into arrangements with each of Natural Power, Siemens, James Fisher and Briggs to respond to onshore and offshore incidents aiming to minimise loss to availability of the Transmission Assets. A 24 hour control centre will organise an immediate response to urgent alarms. Remote diagnostics will be provided by Natural Power with a 24 hour help desk available. Other aspects of the Issuer's rapid response plan include pre-defined and pre-approved contingency plans, access to spares and access to vessels.

Siemens, the original equipment manufacturer, has been responsible for the system design and equipment supply. The installed electrical circuits use modern, high reliability transmission equipment, which the Issuer has been advised has been designed to achieve very low failure rates, with only minimal outages required for planned maintenance throughout its life. The circuits are protected by transmission protection schemes incorporating modern electronic relays and condition monitors which can give early warning of incipient faults and post fault diagnosis to ensure efficient response in the event of an incident.

In the event of an operational failure of the Transmission Assets, the Issuer may face unplanned expenditure, and/or delays in completing the necessary repairs and/or remedial works owing to a lack of available spares, specialist technical resource and access to appropriate vessels. Delays may lead to prolonged outages and an extended loss of availability, which may impact the Issuer's revenue stream. The Issuer has been advised that it is likely to have mitigated this risk by having in place a comprehensive maintenance package via the O&M Agreement and the fact that it has available both one spare offshore and one spare onshore transformer, 1.554km of spare export cable, spare joints and termination kits, together with access to a comprehensive set of operational spares, technical resource, and access to appropriate vessels. The Issuer has made provision in its financial model for unplanned repairs and has access to the ERA to help service such repairs. An impact on the Issuer's revenue stream in these circumstances could impact the ability of the Issuer to meet its payment obligations under the Bonds in full.

There are certain defect warranties and commitments to carry out outstanding works available to the Issuer. These are covered in the Description of Project Documents section of this Prospectus below. Nevertheless, if a defect arose which was not covered by the arrangements discussed above, the Issuer would be responsible for the cost to remedy such defect, which may impact its ability to make payments under the Bonds in full.

## ***Health and Safety***

The offshore transmission industry is exposed to the risk of accidents which could (i) result in injury or loss of human life, damage to infrastructure and/or other property and short or long-term interruption to the Transmission Assets, (ii) expose the Issuer to legal claims and (iii) have a negative impact on availability, in turn negatively impacting the Issuer's revenue (subject to the cap described in the Risk Factor "*Availability Incentive Mechanism*" above).

These risks have been mitigated by the Issuer putting in place procedures designed to provide a safe system of work for all activities, including those taking place offshore and those involving high voltage equipment.

### ***Risk of collision***

There is a risk that a vessel could collide with one of the OSPs. This risk is partially mitigated by the placement of the OSPs within the turbine array away from shipping routes and in shallow water (16m) which reduces the possibility of vessels colliding with and causing damage to the OSPs. Vessels operating within the area are subject to dedicated marine control. The Issuer's marine controller also has access to a system which tracks all vessels in the vicinity and he has the ability to contact the coastguard if the course of a vessel appears to threaten the Transmission Assets.

During monitoring of, or repairs to, the Transmission Assets, there is a risk of collision between the vessels for which the Issuer's sub-contractors are responsible and other vessels sailing in the area. This could give rise to dispute and the Issuer may be drawn into these disputes. Accordingly, following a collision, the Issuer could be exposed to litigation costs and there could be a negative impact on the Issuer's reputation. Any repairs to the submarine cables will be subject to a licence from Natural Resources Wales (**NRW**) which will set down requirements in relation to ensuring the safe passage of shipping e.g. advice to the coastguard of local shipping and replacement of special buoys, which should reduce the possibility of vessels colliding. The Issuer intends to instruct its sub-contractors to arrange for the vessels used by them to carry insurance against the risk of collision.

The Issuer has been advised that these risks are also mitigated by the insurance arrangements which the Issuer is putting in place in respect of its business.

### ***Anchor strike affecting the submarine cables***

There is a risk that the cables could be subject to anchor strike or damage from fishing gear.

The Issuer understands that no designated or ad hoc anchorages are found to exist close to the GyMOWFL cable routes and the risk from commercial shipping is that vessels subject to some form of emergency whilst close to a cable may deploy or drag an anchor onto a cable.

The Issuer understands that the most prevalent vessels are in the size band of 500 to 15,000 dead weight tonnage. The larger vessels in this band deploy anchors weighing nearly 6 tonne and a stockless anchor of this size will penetrate to approximately 0.49 metres in sands, over firm to stiff clays and up to 1.35 metres in sand. (NCEL 83-08R indicates that ships anchors will penetrate about to a fluke length in sand, a half-length in hard soils (clays) and 3-5 lengths in mud.) Although larger vessels with larger, deeper penetrating, anchors are present in the area, the Issuer is advised that the vessel numbers are much smaller and the probability of an incident involving one of these vessels is consequently very low in comparison. The target burial depth design takes account of the size of ships and anchors. The Issuer has been advised that there is a mixture of sands over firm to stiff clays, sands, and sands overlying soft clays along the cable routes. The majority of the cable route is sand over the firm to stiff clay that is known to be resistive to penetration by anchors and fishing gear.

Seabed movement may cause the cables to become uncovered and be more exposed to external impact.

It should be noted that the cables have already been buried by a variety of techniques and specific cable protection has been applied at the cable crossings and where the export cables have had to be jointed. The protection work is based on cable crossings best practice guidelines proposed by the ICPC. The risk is further mitigated by a programme of surveys of the seabed over the life of the Transmission Assets. If remedial action is required, the Issuer may incur costs and lost revenues

which may not be recoverable under the revenue mechanism in the OFTO Licence, which may impact availability of the Transmission Assets (as to which, see " – *Availability Incentive Mechanism*" above) and the ability of the Issuer to meet its payment obligations under the Bonds in full.

### ***Cable fault***

There is a risk that one or more of the cables may develop an internal fault, which could lead to outages and may negatively impact the Issuer's revenue stream and the availability of the Transmission Assets (as to which, see " – *Availability Incentive Mechanism*" above), which may, in turn, impact the ability of the Issuer to make timely payments under the Bonds. The Issuer has been advised that this risk is low because the equipment design selected is well established for application in AC subsea circuits and has very low failure rates. An external cable fault could be caused by damage following anchor strike, fishing activity or trawl damage, although the Issuer has insurance against this type of risk. Further, the Issuer has been advised that it is likely to have mitigated the impact of an outage through the provision of cable repair kit, including 1.554km of spare export cable and 3 offshore joints, and arrangements with suitable repair vessel operators. In the event that additional spare cable is required the time to procure will depend on the length of cable required. For long lengths procurement could take up to two years.

The basic design of the electrical system comprises four offshore circuits normally operated as independent systems, each comprising one offshore transformer and one 132kV export cable, with the onshore transmission assets configured to operate as two independent systems, offering a degree of resilience to the loss of any one major asset. The export cables are each configured to connect up to 50% of the rating of each OSP substation capacity during normal operation (144MW maximum output per cable). This equates to the output of approximately 40 WTGs per cable. The loss of any single offshore 132 / 33kV 160MVA transformer or any single 132kV export cable circuit results in a loss of nominally 25% of the overall offshore transmission capacity. The loss of any single onshore 400/132kV 320MVA transformer results in a loss of nominally 50% of the overall offshore transmission capacity.

The four export cables were planned to be laid in complete lengths without any subsea joints. However, a field joint was required to export cable 1 (SSEC 3) as a result of having to abandon cable lay operations due to a mechanical failure suffered by the cable laying vessel. (See further "*Description of Project Documents – SPA – Outstanding Works*" below.) The Issuer has been advised that on completion of cable lay, export cable 1 (SSEC 3) has one field joint. Also export cable 2 (SSEC1) has two joints following a repair made to correct a cable fault caused by mechanical impact damage (see below). Due to the greater degree of environmental control during jointing and the more rigorous testing that can be conducted within the factory, factory joints are regarded as a more reliable joint than a field joint. However, the Issuer has been advised that the risk of failure of both types of joints is very low.

A fault occurred on cable 2 (SSEC1) on 9 December 2013 shortly after the circuit was put into service. The Issuer has been advised that the fault was located 2.5km from OSP East and was successfully repaired in July 2014 (repairs being carried to align with planned outage works) and has been in service since with no reported issues. The Issuer has been advised that the fault was due to mechanical damage thought to be caused during installation and it is not expected to have occurred elsewhere now that the other export cables have been loaded.

The Issuer is planning to adopt active management techniques to achieve improvements in post fault availability, maximising outputs by utilising allowed overload capacity, by taking into account local weather conditions, cyclic loadings corresponding to the intermittent generation from the Gwynt y Môr Offshore Wind Farm, and using existing temperature sensing equipment to monitor temperatures within the cable.

### ***Offshore transformer failure***

An offshore transformer failure could result in extended outage and loss of availability in circumstances where it is difficult to repair the failure on the platform or where a replacement is required. For example, a fault involving the windings and/or the magnetic core could not be repaired in situ and would require the transformer to be removed for replacement or repair. The Issuer has been advised that, in good market conditions, repairs which cannot be undertaken in situ could take between three and six months and, again in good market conditions, a replacement transformer could take between 12 to 18 months to procure and install. In such a situation, the level of disruption caused by such a fault has been partially mitigated as the roof of the OSP is removable in sections by crane, facilitating an easier removal process than if the roof was permanently affixed to the structure. The risk of a serious failure developing during the 20 year revenue period under the OFTO Licence is, in the Issuer's opinion, minimal, but such a failure could reduce the Issuer's revenue entitlement, which may, in turn, impact the ability of the Issuer to meet its payment obligations under the Bonds in full. This risk is further mitigated through the availability of a spare offshore transformer, stored at the Port of Mostyn, transferred to the Issuer under the SPA, which the Issuer has been advised will significantly reduce the time required to restore the circuit to service.

In the event of the failure of a single offshore cable or transformer, the transmission asset is capable of 80% or more availability by the use of active management techniques.

### ***Actual electrical equipment capacity does not meet design capacity***

There is a theoretical risk that the electrical equipment cannot carry the output of 574MW on a continuous basis. The design of the Transmission Assets follows the principles established on a number of similar offshore assets. The major electrical assets such as switchgear and transformers are rated to carry continuously the maximum load which can be expected during normal operation. The export cables have a cyclic rating, which means that the cables are designed to operate safely within their operating limits when carrying the intermittent output of the wind farm. The Issuer has been advised that the switchgear and transformers are adequately rated for the continuous duty required to meet the contracted transmission capacity of 574MW.

The export cable ratings have been based on designs produced by NKT and verified by electrical studies carried out by Siemens. The Issuer has reviewed the reports produced by NKT and Siemens, and an independent assessment of the 'as-built' cable ratings has been carried out by a technical advisor to the Issuer, based on the 'as-built' documentation received for the cables and with assumptions applied where data was not available. This assessment confirms that the cable ratings are suitable for the export duty required by Gwynt y Môr Offshore Wind Farm. A review of the in service cable temperature data by the technical advisor indicates that there is no problem with the rating of the export cables in practice.

### ***Supervisory Control and Data Acquisition (SCADA) system for the Transmission Assets***

The SCADA system is a computer-based system used to provide data on the condition and status of, and send instructions to, particular pieces of equipment. The Gwynt y Môr Offshore Wind Farm has four SCADA systems: the wind turbine SCADA, the wind farm SCADA, the OFTO SCADA and the 400kV Micro SCADA each of which operate independently, but interface with each other. Only the SCADA system relating to the Transmission Assets (OFTO SCADA and 400kV Micro SCADA) has been transferred to the Issuer under the SPA. The Issuer has been advised that should either the Issuer or GyMOWFL require access to the other party's system, the SCADA access arrangements are appropriately addressed within the Interface Agreement. BBUS are responsible within their fixed price fee for the SCADA lifecycle.

### ***Sub-contractor Performance***

The Issuer is dependent upon operation and maintenance contractors for the operation and maintenance of the Transmission Assets. In particular, the Issuer is reliant upon the Operator – see also above "*Counterparty insolvency*". The Issuer's ability to operate the Transmission Assets could be adversely affected if its contractors are unable to conduct the required services and/or meet the required service level requirements and standards. Furthermore, the performance of the Issuer's contractors could affect its reputation in the event the services are not performed properly and to the required standard. The Issuer has been advised that this risk is mitigated because the Operator is experienced in the field of installing, operating and maintaining utility infrastructure, is an affiliate of one of the Shareholders and is sub-contracting certain activities to Siemens, who are experienced in maintaining these assets, and Natural Power, who are experienced in grid operations. For approximately the first six weeks post asset transfer RWE will be undertaking the planned maintenance activities and will be responsible for the monitoring of the assets to assist in a smooth transition of the responsibilities. The Operator is also subject to availability incentives to perform under the O&M Agreement (including a share of the benefits of higher availability and a share of availability penalties). The Issuer has been advised that the proposed arrangements with the Operator are in line with good industry practice.

Payments to the Operator for unplanned maintenance are not the subject of a fixed fee so there is a risk that unplanned maintenance payments could exceed the budget for those costs. The Transmission Assets generally require only inspection and testing at annual intervals which reflects the unmanned nature of the OSPs and substation. The Issuer will manage unplanned maintenance costs via (i) the Monitored Operating Cost Mechanism with technical advisor input, (ii) all costs greater than £5,000 will need to be approved by the board of directors and (iii) the Owner's Representative will be responsible for the oversight of unplanned maintenance and the activities of the Operator with input from a technical advisor - see further "*Summary of the other Transaction Documents – Common Terms Agreement*".

Although the Operator has in place a call-off arrangement for access to vessels for maintenance activities, a major repair may require the use of a specialised vessel, of which there are a limited number, and difficulties in obtaining access to such a vessel may result in increased maintenance costs, delays and loss of revenue.

Failure by the operation and maintenance contractors to undertake proper operation and maintenance of the Transmission Assets may result in the Issuer suffering losses to its Transmission Assets (whether due to decreased capacity and performance of the Transmission Assets or the cost of entering into new arrangements with other operation and maintenance contractors on more expensive terms), which may impact the ability of the Issuer to make its payment obligations under the Bonds. The Operator takes a share of any of the availability penalties incurred by the Issuer which are caused by the Operator or one of its sub-contractors. The Issuer has been advised that while the O&M Agreement should enable ready identification of whether the unavailability is due to poor performance of any of the planned maintenance, it should be noted that in some instances, identification of this nature can be hard to determine. In such instances, the availability penalty would be borne by the Issuer.

The Issuer has already agreed with the Operator the first annual and five year maintenance plans, both of which are included as schedules to the O&M Agreement. The Issuer has been advised that the proposed plans are adequate to satisfy the O&M required to maintain target availability.

### ***Third Party Activities or other External Events***

There is a risk that the parties carrying out activities in the vicinity of the Issuer's Transmission Assets, such as NGET, GyMOWFL, Dong Energy Burbo Extension (UK) Limited and crossing cable

counterparties, could interfere with or damage the Transmission Assets. This risk is mitigated by the provisions within the Interface Agreement with GyMOWFL and within the crossing agreements and the other agreements with NGET and Dong Energy Burbo Extension (UK) Limited, who are the developers of the extension to the Burbo Bank Wind Farm, which is planned to be to the east of the Gwynt y Môr Offshore Wind Farm. If crossings are required for other developments in the future, then the Issuer would need to negotiate such additional crossing agreements at the time, and subject to the terms of the Finance Documents. Accordingly, although it is anticipated that such agreements would be based upon industry precedent, it is uncertain what the terms of those agreements would contain and what additional liabilities, if any, would be placed on the Issuer.

***Events such as terrorist attacks, natural disasters or other similar events could also result in damage to or destruction of the Transmission Assets, but are considered by the Issuer to be remote risks***

If the Issuer's Transmission Assets were to suffer damage, the cause of which was not covered by the insurance policies which the Issuer has in place, the Issuer may suffer high costs to restore the Transmission Assets (and may also be penalised through a reduction in its revenue stream for failing to meet its performance target for availability set out in the OFTO Licence; see further "*Availability Incentive Mechanism*" above), which may impact the ability of the Issuer to meet its payment obligations under the Bonds.

The Issuer is generally dependent on obtaining exceptional event treatment from the Authority to protect against any loss of revenue. Exceptional event treatment depends upon the Authority exercising the powers available to it for that situation at the relevant time.

### ***Insurance***

The Issuer maintains insurance coverage with reputable insurance providers with long-term credit ratings of at least A3 (Moody's) or A (S&P or Fitch), consistent with the generally accepted practices of prudent offshore transmission operators, including public liability cover and coverage against events such as terrorist attacks, natural disasters or other similar events which could result in personal injury, loss of life, pollution or environmental damage, severe damage to or destruction of the Transmission Assets. Additionally, the Issuer carries insurance for damage (and equipment failure) incurred in the normal course of business activities. The Issuer has been advised that the requirements of the Project Documents are met through the proposed insurance requirements (see further "*Summary of the other Transaction Documents – CTA – Covenants – Insurance Requirements*").

The Issuer's property damage cover is placed on an estimated maximum loss basis in accordance with Crown Estate Lease insurance requirements. The Crown Estate has agreed the level of estimated maximum loss.

However, not all risks are insurable, for example the risk of having to rebury the cable if it becomes uncovered by seabed movement (which the NRW permits require the Issuer to check for following a major storm) would not be insured except to the extent there was related damage to the cable.

### ***Damage to Third Parties***

The Issuer's activities may result in damage to third parties. As described above, the Issuer maintains public liability insurance. However, uninsurable risks or shortfall in insurance payments may contribute to the costs provision for which the Issuer does not have provision which may in turn impact on the ability of the Issuer to meet its payment obligations under the Bonds in full.

***Insurance cover may not be adequate to meet reinstatement costs, increased expenses or other losses or liabilities***

Insurance will be renewed annually and the premia, level of deductible offered as well as overall availability of insurances may be affected by various factors, including project/sector specific factors (e.g. claims, values, market capacity) or factors deriving from the wider insurance market (e.g. impact of claims, force majeure losses, market cycle) or the global economic situation. In the future, the Issuer may face increased insurance costs, which may affect its financial position. The Issuer has mitigated some of the risk of increased insurance costs by accounting for the inflation effect on premiums year on year in the financial model, by using higher deductibles and by reserving amounts in the ERA to cover the liquidity requirement of higher deductibles. However, there can be no assurance that the Issuer will be able to enter into policies on substantially the same terms or at the same cost as at present. Any such additional costs (or loss suffered because of a change in the scope of future insurance policies) may impact the ability of the Issuer to meet its payment obligations under the Bonds in full.

The Issuer is also dependent upon the ability of the relevant insurer to make payments under the terms of the insurance policy in respect of a valid claim. However, the Issuer is required to maintain insurances in accordance with the terms of the CTA, which require (among other things) such insurances to be taken out with reputable providers with long-term credit ratings of at least A3 (Moody's) or A- (S&P or Fitch) (see further "*Summary of the other Transaction Documents – Common Terms Agreement – Insurance Requirements*" below).

***Network Rail Lease***

Under a lease of easement dated 4 April 2011 between Network Rail Infrastructure Limited and Gwynt Y Môr Offshore Wind Farm Limited (which forms part of the land over which the onshore transmission cable runs) the Issuer must insure with insurers approved by Network Rail in respect of all public liability risks or damage or injury (whether by Network Rail or any third party, including consequential loss) arising out of the exercise of the rights granted by the lease of easement or from any failure or defect in the cable or equipment installed on the land over which rights are granted under the lease of easement, for a sum of not less than £150,000,000. The Issuer has obtained approval from Network Rail as to the identity of their insurers and will be making arrangements immediately following the issue of the Bonds to put a policy in place to cover the relevant risks for the required insured sum.

***CE Lease Indemnity***

Under the terms of the CE Lease, the Issuer is liable to indemnify the Crown Estate as landlord for losses and damages and liabilities incurred or suffered by the Crown, directly or indirectly as a result of claims, actions or proceedings in connection with the use, existence or occupation of the Transmission Assets; including their state of repair and condition and or any breach by the Issuer as tenant of the covenants in the CE Lease. The indemnity is uncapped.

Absent breach of covenant, the Issuer would anticipate the majority of any such claims that could be made under this indemnity to be covered by its insurance. However, any shortfall may contribute to the costs for which the Issuer does not have provision which in turn may impact on the ability of the Issuer to meet its payment obligations under the Bonds in full.

***Outstanding works***

There are certain outstanding works in relation to the Transmission Assets some of which should have been completed pursuant to the construction contracts prior to the Acquisition. These include works to ensure the Transmission Assets are compliant with the STC, snagging works, completion of array



cable transits, rock berm (which involves additional protection for sections of the cable) requirements in relation to the offshore supply cables, and remedial works to an onshore hotspot, as well as an offshore temperature anomaly.

In relation to the offshore temperature anomaly, further investigation is being carried out. All four cables are monitored by distributed temperature sensing equipment using optical fibres embedded within the export cables. The temperature profile for SSEC3 has an anomaly at the location of the offshore joint which was inserted in SSEC3 during the original cable installation. The reason for the temperature anomaly is likely to be as a result of the metallic sheath of the fibre optic cable (FOC) being incorrectly earthed. The straightforward resolution of the temperature anomaly is to repair or replace the subsea joint, in summer 2015. In the interim the developer is investigating an alternative solution involving a reconfiguration of the FOC earthing connections. If the alternative solution is assessed as being technically and commercially robust then the temperature anomaly can be quickly resolved. Until a solution is implemented the cable will run at a reduced capacity. It is not expected that there would be a reduction in revenue resulting from this matter due to the licence protection described below. Loss of revenue for this matter may also be recoverable from GyMOWFL under the SPA, subject to the limitations of liability in the SPA. The Issuer's rights against the SPA Counterparties in relation to lost revenue resulting from this are described in "*Description of the Project Documents – Sale and Purchase Agreement – Outstanding Works*" below.

Pursuant to the SPA, GyMOWFL has undertaken to ensure the performance of the outstanding works. There is a risk that the outstanding works will not be successfully completed by GyMOWFL within the required timeframes and the Issuer may then elect to complete these works. Although GyMOWFL will be responsible for the costs of performing the outstanding works, even, for a certain period, if the works are elected to be completed by the Issuer, and will be responsible for certain losses (generally excluding loss of revenue) suffered by the Issuer in connection with the outstanding works up to an agreed cap, these costs may need to be enforced contractually against GyMOWFL. Furthermore, these costs are subject to an overall cap and capped amount which is different for each item of work, although these caps have been negotiated to take account of the expected costs of carrying out each item of work. The Issuer has been advised that these caps are appropriate.

For certain of the items where an outage is anticipated, the Issuer has negotiated revenue protection under the licence from Ofgem and the licence protections obtained are described in the section on "*Description of the Licence and the Regulatory Regime – Availability Incentives*" below and/or loss of revenue protections from the SPA Counterparties under the SPA, subject to the limitations of liability in the SPA. (See further "*Summary of the Project Documents – Sale and Purchase Agreement – Outstanding Works*" below.)

The outstanding works may have an impact on the cashflow of the Issuer and, in turn, on the ability of the Issuer to meet its payment obligations under the Bonds in full.

### ***Marine Licence***

The Marine Licence includes certain other obligations which must be complied with by the Issuer in relation to the Transmission Assets. The final Marine Licence in relation to the Transmission Assets was granted to the OFTO on 9 February 2015, shortly ahead of the signing of the SPA. The Issuer may be required to make expenditures in relation to these obligations which are not considered to be pass-through costs pursuant to the OFTO Licence (and which may not be covered by the insurance); failure to do so may result in fines and/or regulatory action, which may impact the ability of the Issuer to meet its payment obligations under the Bonds. Should the Issuer's obligations under the Marine Licence change during the 20 year revenue period, the Issuer may be entitled to a revenue adjustment under the OFTO Licence as additional obligations imposed by the Marine and Coastal Access Act 2009 are one of the categories of pass-through costs under the OFTO Licence, although there may still be a cashflow impact on the Issuer in relation to timing of recovery of pass-through costs. However,

there can be no certainty that all such changes will result in a revenue adjustment under the OFTO Licence. In such a case, the costs would be borne by the Issuer, which may impact the ability of the Issuer to meet its payment obligations under the Bonds.

There is one section of the cable SSEC3 which requires further protection works. The Issuer has mitigated this risk in the SPA by allocating responsibility to GyMOWFL to carry out the works required (see above "*Outstanding works*").

### ***Decommissioning***

The Issuer has made a provision for decommissioning liabilities. To the extent that this provision is insufficient, the risk remains with the Issuer unless it is considered to be a pass-through cost pursuant to the OFTO Licence. The pass-through cost provisions in the OFTO Licence in relation to decommissioning costs only relate to additional costs and/or expenses due to a change in legislative requirements but not to changes in the scope of cost of decommissioning arising from other reasons.

Security may be required to be provided including to the Secretary of State for the decommissioning plan which the Issuer is required to submit to the Secretary of State pursuant to the Energy Act 2004. The Issuer will submit its proposed decommissioning plan following Completion based on the existing GyMOWFL decommissioning plan, which the Issuer understands has been accepted by the Secretary of State.

The Issuer may be required to bring forward its decommissioning plan, in the unlikely event that the Crown Estate Lease is terminated. This may occur if, for example, (see further "*Description of the Project Documents – Offshore Property*" below), (a) the OFTO fails to pay rent during any period of non-operation (this only occurs at a point when the Wind Farm served by the Transmission Assets has been decommissioned to a stage where the requirement for the Transmission Assets has permanently ceased so it is unlikely this rent will be due) or (b) the OFTO ceases to be licensed to operate the Transmission Assets (by the Authority or its successor) and is not taking reasonable steps to assign the lease to another who is so licensed and (c) on reasonable notice if the Secretary of State requires the Crown to terminate the Crown Estate Lease because the site on which the Transmission Assets are located (or rights over that site) are required for Oil and Gas Works (see "*The Oil and Gas clause in Crown Estate Lease*" below). If the site is not needed for oil and gas works and the Wind Farm were still operating then it would be expected that, instead of the Issuer decommissioning the Transmission Assets, the Authority would appoint an OFTO of Last Resort and that there would then be a transfer of the Issuer's Transmission Assets to that OFTO. In respect of the risks to the Issuer in an OFTO of Last Resort situation, see above "*OFTO of Last Resort*".

The full costs of decommissioning may not therefore be recoverable by the Issuer. Although the Issuer will have reserve accounts in respect of decommissioning liabilities to the Secretary of State (from year 11) any requirement for any additional security to the Secretary of State which is within the discretion of the Secretary of State may also contribute towards costs for which the Issuer does not have provision. Any such costs may impact the ability of the Issuer to meet payment obligations under the Bonds in full. The Issuer has been advised that, taking account of the work required and type of specialist vessels required, the estimated costs for decommissioning are reasonable.

Under the Energy Act 2004, the Secretary of State may impose obligations in relation to a decommissioning plan on associated body corporates of the Issuer. The definition of an associated body corporate is broad. An "associated body corporate" includes an entity which possesses, or is "entitled to acquire", a 50 per cent. or more interest (including by way of shares, voting rights or entitlement on winding up) in a "person responsible", or which has the power, directly or indirectly, to secure that such person's affairs are conducted in accordance with its wishes. Due to the broad definition, there is a risk that the Secured Creditors could therefore be subject to decommissioning obligations in certain circumstances.

### ***The Oil and Gas clause in Crown Estate Lease***

The Crown Estate Lease includes a standard provision which provides that the Crown Estate may terminate the lease (in whole or in part) where the Secretary of State requests that it do so because the sites (which are the two circular areas on the seabed on which the two locations of the offshore platforms are built) are required for oil and gas works or rights are required over that site or any part of it for oil and gas works, including installation of pipelines, platforms or other works for the exploration of oil and gas. There is no provision for the payment of compensation to the Issuer, as lease holder, in these circumstances. However, a ministerial statement published in July 2011 by the then Secretary of State (the **Ministerial Statement**) stated that he would not consent to a request for a lease to be determined in accordance with this provision unless the oil and gas licensee had first agreed payment of appropriate compensation to the relevant Crown Estate lease holder for the loss of value of its interests. Further, that if agreement had not been possible between the affected parties the Minister might then look to appoint an independent third party to resolve the matter of the level of compensation. The Ministerial Statement did not however, make clear how the amount of compensation would be determined (and by whom, and if there would be available any grounds of appeal (or to whom)) if the oil and gas licensee demonstrated that it had exercised all reasonable endeavours to reach agreement with the Crown Estate lease holder (i.e. the Issuer), but was unable to do so. More recently (June 2014), guidance has been published that confirms that the Secretary of State would prefer the parties to agree commercially at an early stage a solution to any conflict between the proposed oil and gas development and the wind farm (including compensation payments), but if this cannot be agreed the proposed oil and gas developer can apply to the Secretary of State who can appoint an independent third party to assist in determining the application, which determination would include (a) whether the lease of the whole or any part of the windfarm needed to be determined (b) what the smallest area reasonably necessary for the oil and gas development was and (c) the amount of compensation due (to the extent not agreed between the parties). If the lease is terminated, the Issuer would be forced to decommission its Transmission Assets, and if it does not receive sufficient compensation it would suffer a loss of revenue which would impact the ability of the Issuer to make payments owed by it under the Bonds in full.

### ***Repositioning supply cables***

The Crown Estate may require the Issuer to divert any or all of the supply cables. This diversion could disrupt the Transmission Assets and result in additional regulatory approvals and/or consents being required, including those arising pursuant to environmental laws and regulations. However, the Crown Estate is obliged to pay for the costs and expenses reasonably incurred by the Issuer (including reasonable compensation for loss of income) which may be sustained as a direct consequence of the required diversion. If there is a delay in receipt of compensation from the Crown Estate, or insufficient compensation is received from the Crown Estate, this may impact the ability of the Issuer to make payments owed by it under the Bonds in full.

### ***Judicial review***

There is a risk that decisions of the Authority in exercising its regulatory functions could be challenged under the principles commonly referred to as "judicial review". If such a challenge occurred and was successful, the relevant exercise by the Authority of its regulatory function would have to be revisited, potentially giving rise to delay and the exercise of that function in a different way from the way in which it was exercised prior to the challenge. Any delay or revisited decision could give rise to additional costs and/or the Issuer suffering a loss of revenue, which may impact the ability of the Issuer to meet its payment obligations under the Bonds in full.

### ***Potential litigation claims***

There is a risk that future maintenance operations on the Transmission Assets may have a negative impact on the local fishing community, which may result in claims being brought against the Issuer. In such future instances, the Issuer has been advised to liaise with the local fishing community to reduce the impact of maintenance operations, but should a claim be brought, the Issuer may be required to pay compensation and legal costs, which may impact on both the Issuer's financial position and reputation.

The Issuer will further mitigate the impact on the local fishing community through regular monitoring of the cable burial depth.

***The financial information of the Issuer included in this Prospectus is not indicative of its results of operations had the Issuer owned the Transmission Assets at the time such reports were prepared or of its future results of operations***

With the purpose of the proceeds of the Bonds to be applied by the Issuer towards the purchase price of the Transmission Assets, the Issuer did not, accordingly, own the Transmission Assets on the date on which its most recent audited financial statements were prepared. Accordingly, the accounts contained in the section entitled "Annex 1 – Financial Statements" to this Prospectus should be read with this in mind.

### **Factors with respect to support from the PBCE Provider**

#### ***Size of the PBCE Letter of Credit***

The PBCE Letter of Credit has been sized by reference to the initial Bonds, and does not take into consideration the size of any Further Bonds issued by the Issuer. However, issuance of further bonds is subject to various tests including no downgrade of the then current Rating of the Bonds.

#### ***The ability to utilise the PBCE Letter of Credit depends on the Security Trustee taking action***

In order to draw down on the PBCE Letter of Credit it is necessary for the Security Trustee to take certain steps. To the extent that the Issuer does not comply with its contractual obligation to provide the relevant information, the Security Trustee would be unable to comply with the requirements for drawing under the PBCE Letter of Credit. See further "*Description of the PBCE Letter of Credit – Conditions to a Demand under the PBCE Letter of Credit*".

### **Limitation arising in relation to the Security and ranking of the Bondholders**

Although the Security Trustee will hold the benefit of the Security on trust for the Bondholders, such security interests will also be held on trust for certain third parties. Certain of the Issuer's obligations to such third parties rank ahead of the Bondholders. Such persons include, among others, the Bond Trustee (in its individual capacity), the Security Trustee (in its individual capacity), the Principal Paying Agent and the Account Bank in respect of certain amounts owed to them (see "*Description of the other Transaction Documents*" and "*Cashflows*"). To the extent that significant amounts are owing to any such persons, the amounts available to Bondholders could be reduced to the extent insufficient amounts are available. In addition, it should be noted that unsecured creditors of the Issuer, such as trade creditors and suppliers, are not bound by the financing structure as they are not parties to the Security Trust and Intercreditor Deed or the Common Terms Agreement. Subject to complying with the restrictions under Sections 160 and 162 of the Energy Act 2004 (which require, among other things, any creditor that wishes to petition for a winding up or administration of a protected energy company to first give at least 14 days' notice of its intention to do so to both the

Secretary of State and the Authority) an unsecured creditor may be able to successfully petition for a winding up or administration of the Issuer if the Issuer fails to pay its unsecured debts as they fall due.

## **Factors which are material for the purpose of assessing the market risks associated with the Bonds**

### ***Risks related to the Bonds generally***

Set out below is a brief description of certain risks relating to the Bonds generally:

#### ***Financial counterparty risk***

The integrity of the financing structure and the ability of the Issuer to pay amounts due under the Bonds depend upon performance of their contractual obligations by a number of third parties such as the Hedge Counterparties, the Account Bank (which is required to be an Acceptable Bank) and the PBCE Provider. In the event of a change in the creditworthiness of any such entity, this may have an adverse effect on the trading price of the Bonds and/or the ability of the Issuer to meet its obligations in respect of the Bonds.

If a Hedging Agreement is terminated, the Issuer may also be exposed to fluctuations in the Retail Price Index that were previously hedged. Upon any such termination, the Issuer may be obliged to make a termination payment to the relevant Hedge Counterparty. There can be no assurance that the Issuer will have sufficient funds available to make a termination payment under the relevant Hedging Agreement, nor can there be any assurance that the Issuer will be able to enter into a replacement hedging agreement, or if one is entered into, that the credit rating of the replacement Hedge Counterparty will be sufficiently high to prevent a downgrade of the then current ratings of the Bonds by the Rating Agencies.

#### ***Modifications, waivers and consents in respect of the Transaction Documents***

The Obligors may request the Security Trustee (in accordance with the STID Decision Making Protocol) to agree to any modification to, or to give its consent to any event, matter or thing relating to, or grant any waiver in respect of, the Common Documents without any requirement to seek the approval of the Secured Creditors (including the Bondholders), in respect of a Discretion Matter.

The Security Trustee is entitled (but not obliged) to exercise its sole discretion to approve a Discretion Matter unless approval of the STID Proposal is an Ordinary Voting Matter, an Extraordinary Voting Matter or an Entrenched Right. The Security Trustee is not obliged to exercise its discretion and if it chooses not to do so the voting category selection procedures set out in the STID and described in the section "*Description of the other Transaction Documents – Security Trust and Intercreditor Deed*" below, will apply.

The Bond Trustee may without the consent or sanction of Bondholders, but always subject to the terms of the Security Trust and Intercreditor Deed and the Bond Trust Deed, concur with, or instruct the Security Trustee to concur with, the Issuer or any other relevant parties in making (a) any modification to the Conditions or the Finance Documents if in the opinion of the Bond Trustee such modification is made to correct a manifest error, or otherwise is of a formal, minor or technical nature or (b) any modification (other than in respect of a Basic Terms Modification) to the Conditions or any Finance Document or other document to which it is a party, if the Bond Trustee is of the opinion that such modification is not materially prejudicial to the interests of the Bondholders.

The Bond Trustee shall, without the consent or sanction of any of the Bondholders and/or Couponholders of any class and (subject as provided below) any other Secured Creditor, concur with the Issuer, and/or direct the Security Trustee to concur with the Issuer, in making any modification to

the Bonds and/or Coupons, the Conditions, these presents and/or the other Bond Documents or giving its consent to any event, matter or thing that is requested by the Issuer in writing in order to comply with any criteria of the Rating Agencies which may be published after the Issue Date and which modification(s) or consent(s) the Issuer certifies to the Bond Trustee and/or the Security Trustee (as applicable) in writing are required to avoid a downgrade, withdrawal or suspension of the then current ratings assigned by a Rating Agency to the Bonds, provided that the Bond Trustee shall not concur with the Issuer in making any such modification or giving any such consent, or direct the Security Trustee to concur with the Issuer in making such modification, unless and until the Issuer has obtained the consent in writing of each other party to any relevant Bond Document to which such modification is applicable and provided further that if such document is a Finance Document to which the STID applies, the provision of the STID relating to modifications thereto shall apply, and further provided that the Bond Trustee shall not be obliged to agree to any modification which, in the sole opinion of the Bond Trustee, would have the effect of (i) exposing the Bond Trustee to any liability against which it has not been indemnified and/or secured and/or pre-funded to its satisfaction or (ii) adding to or increasing the obligations, liabilities or duties, or decreasing the protections, of the Bond Trustee in respect of the Bonds, in the Finance Documents and/or the Conditions of the Bonds.

Subject to the paragraph below, the Bond Trustee shall, without the consent of any of the Bondholders or Couponholders or any other Secured Creditor, concur with the Issuer, and/or direct the Security Trustee to concur with the Issuer, in making any modifications to the Finance Documents and/or the Conditions of the Bonds that are requested by the Issuer in order to enable the Issuer to comply with any requirements which apply to it under Regulation (EU) 648/2012 (the **European Market Infrastructures Regulation** or **EMIR**), subject to receipt by the Bond Trustee of a certificate of the Issuer certifying to the Bond Trustee and the Security Trustee that (i) the requested amendments are to be made solely for the purpose of enabling the Issuer to satisfy its requirements under EMIR, (ii) the requested amendments do not effect a Basic Terms Modification and (iii) that each of the Rating Agencies has been notified of the proposed amendments and have not made the Issuer aware that such amendments will result in a downgrade, withdrawal or suspension of the then current ratings assigned by a Rating Agency to the Bonds.

The Bond Trustee and the Security Trustee shall not be obliged to agree to any modification which, in the sole opinion of the Bond Trustee or the Security Trustee, as applicable, would have the effect of (a) exposing the Bond Trustee or the Security Trustee, as applicable, to any liability against which it has not been indemnified and/or secured and/or pre-funded to its satisfaction or (b) increasing the obligations or duties, or decreasing the protections, of the Bond Trustee or the Security Trustee, as applicable, in the Finance Documents and/or the Conditions of the Bonds.

The Bond Trustee may, subject always to the terms of the Security Trust and Intercreditor Deed and without prejudice to its rights in respect of any subsequent breach or Event of Default, from time to time and at any time but only if and in so far as in its opinion the interests of the Bondholders shall not be materially prejudiced, waive or authorise any breach or proposed breach by the Issuer of any of the covenants or provisions contained in the Conditions, the Bond Trust Deed or any Finance Document to which it is a party, waive or determine that any event which would otherwise constitute an Event of Default or Potential Event of Default shall not be treated as such for the purposes of the Bond Trust Deed, provided that such waiver does not relate to an Entrenched Right and does not contravene a direction given by an Extraordinary Resolution or direct under Condition 9 (*Events of Default*) to the contrary.

Pursuant to the Security Trust and Intercreditor Deed and the Bond Trust Deed, the Bond Trustee will be authorised to execute and deliver on behalf of the Bondholders all documentation required to implement such modification, and such execution and delivery by the Bond Trustee will bind each of the Bondholders as if such documentation had been duly executed by them.

There can be no assurance that any modification, consent or waiver in respect of the Transaction Documents will be favourable to all Bondholders. Such changes may be detrimental to the interests of some or all Bondholders, despite the ratings of such Bonds being affirmed.

The conditions of the Bonds contain provisions for voting by Bondholders to vote on matters affecting their interests generally (other than matters which concern the enforcement of the Security or modifications to the Security Trust and Intercreditor Deed, which matters may only be addressed in accordance with the procedures set out in the Security Trust and Intercreditor Deed as described above). These provisions permit defined majorities to bind all Bondholders including Bondholders who do not vote on the relevant matter and Bondholders who voted in a manner contrary to the majority.

See further "*Description of the other Transaction Documents – Security Trust and Intercreditor Deed*" and "*Description of the other Transaction Documents – Bond Trust Deed*" below.

#### *Amendments to Transaction Documents and interaction with certain Secured Creditors benefiting from Entrenched Rights*

Under the Security Trust and Intercreditor Deed, each of the PBCE Provider and the Hedge Counterparties has a number of Entrenched Rights pursuant to which its consent may be required in order for waivers to be granted for breaches of representations, warranties or covenants or amendments to be made to Transaction Documents. This includes (among others) amendments to the Priority of Payments, to make a change to the dated fixed for payment of principal and to make a change to the currency of payment, which results in an increase in that Secured Creditor's obligations or liabilities or would adversely affect that Secured Creditor. Accordingly, amendments which have been approved by the Bondholders (or the Bond Trustee on behalf of the Bondholders, in accordance with the Bond Trust Deed and the Security Trust and Intercreditor Deed) may be subject to approval by any one or more of the other Secured Creditors before they can become effective. A full list of the Entrenched Rights and related voting process is summarised below in "*Description of the other Transaction Documents – Security Trust and Intercreditor Deed*".

#### *Voting by the Bondholders in respect of a STID Proposal*

The Bondholders exercise their right to vote by "blocking" their Bonds in the clearing system and delivering irrevocable instructions to the Principal Paying Agent (who will inform the Bond Trustee) that the votes in respect of their Bonds are to be cast in a particular way. In respect of modifications, consents and waivers to the applicable Transaction Documents, the Bond Trustee (as the representative of the Bondholders) is required to notify the Security Trustee of each vote received by the Principal Paying Agent no later than the Voting Date. The Security Trust and Intercreditor Deed provides that as soon as the Security Trustee has received sufficient votes from the Secured Creditors (including the Bond Trustee as representative of the Bondholders) in favour of a consent, modification or waiver of a Common Document, the Decision Period will be closed and no further votes will be taken into account by the Security Trustee.

Accordingly, unless a Bondholder exercises its right to vote at the beginning of a Decision Period, it is possible that a consent, modification or waiver of the applicable Transaction Document may be approved by the Secured Creditors before such Bondholder has participated in any vote and any consent, modification or waiver of the applicable Transaction Document duly approved by the Secured Creditors shall be binding on all of the Bondholders.

#### *The Guarantors are special purpose companies*

The Guarantors are special purpose companies incorporated for the purpose of acting as holding companies within the group (in the case of Holdco) and for, among others, entering into finance

transactions (in the case of IntermediateCo). Accordingly, while they will grant security over the whole of their business, their only assets will be (a) in respect of Holdco, the value of the shares it holds in the Issuer and IntermediateCo and any dividends earned as a holding company and (b) in respect of IntermediateCo, the value of amounts payable to it under the loan notes subscribed by it. Accordingly, there is no guarantee that a purchaser for such shares or the purchase price paid for such shares will be sufficient to meet the liabilities owed by the Issuer and the Guarantors under the Bonds.

*Limited market for sale of shares held by Holdco in the Issuer upon an enforcement of the share pledges*

Due to the nature of the business of the Issuer and regulatory restrictions placed on it, upon the enforcement of the relevant share pledges and a decision by the Secured Creditors to sell such shares, there can be no assurance that there will be a market for such shares or if there is one that it will provide the Secured Creditors, including the Bondholders, with liquidity or that any such liquidity will continue for the life of the Bonds. Consequently, any purchaser of the Bonds must be prepared to hold such Bonds for an indefinite period of time or until final redemption or maturity of the Bonds.

*EU Savings Directive*

Under Council Directive 2003/48/EC on the taxation of savings income, Member States are required to provide to the tax authorities of other Member States details of certain payments of interest or similar income paid or secured by a person established in a Member State to or for the benefit of an individual resident in another Member State or certain limited types of entities established in another Member State.

On 24 March 2014, the Council of the European Union adopted a Council Directive amending and broadening the scope of the requirements described above. Member States are required to apply these new requirements from 1 January 2017. The changes will expand the range of payments covered by the Directive, in particular to include additional types of income payable on securities. The Directive will also expand the circumstances in which payments that indirectly benefit an individual resident in a Member State must be reported. This approach will apply to payments made to, or secured for, persons, entities or legal arrangements (including trusts) where certain conditions are satisfied, and may in some cases apply where the person, entity or arrangement is established or effectively managed outside of the European Union.

For a transitional period, Austria is required (unless during that period it elects otherwise) to operate a withholding system in relation to such payments. The changes referred to above will broaden the types of payments subject to withholding in those Member States which still operate a withholding system when they are implemented.

The end of the transitional period is dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries. A number of non-EU countries and territories including Switzerland have adopted similar measures (a withholding system in the case of Switzerland).

*Foreign Account Tax Compliance Act Withholding*

Whilst the Bonds are in global form and held within Euroclear Bank SA/NV or Clearstream Banking, société anonyme (together the **ICSDs**), in all but the most remote circumstances, it is not expected that the new reporting regime and potential withholding tax imposed by sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (**FATCA**) will affect the amount of any payment received by the ICSDs (see "Taxation – Foreign Account Tax Compliance Act"). However, FATCA may affect payments made to custodians or intermediaries in the subsequent payment chain leading to the ultimate investor if any such custodian or intermediary generally is unable to receive payments free of



FATCA withholding. It also may affect payment to any ultimate investor that is a financial institution that is not entitled to receive payments free of withholding under FATCA, or an ultimate investor that fails to provide its broker (or other custodian or intermediary from which it receives payment) with any information, forms, other documentation or consents that may be necessary for the payments to be made free of FATCA withholding. Investors should choose the custodians or intermediaries with care (to ensure each is compliant with FATCA or other laws or agreements related to FATCA) and provide each custodian or intermediary with any information, forms, other documentation or consents that may be necessary for such custodian or intermediary to make a payment free of FATCA withholding. Investors should consult their own tax adviser to obtain a more detailed explanation of FATCA and how FATCA may affect them. The Issuer's obligations under the Bonds are discharged once it has paid the common depositary or common safekeeper for the ICSDs (as bearer of the Bonds) and the Issuer has therefore no responsibility for any amount thereafter transmitted through the ICSDs and custodians or intermediaries.

Prospective investors should refer to the section "*Taxation – Foreign Account Tax Compliance Act*".

### ***EU Financial Transaction tax***

On 14 February 2013, the European Commission issued proposals, including a draft Directive (the **Commission's proposal**) for a financial transaction tax (**FTT**) to be adopted in certain participating EU member states (including Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia). If the Commission's proposal was adopted, the FTT would be a tax primarily on "financial institutions" (which would include the Issuer) in relation to "financial transactions" (which would include the conclusion or modification of derivative contracts and the purchase and sale of financial instruments).

Under the Commission's proposal, the FTT would apply to persons both within and outside of the participating member states. Generally, it would apply where at least one party is a financial institution, and at least one party is established in a participating member state. A financial institution may be, or be deemed to be, "established" in a participating member state in a broad range of circumstances, including (a) by transacting with a person established in a participating member state or (b) where the financial instrument which is subject to the financial transaction is issued in a participating member state.

The FTT may give rise to tax liabilities for the Issuer with respect to certain transactions (including concluding swap transactions and/or purchases or sales of securities (such as authorised investments)) if it is adopted based on the Commission's proposal. Any such tax liabilities may reduce amounts available to the Issuer to meet its obligations under the Bonds and may result in investors receiving less interest or principal than expected. It should also be noted that the FTT could be payable in relation to relevant transactions by investors in respect of the Bonds (including secondary market transactions) if the conditions for a charge to arise are satisfied and the FTT is adopted based on the Commission's proposal. Primary market transactions referred to in Article 5(c) of Regulation (EC) No 1287/2006 are exempt.

A joint statement issued in May 2014 by ten of the eleven participating member states indicated an intention to implement the FTT progressively, such that it would initially extend to transactions involving shares and certain derivatives, with this initial implementation occurring by 1 January 2016. However, full details are not available and further changes could be made prior to adoption.

The FTT proposal remains subject to negotiation between the participating member states. It may therefore be altered prior to any implementation. Additional EU member states may decide to participate. Prospective holders of the Bonds are advised to seek their own professional advice in relation to the FTT.

### *Change of law or regulation*

The conditions of the Bonds are based on English law in effect as at the date of this Prospectus. No assurance can be given as to the impact of any possible judicial decision or change to English law or administrative practice or change in the regulatory regime applicable to the Issuer after the date of this Prospectus.

### *Denominations involve integral multiples: definitive Bonds*

The Bonds have denominations consisting of a minimum of £100,000 or its equivalent plus one or more higher integral multiples of £1,000 or its equivalent. It is possible that the Bonds may be traded in amounts that are not integral multiples of £100,000 or its equivalent. In such a case a holder who, as a result of trading such amounts, holds an amount which is less than £100,000 or its equivalent in his account with the relevant clearing system at the relevant time may not receive a definitive Bond in respect of such holding (should definitive Bonds be printed) and would need to purchase a principal amount of Bonds such that its holding amounts to £100,000 or its equivalent. If definitive Bonds are issued, holders should be aware that definitive Bonds which have a denomination that is not an integral multiple of £100,000 or its equivalent may be illiquid and difficult to trade.

### *Risks related to the market generally*

Set out below is a brief description of the principal market risks, including liquidity risk, exchange rate risk, interest rate risk and credit risk:

#### *An active trading market for the Bonds may not develop*

There can be no assurance that an active trading market for the Bonds will develop, or, if one does develop, that it will be maintained. If an active trading market for the Bonds does not develop or is not maintained, the market or trading price and liquidity of the Bonds may be adversely affected. If additional and competing products are introduced in the markets, this may adversely affect the value of the Bonds.

The liquidity and market value of the Bonds at any time are affected by, among other things, the market view of the credit risk of such Bonds and will generally fluctuate with general interest rate fluctuations, general economic conditions, the condition of certain financial markets, international political events and the performance and financial condition of the Issuer.

#### *The secondary market generally*

The Bonds may have no established trading market when issued, and one may never develop. If a market does develop, it may not be very liquid. Therefore, investors may not be able to sell their Bonds easily or at prices that will provide them with a yield comparable to similar investments that have a developed secondary market. As such, the Bonds generally will have a more limited secondary market and more price volatility than conventional debt securities. Illiquidity may have a severely adverse effect on the market value of the Bonds.

#### *Exchange rate risks and exchange controls*

The Issuer will pay principal and interest on the Bonds in sterling. This presents certain risks relating to currency conversions if an investor's financial activities are denominated principally in a currency or currency unit (the **Investor's Currency**) other than sterling. These include the risk that exchange rates may significantly change (including changes due to devaluation of sterling or revaluation of the Investor's Currency) and the risk that authorities with jurisdiction over the Investor's Currency may impose or modify exchange controls. An appreciation in the value of the Investor's Currency relative

to sterling would decrease: (a) the Investor's Currency-equivalent yield on the Bonds; (b) the Investor's Currency-equivalent value of the principal payable on the Bonds; and (c) the Investor's Currency-equivalent market value of the Bonds.

Government and monetary authorities may impose (as some have done in the past) exchange controls that could adversely affect an applicable exchange rate. As a result, investors may receive less interest or principal than expected, or no interest or principal.

#### *Interest rate risks*

Investment in the Bonds involves the risk that subsequent changes in market interest rates may adversely affect the value of them.

#### *Rating Agency assessments, downgrades and changes to Rating Agency criteria may result in ratings volatility in respect of the Bonds*

The ratings to be assigned by the Rating Agencies to the Bonds reflect only the views of the particular Rating Agency and, in assigning the ratings, each Rating Agency takes into consideration the credit quality of the Obligors and structural features and other aspects of the transaction of which the Bonds form part. There is no assurance that any such ratings will continue for any period of time or that they will not be reviewed, revised, suspended or withdrawn entirely by the Rating Agencies as a result of changes in, or unavailability of, information in relation to the Obligors' underlying business and performance or if, in the Rating Agencies' judgement, other circumstances so warrant. If any rating assigned to the Bonds is lowered or withdrawn, the market value of the Bonds may be reduced. Future events, including events affecting the Obligors and/or circumstances relating to the industry in which the Obligors operate, could have an adverse impact on the ratings of the Bonds.

A confirmation from a Rating Agency that any action proposed to be taken by the Issuer will not have an adverse effect on the then current rating of the Bonds does not, for example, confirm that such action (a) is permitted by the terms of the Transaction Documents or (b) is in the best interests of, or not prejudicial to, the Bondholders. While each of the Secured Creditors (including the Bondholders), the Security Trustee and the Bond Trustee (as applicable) are entitled to have regard to the fact that a Rating Agency has confirmed that the then current rating of the Bonds would not be adversely affected by such action, the above does not impose or extend any actual or contingent liability on that Rating Agency to the Secured Creditors (including the Bondholders and the Bond Trustee) or the Issuer or any other person or create any legal relationship between the Rating Agencies and the Secured Creditors (including the Bondholders and the Bond Trustee) or any other person, whether by way of contract or otherwise.

Any such confirmation from a Rating Agency may or may not be given at the sole discretion of that Rating Agency. It should be noted that, depending on the timing of delivery of the request and any information required to be provided as part of any such request, it may be the case that a Rating Agency cannot provide a confirmation in the time available or at all. A confirmation from a Rating Agency, if given, will be given on the basis of the facts and circumstances prevailing at the relevant time and in the context of cumulative changes to the transaction of which the Bonds have formed a part since the Issue Date. A confirmation from a Rating Agency represents only a restatement of the then current rating of the Bonds and cannot be construed as advice for the benefit of any parties to the transaction of which the Bonds form a part.

While it is noted that Fitch does not rate the Bonds as of the date of this Prospectus, should Fitch rate the Bonds at a subsequent date, it has indicated that it will no longer provide ratings confirmations as a matter of policy.

To the extent that a confirmation from a Rating Agency cannot be obtained, whether or not a proposed action will ultimately take place will be determined in accordance with the provisions of the relevant Transaction Documents and specifically the relevant modification and waiver provisions.

A credit rating is not a recommendation to buy, sell or hold securities and may be revised or withdrawn by its assigning rating agency at any time.

*Credit ratings may not reflect all risks relating to the Bonds*

One or more independent credit rating agencies may assign an unsolicited credit rating to the Bonds. These ratings may not reflect the potential impact of all risks related to structure, market, additional factors discussed above and below and other factors that may affect the value of the Bonds. Such a rating may be lower than the rating assigned to the Bonds by the Rating Agencies and may impact the market value of the Bonds.

In general, European regulated investors are restricted under Regulation (EC) No. 1060/2009 (as amended) (the **CRA Regulation**) from using credit ratings for regulatory purposes, unless such ratings are issued by a credit rating agency established in the EU and registered under the CRA Regulation (and such registration has not been withdrawn or suspended), subject to the transitional provisions that apply in certain circumstances while the registration application is pending. Such general restriction will also apply in the case of credit ratings issued by non-EU credit rating agencies, unless the relevant credit ratings are endorsed by an EU-registered credit rating agency or the relevant non-EU rating agency is certified in accordance with the CRA Regulation (and such endorsement action or certification, as the case may be, has not been withdrawn or suspended).

The list of registered and certified rating agencies published by the ESMA on its website in accordance with the CRA Regulation is not conclusive evidence of the status of the relevant rating agency included in such list, as there may be delays between certain supervisory measures being taken against a relevant rating agency and the publication of the updated ESMA list.

*Amendments subject to Ratings Confirmation*

In some instances, amendments can be made to the Finance Documents or certain actions can be taken by the Issuer or other Obligor provided that the Issuer obtains a Ratings Confirmation in respect of the particular change, such as incurring additional Permitted Financial Indebtedness. The Rating Agencies may not provide their confirmation in the time available or at all, and they will not be responsible for the consequences thereof. A Ratings Confirmation, if given, will be given on the basis of the facts and circumstances prevailing at the relevant time. A Ratings Confirmation cannot be construed as advice for the benefit of any party to the transaction. No assurance can be given that, although a Ratings Confirmation in respect of any particular change has been provided, such change will not have an adverse impact upon the business of the Issuer.

*Book-entry form of Bonds*

The Bonds will initially only be issued in global form and deposited with a common safekeeper for Euroclear and Clearstream, Luxembourg. Interests in the Global Bonds will trade in book-entry form only. The common safekeeper, or its nominee, for Euroclear and Clearstream, Luxembourg will be the sole holder of the Global Bonds representing the Bonds. Accordingly, owners of book-entry interests must rely on the procedures of Euroclear and Clearstream, Luxembourg, and non-participants in Euroclear or Clearstream, Luxembourg must rely on the procedures of the participant through which they own their interests, to exercise any rights and obligations of a holder of the Bonds.

Unlike the holders of the Bonds themselves, owners of book-entry interests will not have the direct right to act upon the Issuer's solicitations for consents, requests for waivers or other actions from holders of the Bonds. The procedures to be implemented through Euroclear and Clearstream, Luxembourg may not be adequate to ensure the timely exercise of rights under the Bonds.

*Reliance on Euroclear and Clearstream, Luxembourg procedures*

The Bonds will be represented on issue by one or more Global Bonds that may be deposited with a common safekeeper for Euroclear and Clearstream, Luxembourg (each as defined under "*Form of the Bonds*" and "*Book-Entry Clearance Procedure*"). Except in the circumstances described in each Global Bond, investors will not be entitled to receive Bonds in definitive form. Each of Euroclear and Clearstream, Luxembourg and their respective direct and indirect participants will maintain records of the beneficial interests in each Global Bond held through it. While the Bonds are represented by a Global Bond, investors will be able to trade their beneficial interests only through the relevant clearing systems and their respective participants.

While the Bonds are represented by Global Bonds, the Issuer will discharge its payment obligation under the Bonds by making payments through the relevant clearing systems. A holder of a beneficial interest in a Global Bond must rely on the procedures of the relevant clearing system and its participants to receive payments under the Bonds. The Issuer has no responsibility or liability for the records relating to, or payments made in respect of, beneficial interests in any Global Bond.

Holders of beneficial interests in a Global Bond will not have a direct right to vote in respect of the Bonds so represented. Instead, such holders will be permitted to act only to the extent that they are enabled by the relevant clearing system and its participants to appoint appropriate proxies.

*Legal investment considerations may restrict certain investments*

The investment activities of certain investors are subject to legal investment laws and regulations and review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent: (a) the Bonds are legal investments for it; (b) the Bonds can be used as collateral for various types of borrowing; and (c) other restrictions apply to its purchase or pledge of the Bonds. Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of the Bonds under any applicable risk-based capital or similar rules.

*Implementation of and/or changes to the Basel III framework may affect the capital requirements and/or the liquidity associated with a holding of the Bonds for certain investors*

The Basel Committee on Banking Supervision approved significant changes to the Basel II regulatory capital and liquidity framework in 2011 (such changes being commonly referred to as **Basel III**). In particular, Basel III provides for a substantial strengthening of existing prudential rules, including new requirements intended to reinforce capital standards (with heightened requirements for global systemically important banks) and to establish a leverage ratio "backstop" for financial institutions and certain minimum liquidity standards (referred to as the **Liquidity Coverage Ratio** and the **Net Stable Funding Ratio**). It is intended that member countries will implement the new capital standards and the new Liquidity Coverage Ratio as soon as possible (with provision for phased implementation, meaning that the measure will not apply in full until January 2019) and the Net Stable Funding Ratio from January 2018. Implementation of Basel III requires national legislation and therefore the final rules and the timetable for their implementation in each jurisdiction may be subject to some level of national variation.

Implementation of the Basel framework and any changes as described above may have an impact on the capital requirements in respect of the Bonds and/or on incentives to hold the Bonds for investors

that are subject to requirements that follow the relevant framework and, as a result, may affect the liquidity and/or value of the Bonds.

In general, investors should consult their own advisers as to the regulatory capital requirements in respect of the Bonds and as to the consequences for and effect on them of any changes to the Basel framework (including the changes described above) and the relevant implementing measures. No predictions can be made as to the precise effects of such matters on any investor or otherwise.

***Regulatory initiatives may result in increased regulatory capital requirements and/or decreased liquidity in respect of the Bonds***

In Europe, the U.S. and elsewhere there is increased political and regulatory scrutiny of the asset-backed securities industry. This has resulted in a raft of measures for increased regulation which are currently at various stages of implementation and which may have an adverse impact on the regulatory capital charge to certain investors in securitisation exposures and/or the incentives for certain investors to hold asset-backed securities, and may thereby affect the liquidity of such securities. Investors in the Bonds are responsible for analysing their own regulatory position and none of the Issuer, the Joint Bookrunners or the Sole Arranger makes any representation to any prospective investor or purchaser of the Bonds regarding the regulatory capital treatment of their investment on the Closing Date or at any time in the future.

In particular, investors should be aware of the EU risk retention and due diligence requirements which currently apply, or are expected to apply in the future, in respect of various types of EU regulated investors including credit institutions, authorised alternative investment fund managers, investment firms, insurance and reinsurance undertakings and UCITS funds. Amongst other things, such requirements restrict a relevant investor from investing in asset-backed securities unless (i) that investor is able to demonstrate that it has undertaken certain due diligence in respect of various matters including its note position, the underlying assets and (in the case of certain types of investors) the relevant sponsor or originator and (ii) the originator, sponsor or original lender in respect of the relevant securitisation has explicitly disclosed to the investor that it will retain, on an on-going basis, a net economic interest of not less than 5 per cent. in respect of certain specified credit risk tranches or asset exposures. Failure to comply with one or more of the requirements may result in penalties for relevant investors and/or have a negative impact on the price and liquidity of the Bonds in the secondary market.

The Issuer has considered, and obtained legal advice as to, the applicability of the EU risk retention and due diligence requirements to this transaction and is of the opinion that the Bonds do not constitute an exposure to a "securitisation position" for the purposes of the EU risk retention and due diligence requirements and, as such, the EU risk retention and due diligence requirements should not apply to investments in the Bonds. Therefore, neither the Issuer nor any other entity has committed to retain a material net economic interest in relation to this transaction. However, in general, each prospective investor should consider its regulatory position and obtain any necessary advice in relation to any potential investment in the Bonds prior to making any such investment.

## DESCRIPTION OF THE OFTO LICENCE AND THE REGULATORY REGIME

### *Background and Key Players*

The electricity industry in Great Britain is principally regulated by the Electricity Act 1989 (as amended and supplemented, including by the Energy Act 2004, the Energy Act 2008 and the Energy Act 2013).

The Gas and Electricity Markets Authority is the industry regulator of the gas and electricity markets in Great Britain and is the authority responsible for granting licences for electricity transmission. The Gas and Electricity Markets Authority acts through its executive office, the Office of Gas and Electricity Markets (**Ofgem**), and is referred to in this Prospectus as the **Authority**.

The Authority's powers and duties are largely provided for in the statutes referred to above, as well as arising from directly effective EU legislation. The Authority's (and the Secretary of State's) principal objective under the Electricity Act is "to protect the interests of existing and future consumers in relation to electricity conveyed by distribution systems or transmission systems" and, wherever appropriate, it is to do this "by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors". In performing its duties, the Authority must have regard to certain factors, including "the need to secure that licence holders are able to finance the activities which are the subject of obligations imposed by" Part 1 of the Electricity Act and certain other specified legislation (often referred to as the "financing duty"). The Authority is also required to perform its duties in the manner which it considers is best calculated "to promote efficiency and economy on the part of persons authorised by licences or exemptions to distribute, supply or participate in the transmission of electricity ... and the efficient use of electricity conveyed by distribution systems or transmission systems". In addition, the Authority is required to have regard to the principle that "regulatory activities should be transparent, accountable, proportionate, and consistent and targeted only at cases in which action is needed".

Another key player in the regulatory structure is NGET, which is the system operator for the transmission system (**NETSO**) and is the counterparty responsible for making payments to the Issuer under the STC in respect of the revenue stream awarded under the OFTO Licence. (See further the section on the "*System Operator – Transmission Owner Code (STC)*" below for a discussion of the principal terms of this document and the section on "*– NGET*" below for a discussion of this counterparty risk.)

### *Regulatory Framework*

Licences for electricity transmission, such as that required by the Issuer, are granted under section 6 of the Electricity Act. The Electricity Act makes it a criminal offence to participate in the transmission of electricity for particular purposes without such a licence. Under section 6C of the Electricity Act, the Authority may make regulations providing for offshore transmission licences to be granted on a competitive basis. The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2010 (which continue to apply to tender processes in respect of which the Authority has given the relevant invitation to tender notice before 22 February 2013 notwithstanding that these have otherwise been revoked by the Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2013) set out the details of the tender process applicable to the Gwynt-Y-Môr Project.

Following the competitive process, Balfour Beatty Equitix Consortium, a consortium comprising Balfour Beatty Investments Limited and Equitix Limited, was determined to be the preferred bidder for the Gwynt-Y-Môr Project on 26 July 2013 and was notified by the Authority of the matters to be resolved in order to become the successful bidder. The Issuer has been incorporated on behalf of the preferred bidder consortium as the company to become the licensee under the OFTO Licence.

Before the OFTO Licence is granted, regulation 24 of the Tender Regulations requires that the Authority gives notice to each qualifying bidder of its determination in relation to the successful bidder and allows a ten working day period to elapse. This notice was given on 23 January 2015 and the ten working day standstill period therefore elapsed at midnight at the end of 6 February 2015.

### ***OFTO Licence***

Below is a summary of the terms of the licence of the Issuer under the Electricity Act. Each licence so awarded to an OFTO is specific to that OFTO, although there are standard conditions and amended standard conditions that are applied in a similar manner to all OFTOs, with specific adjustments to reflect individual OFTO circumstances.

The OFTO Licence sets out the revenue entitlement of the Issuer, the duration of that revenue entitlement and the circumstances for licence revocation. The revenue entitlement includes provision for pass-through items to protect against certain identified risks. It also includes provision for deductions for unavailability to incentivise performance, but these deductions are subject to an annual cap of 10 per cent. of base revenue, as discussed further under "*Availability Incentive*" below.

The OFTO Licence also imposes certain restrictions and obligations on the Issuer, including business separation requirements (which are similar to those applicable to other regulated utilities) which are designed to ensure that the electricity transmission business is ring-fenced from other business and financial risks arising otherwise than from the conduct of the electricity transmission business.

The OFTO Licence is structured in four parts, consisting of the **Terms**, the **Standard Conditions**, the **Amended Standard Conditions** and the **Special Conditions**. There is also Schedule 1 which sets out the "Specified Area" and Schedule 2 which sets out grounds for revocation of the OFTO Licence. The Terms provide specific information about the OFTO Licence, including the identity of the licensee and the duration of the OFTO Licence, and also identify what Standard Conditions, Amended Standard Conditions and Special Conditions apply to the particular OFTO Licence.

The Standard Conditions (in so far as they apply to the OFTO Licence) focus on generic obligations for transmission licensees and relate to matters such as: provision of transmission services; compliance with relevant industry codes, including the STC, accounting records and reporting arrangements; provision of information; obligations in relation to connection offers; restrictions on business activities; financial ring-fencing; and various other matters. The full terms of the Standard Conditions are available through the Authority's website<sup>3</sup>.

The Amended Standard Conditions (in so far as they will apply to the OFTO Licence) cover matters such as: the revenue stream (including revenue adjustments and performance incentives); restrictions on the scale, operation and management of the Issuer's activities; compliance and business separation obligations; offshore regulatory reporting requirements; equity transaction reporting requirements and treatment of an income from certain excluded services; arrangements for the network innovation competition; and various other matters.

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Source:  
<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>



There are stated to be no Special Conditions applicable to the OFTO Licence.

The OFTO Licence can be modified by the Authority in certain circumstances, including following the making of an energy administration order as part of an energy transfer scheme. See further "*Energy Administration Orders*" below.

### ***Determination or Revocation of the OFTO Licence***

Under the Terms, the OFTO Licence shall, unless it is revoked in accordance with Schedule 2, continue until determined by the Authority on not less than 18 months' written notice to the Issuer given by the Authority, no earlier than 19 years from the date the licence comes into effect.

At the end of the period of revenue entitlement under the OFTO Licence (which is a 20 year period), the Authority may determine the OFTO Licence as discussed above. Under the STC, an OFTO would not be entitled to withdraw from the STC until steps have been put in place such that NGET (or other parties to the STC) would not be put in breach of its obligations under the STC as a consequence of the withdrawal of the OFTO. A dispute about those steps may be referred to the Authority for determination. Withdrawal from the STC would also not take effect while an OFTO Licence condition requiring the OFTO to be a party to the STC was still in effect. (See "*System Operator – Transmission Owner Code (STC)*" below.)

Schedule 2 to the OFTO Licence provides that the Authority may revoke the OFTO Licence by giving not less than 30 days' written notice to the Issuer if particular circumstances occur, which are summarised below:

- the Issuer agreeing in writing with the Authority that the OFTO Licence should be revoked;
- any amount payable by the Issuer to the Authority under Standard Condition A4 (Payments by Licensee to the Authority) is unpaid 30 days after it has become due and remains unpaid for 14 days after the Authority gives notice that the payment is overdue, provided that no notice is given earlier than the 16th day after the day on which the amount payable became due (although since Standard Condition A4 provides for payments by licensees with the system operator standard conditions in effect and the Issuer is not subject to the system operator standard conditions, the Issuer would not be expected to have to make payments under Standard Condition A4);
- failure of the Issuer to comply with an enforcement order (see below) or a financial penalty under the Electricity Act within three months after receiving notice from the Authority of such failure (which notice may not be given before the expiry of the relevant challenge period for that enforcement order or financial penalty or before final determination of any such challenge proceedings);
- certain breaches of competition law (see below);
- the Issuer not commencing the carrying on of the transmission business within three years of the date the licence comes into force;
- the Issuer ceasing to carry on the transmission business; and
- the Issuer not continuing to be certified as complying with the requirements of the Third Package (see the section on "*Third Package Unbundling*" below).

The "transmission business" is defined as including the planning or development or construction or operation or maintenance of the licensee's transmission system.

In addition, the Authority may revoke the OFTO Licence by giving not less than 24 hours' written notice to the Issuer upon certain types of insolvency event affecting the Issuer.

The Authority may also revoke the OFTO Licence by giving not less than seven days' written notice to the Issuer where the Authority is satisfied that there has been a material misstatement (of fact) by, or on behalf of, the Issuer in making its application for the OFTO Licence.

The OFTO of Last Resort guidance issued by the Authority dated 25 February 2014 indicates that in the event of an OFTO encountering, for example, difficulties meeting its licence obligations, the Authority would proactively liaise with all interested parties, exploring solutions that retain appropriate incentives and balance of risk which would be expected to enable an OFTO to resolve outstanding issues to avoid revocation procedures and thereby avoid the requirement for further regulatory or statutory action.

If the OFTO Licence were revoked, the Authority would be entitled to initiate an OFTO of Last Resort process (see "*OFTO of Last Resort*" below). The OFTO of Last Resort Guidance states that in this case the Authority would expect the incumbent OFTO and the OFTO of Last Resort to agree the terms of the transfer of assets on a commercial basis and would expect the parties to have regard to the depreciated regulatory asset value approach used to calculate the revenue stream so that the incumbent OFTO would be expected to receive a transfer value reflective of the net asset value after regulatory depreciation. It further states the regulatory framework should incentivise the OFTO to transfer the assets in a timely manner, and that if the incumbent OFTO does not transfer the assets, it may be required to decommission the assets under the terms of the Crown Estate Lease, incurring additional costs and loss of value, and refers to the general regulatory background of the Authority's power to impose penalties of up to 10 per cent. of turnover for breach of licence conditions, depending upon what is reasonable in all of the circumstances (see "*Enforcement*" below).

### ***Restrictions on the Granting of Security***

The Standard Conditions of the OFTO Licence restrict the Issuer's ability to grant security over its transmission assets, and the enforcement of such security, without the prior written consent of the Authority (see further "*Ring-fencing Provisions – Restrictions on Encumbrances and Guarantees*" and "*Ring-fencing Provisions – Restrictions on Asset Disposals*" and "*Energy Administration Orders*" below). It is proposed therefore that the Secured Creditors, including the Bondholders, will have full security over the Issuer only to the extent permitted by law and regulation. See further "*Description of the Guarantee and the Security*".

In addition, the Standard Conditions require the Issuer to act in a manner calculated to secure that it has available to it the resources (financial and non-financial) to ensure that it is at all times able to conduct its transmission business in conformity with the OFTO Licence and its obligations under the Electricity Act, including the obligation to develop and maintain an efficient, co-ordinated and economical system of electricity transmission. This provision further limits the ability of the Issuer to grant security over its assets, in particular assets required for carrying out the transmission business, and limits in practice the ability to enforce such security.

In certain circumstances, the court has the power to appoint an energy administrator in respect of the Issuer. The appointment of an energy administrator effectively places a moratorium upon any holder of security and a person is prohibited from enforcing security against the licensee unless certain conditions are met. Please see "*Energy Administration Orders*" below.

### ***Ultimate Controller Undertakings and Equity Transaction Reporting***

The Issuer is required to secure from each ultimate controller of the Issuer a legally enforceable undertaking in a form approved by the Authority that the ultimate controller will refrain (and will

procure that any person controlled by it will refrain) from any action which would be likely to cause the Issuer to be in breach of any of its obligations under the Electricity Act or the OFTO Licence. The ultimate controller undertakings are intended to prevail over any agreement between the Issuer and any ultimate controller.

An ultimate controller is a holding company of the Issuer (which is not itself a subsidiary of another company) or a person who (alone or together with others who are party to a similar arrangement) is in a position to control or exercise significant influence over the policy of the Issuer or any holding company of the Issuer by virtue of rights under a contractual arrangement or rights of ownership.

It is proposed that Balfour Beatty plc and one or more persons associated with Equitix Transmission 2 Limited will provide an ultimate controller undertaking.

If the ultimate controller undertaking is breached, the Issuer is required to report the breach to the Authority and is obliged to enforce the undertaking at the direction of the Authority. The Issuer would not be able to waive the breach and, if it did, this could be viewed as a breach of the OFTO Licence. At the time of a breach, the Issuer may not enter into an arrangement with any ultimate controller or its subsidiaries without the consent of the Authority.

If the Secured Creditors were regarded as controlling the Issuer, the Secured Creditors would need to provide an ultimate controller undertaking. This might arise, for example, if share security were enforced, depending on the enforcement route.

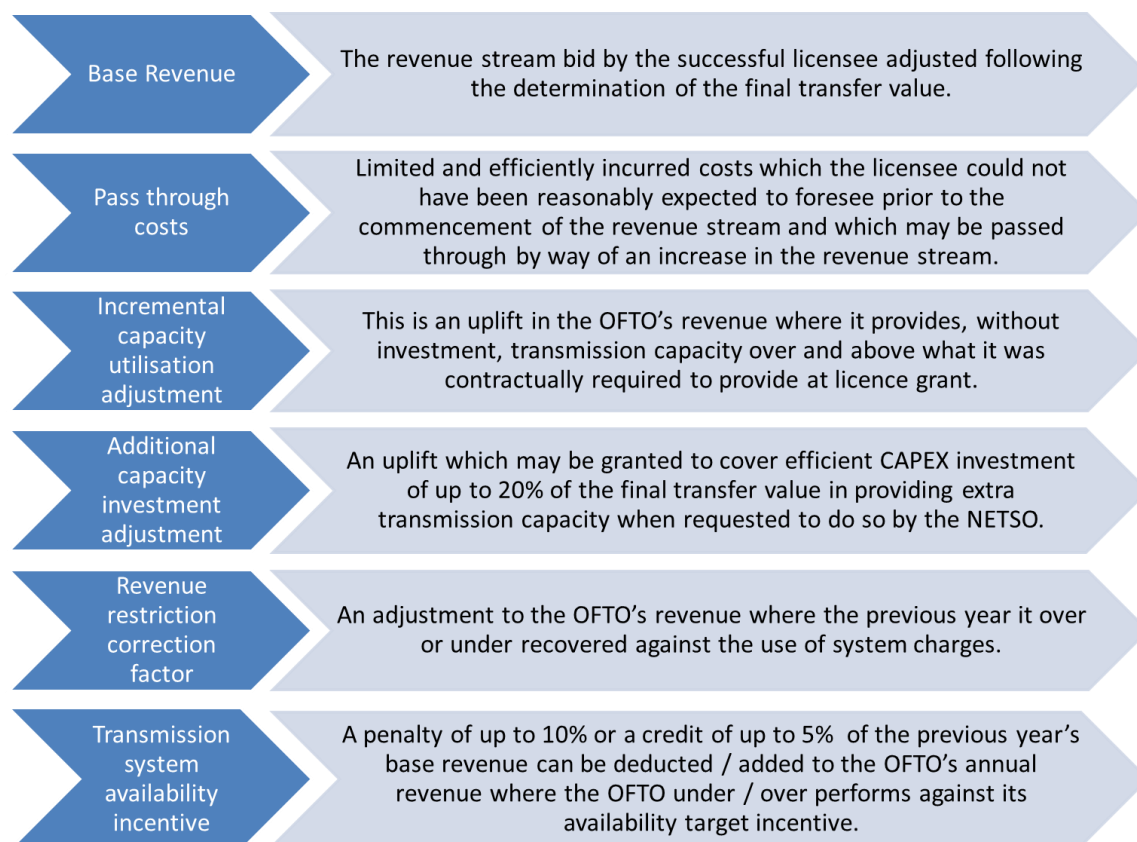
Under the equity transaction reporting requirement, the Issuer is required to provide a submission to the Authority by 31 July 2016 and then by 31 July of each following year, of details of (unless the Authority is satisfied that the Issuer cannot provide such details and agrees that the Issuer need not do so) any transaction which involves the issue, sale (or other transfer) or buy back of shares in the Issuer and/or results in a change in an ultimate controller of the Issuer.

### ***OFTO Revenue Stream***

The OFTO Licence sets out the regulated revenue entitlement of the Issuer, which is then payable by NGET in accordance with the STC. For an analysis of the STC, please refer to "*System Operator – Transmission Owner Code (STC)*" below. For an analysis of the Issuer's credit exposure to NGET and the consequences of its insolvency, please refer to "*NGET*" below. Below is a brief summary of the key provisions.

Figure 1 provides a high-level summary of the components of the final Issuer revenue stream.

**Figure 1 - The OFTO Revenue Stream**



The revenue entitlement of the Issuer is made up of the annual revenue that the Issuer is awarded under the OFTO Licence, adjusted, where relevant, by the elements that affect it, such as revenue adjustments and performance incentives. The base revenue stream and certain other elements of the revenue stream are indexed by reference to the Retail Price Index.

Certain limited and efficiently incurred costs, the amount of which would be difficult to predict prior to the commencement of the revenue stream, are treated as pass-through costs giving rise to an increase in the revenue entitlement. The pass-through items are:

- (a) amounts that the Issuer pays in licence fees to the Authority under Standard Condition A4 (as discussed above, since the Issuer is not subject to the system operator standard conditions, the Issuer would not be expected to have to make payments under Standard Condition A4, but this provision means that if it were required to make such payments, this would be a pass-through cost);
- (b) network rates, including periodic network rate revaluations;
- (c) payments made by the Issuer to the Crown Estate in annual rent for the lease of the seabed and in reimbursing the Crown Estate for legal expenses incurred in the preparation, negotiation and completion of the Crown Estate Lease;
- (d) decommissioning costs arising from a change in law that amends the Issuer's decommissioning obligations as determined by the Authority;

- (e) costs incurred or saved resulting from "income adjusting events" in excess of £1,000,000 (a general term which addresses certain events or circumstances which the Authority agrees would merit an adjustment to the revenue stream and includes amendments to the STC and events constituting force majeure under the STC);
- (f) an amount equal to the interruption payments made by NGET and charged by NGET to the Issuer in accordance with the STC within the relevant year (this is the term "**TPD**" discussed below in the section on the STC);
- (g) payments made to the Authority in accordance with the Electricity (Competitive Tender for Offshore Transmission Licences) Regulations 2010 with respect to the recovery of the Authority's tender costs; and
- (h) costs that the Issuer may incur in relation to additional obligations imposed on the Issuer with respect to the introduction of the Marine and Coastal Act 2009 as determined by the Authority.

The performance incentive element of the revenue stream is based on asset availability rather than asset utilisation and the revenue stream is not subject to periodic review.

If the Issuer's regulated transmission revenue received under the STC exceeds or falls short of the allowed transmission owner revenue entitlement under the OFTO Licence by specified percentages, the Issuer is required to provide a written explanation to the Authority. If the excess is above three per cent. of allowed transmission owner revenue, the Issuer will only be allowed to increase its charges in the following relevant year if it has demonstrated to the reasonable satisfaction of the Authority that the revenue would not be likely to exceed the allowed transmission owner revenue in that relevant year. If the sum of the excess over two successive relevant years is four per cent., the Issuer may be required by the Authority to make adjustments to its charges to prevent any excess occurring in the following relevant year.

### ***Availability Incentive***

The Amended Standard Conditions of the OFTO Licence provide that where the Issuer fails to meet its performance targets for availability, it will be penalised through the performance incentive resulting in a reduction in its revenue stream, subject to an annual cap on deductions of 10 per cent. of base revenue. Therefore, the Issuer will receive no less than 90 per cent. of its base revenue even in instances of severe loss of availability. Nevertheless, a severe loss of availability may still result in deductions in later years, so that there could be a revenue deduction of 10 per cent. of base revenue for up to five consecutive years in respect of one year's performance shortfall, but there are no further deductions in respect of that performance shortfall after the end of that five year period. The availability target for the Issuer is currently set at around 98 per cent., with the monthly weighted value affecting the credits earned or penalties incurred being the lowest in the months of May through August to incentivise the Issuer to carry out its maintenance when the wind farm generated output is expected to be lowest.

The Issuer has the opportunity to earn credits for performance in excess of its availability target, which are offset against certain other performance shortfalls to reduce deductions to a certain extent. These credits are only payable to the Issuer for the licence year (April to March) following the calendar year (January to December) in which they were earned and to the extent not offset against penalties.

Availability is assessed monthly and then aggregated for the calendar year (subject to the weighting described above). The Issuer's availability is calculated by reference to the maximum transmission system availability in a month, less the effect of any transmission services reduction (which is not

attributable to certain specified events under the industry codes and for which the Authority has not authorised "exceptional event" treatment (see below)). A transmission services reduction is a reduction in transmission services from the parameters and levels set out in the Services Capability Specification developed by the Issuer under the STC as a result of an outage or services reduction (see "*– System Operator – Transmission Owner Code (STC)*" below). The specified events which are stated to be excluded from transmission services reduction for this purpose include a reduction in transmission system availability resulting from a de-energisation or disconnection of a user's equipment under an event of default as defined in the CUSC or resulting from emergency de-energisation by a user as defined in the CUSC. GyMOWFL is a user under the CUSC. The Issuer has also negotiated and there are included in its OFTO Licence specific exclusions for:

- (a) a reduction in transmission system availability solely as a result of works undertaken to remediate a temperature anomaly in the offshore joint of the fibre optic cable in accordance with the SPA during the shorter of 30 months from the date the OFTO Licence comes into force and completion of those works, subject to the Issuer using its reasonable endeavours to minimise the effect and duration of any transmission services reduction; and
- (b) a reduction in transmission system availability solely as a result of the completion works undertaken in accordance with the Table 2 of Annex 1 of Schedule 14 of the SPA during the shorter of 18 months from the date the OFTO Licence comes into force and completion of each of those works, subject to the Issuer using its reasonable endeavours to minimise the effect and duration of any transmission services reduction.

(See further "*–Description of the Project Documents – Sale and Purchase Agreement - Outstanding Works–*" below.)

There are, however, some possible de-energisation or disconnection scenarios outside the Issuer's control which are not listed as specific exclusions and for which the Issuer may need to apply for exceptional event treatment. The Issuer may notify the Authority where it considers that an event on its transmission system that caused a transmission service reduction has been wholly or partially caused by an "exceptional event" (an event or circumstance that is beyond the reasonable control of the Issuer and which results in or causes a transmission service reduction) within 14 days of the occurrence of such event. In such circumstances, the Authority may direct that the value of the reported system incentive performance be adjusted to offset the impact of that exceptional event. An example of an event that the Authority has indicated will amount to an "exceptional event" is an offshore transmission system outage following an unplanned outage on the onshore system to which an OFTO's transmission assets are connected.

### ***Performance Security***

To encourage adequate performance towards the end of the revenue stream, the Issuer will also be required to arrange to put in place financial security (such as a deposit of money, performance bond, bank guarantee, insurance policy or letter of credit) for the purposes of covering future financial liabilities by no later than 16 years after the date the OFTO Licence comes into force. The amount of financial security required is not less than 50 per cent. of the base transmission revenue. The Issuer currently intends to provide this by way of a performance bond or letter of credit at the relevant time. For further consideration see "*- Risk Factors–*" above.

### ***Incremental Capacity***

The revenue entitlement also provides for an uplift in the revenue stream for incremental capacity increases, which the Issuer is required to make available provided that the capital investment expected to be required by the Issuer in order to offer that incremental capacity does not exceed 20 per cent. of the original investment cost incurred by the Issuer in respect of the transmission assets.

### ***Ring-fencing Provisions***

In keeping with other regulated utilities, the Standard Conditions and Amended Standard Conditions of an OFTO Licence impose certain restrictions and obligations on the Issuer designed to ensure, so far as practicable, that its electricity transmission business is ring-fenced from financial risks arising otherwise than from the conduct of the electricity transmission business.

The principal provisions of the OFTO Licence which give effect to this regulatory ring-fencing are summarised below. It is anticipated that anyone investing in or lending to an OFTO would take significant comfort from the regulatory environment created by the licence regime, in that the scope of an OFTO to conduct anything other than its licensed business is strictly limited.

### ***Restrictions on Asset Disposals***

The Issuer is prohibited from disposing of, or relinquishing, operational control over transmission assets, except where: (a) the Authority has provided its consent (or has failed to respond within two months to a notice of intention to dispose); (b) the disposal or relinquishment is within the terms of a general consent given by directions issued by the Authority; (c) the disposal or relinquishment is required by statutory requirement; or (d) the relinquishment of operational control is to another transmission licensee and is required by the STC. The term "disposal" is defined to include a mortgage or charge.

### ***No Cross-subsidies***

The Issuer is required to prevent the transmission business giving or receiving any cross-subsidy from any other business of the Issuer or an affiliate or related undertaking of the Issuer.

### ***Focus on the Transmission Business***

With limited exceptions (including non-core business where the aggregate turnover and the equity share of the aggregate turnover of the non-core business carried on by the Issuer and its relevant associates does not, in any 12 month period commencing 1 April, exceed 2.5 per cent. of the aggregate turnover of the transmission business and where the licensee has invested an aggregate amount that does not exceed 2.5 per cent. of the sum of its share capital in the non-core business), the Issuer must confine its activities to the conduct of the transmission business. In addition, the Issuer may not hold or acquire shares or other investments without the prior written consent of the Authority, except for: (i) shares or other investments in an entity which solely undertakes business related to the transmission business; (ii) shares or other investments in a subsidiary of the Issuer incorporated solely for the purpose of raising finance for the transmission business; and (iii) investments acquired in the ordinary course of treasury management.

### ***Adequacy of Available Resources***

The Issuer must act in a manner calculated to secure that it has adequate resources available to it so as to at all times conduct its transmission business properly and efficiently and in conformity with the OFTO Licence and the Electricity Act. There are various OFTO Licence provisions that monitor the Issuer's actions in relation to this obligation. These include requirements that the Issuer gives certificates annually to the Authority as to whether or not its directors have a reasonable expectation that the Issuer will have sufficient financial and operational resources available to it to enable it to carry on the transmission business for a period of 24 months from the date of its last published accounts and to certify whether it has complied in all material respects with certain licence conditions (including those relating to the provision of information to the Authority and the establishment and maintenance of financial ring-fencing). The certificate process prescribed in the licence requires the Issuer to provide a statement of the main factors the board took into account in giving the certificate,

together with various financial documents. The Issuer must inform the Authority immediately if the directors become aware of circumstances that mean they can no longer stand by the statements given in the certificates.

Subject to a limited exception, the Issuer is required to certify to the Authority full compliance with certain OFTO Licence conditions before the declaration or recommendation of any dividend (or other action having an equivalent economic effect). The Issuer must confirm that the making of the distribution will not cause the Issuer to be in material breach of those conditions in the future.

### ***Restrictions on Encumbrances and Guarantees***

In keeping with other regulated sectors, the Issuer may not, without the prior written consent of the Authority, create (or permit to remain in effect) any mortgage, charge, pledge, lien or other form of security or encumbrance, undertake any indebtedness to any other person or enter into any guarantee or obligation except:

- on an arm's length basis;
- on normal commercial terms;
- for a "permitted purpose" (essentially the purposes of the transmission business or, among others, the payment of a dividend or other distribution out of distributable reserves as described below); and
- (if applicable) regarding certain asset disposals.

As discussed above, it is proposed that the Issuer will provide security to the Secured Creditors, including the Bondholders, to the extent permitted by law and regulation. See further "*Description of the Guarantee and the Security*".

### ***Restrictions on Dealings with Associates***

The Issuer may not transfer, lease, license or lend any sum, asset, right or benefit to any associate (defined as discussed below) without the prior consent of the Authority other than by way of dividend, repayment of capital, repayment of, or payment of interest on, a permitted loan, payments for group corporation tax relief or for the surrender thereof (calculated on a basis not exceeding the value of the benefit received) or certain other arrangements on an arm's length basis and on normal commercial terms. An **associate** is an affiliate or related undertaking of the licensee, an ultimate controller or participating owner of the licensee, or a common control company. A **common control company** is any company with an ultimate controller who is also an ultimate controller of the licensee. A **participating owner** refers to a person who has (directly or indirectly) a participating interest, which is an interest held in the shares of another undertaking on a long term basis for the purpose of securing a contribution to its activities by exercise of control or influence arising from or related to that interest, and a holding of 20 per cent. or more is presumed to be a participating interest unless the contrary is shown.

However, the tests above for dealings with an associate are replaced with stricter requirements if certain circumstances occur in relation to the status of the Issuer (referred to as **prohibited circumstances**), so the Issuer may not transfer, lease, license or lend any sum, asset, right or benefit to any associate without the prior consent of the Authority otherwise than by way of, among other things, repayment of, or payment of interest on, a permitted loan which was contracted prior to the date on which the prohibiting circumstances arose, provided that such payment is not made earlier than the original due date for payment in accordance with its terms. The prohibited circumstances include, among other things, circumstances where credit ratings of the Issuer have been downgraded



or the Issuer is no longer able to certify availability of adequate financial and operational resources as required by the OFTO Licence.

### ***Restrictions on Paying Dividends and Distributions***

As mentioned above (see "*Restrictions on Dealings with Associates*"), in certain prohibited circumstances (such as a rating deterioration) there are much more extensive controls on the transactions the Issuer can enter into with an associate without the specific consent of the Authority, and the declaration and payment of dividends in favour of an associate and payments under intergroup loans are restricted. However, the OFTO Licence does provide that any repayment of, or payment of interest on, an intercompany loan is permitted if payment is not made earlier than the original due date for payment and the intercompany loan was entered into:

- on an arm's length basis;
- on normal commercial terms;
- for a permitted purpose; and
- prior to the date of the above-mentioned prohibited circumstances.

In addition, the OFTO Licence prohibits the Issuer from declaring or recommending a dividend or making other forms of distribution or redeeming or repurchasing share capital unless it has first certified to the Authority in specified terms compliance with certain licence conditions and that the dividend, distribution, redemption or repurchase will not result in a breach of those conditions.

### ***No Cross-default Obligation***

The Issuer is required to obtain the Authority's prior written consent before entering into any agreement or incurring any commitment that incorporates a cross-default obligation or (subject to some temporary exceptions for existing financial facilities) allowing such a cross-default obligation to continue. There is, however, a provision that this shall not prevent the licensee from giving a guarantee permitted under the section "*Restrictions on Encumbrances and Guarantees*" above. The Issuer does not intend to enter into agreements containing cross-default obligations and the Finance Documents specifically disapply any such provisions in relation to the Issuer.

### ***Investment Grade Issuer Credit Rating***

The Issuer is required to use all reasonable endeavours to maintain at all times one of the following: (a) an investment grade issuer credit rating; (b) investment grade instrument credit ratings for debt instruments it has issued and whose aggregate nominal value is at least 75 per cent. of the licensee's total assets minus total liabilities as shown in its most recent statutory accounts; or (c) such alternative financial arrangements as may be approved in writing by the Authority (such as an escrow deposit, letter of credit, or a keep well agreement from an investment grade credit rated parent company)<sup>4</sup>. This approach is consistent with the restrictions on dealings with associates referred to above, in that it is possible for this obligation to be satisfied (i.e. if the whole sector suffers a downgrade) without the licensee retaining investment grade status.

A request for alternative financial arrangements in respect of the Issuer was submitted on 8 October 2014 requesting approval for an investment grade instrument credit rating in the form of a "Long Term Senior Secured Debt Rating" by Moody's Investors Services. The Authority granted consent to

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<sup>4</sup> Source: Standard Condition E11 (Credit Rating of Licence) and <https://www.ofgem.gov.uk/publications-and-updates/open-letter-regarding-alternative-credit-rating-arrangements-offshore-transmission-owners-oftos>

the Issuer around the date the OFTO Licence came into effect to this alternative financial arrangement and confirmed that a rating by Moody's would be sufficient provided that rating was investment grade. The consent is valid until the Issuer publishes its statutory accounts, as the Issuer would then be expected to be in a position to satisfy the original requirement referred to at (b) above.

### ***Transmission Business***

The Issuer is obliged to be a party to and comply with the STC and provide transmission services in accordance with the STC. It is also obliged to plan and develop the OFTO's transmission system in accordance with the National Electricity Transmission System Security and Quality of Supply Standard version 2.2.

The Issuer is obliged to offer terms for connection or modification of an existing connection, but not if this would be likely to involve it incurring costs equal to or in excess of 20 per cent. of the original investment cost.

### ***Separation and Independence of the Transmission Business***

The OFTO Licence requires that, unless otherwise directed by the Authority, the Issuer must have separate premises, equipment, systems, facilities, staff and property from those of the system operator and from those of any associated business of the Issuer that is authorised to generate or supply electricity. The Issuer is also required to conduct its transmission business in the manner best calculated to secure that, among others, any user of the national electricity transmission system or any other transmission licensee obtains no unfair commercial advantage.

The OFTO Licence further requires the Issuer to maintain appropriate managerial and operational independence from any associated business and, except in so far as the Authority otherwise consents, to ensure that there is an appropriate time gap between people who have worked on the transmission business working on any associated business that is authorised to generate or supply electricity or is the system operator.

The Issuer must have in place a statement, approved by the Authority, setting out the practices, procedures and systems which it has adopted to secure compliance with the obligations contained in certain Standard Conditions and Amended Standard Conditions. The approved statement of compliance should be in place no later than 30 days after the licence condition comes into effect and be published on the Issuer's website within seven days of approval by the Authority. The Issuer must revise the statement when circumstances change such that the statement no longer secures the relevant compliance and business separation conditions, and the revision shall become effective once approved by the Authority.

The requirements described above are in addition to the requirements in relation to Third Package Unbundling; see "*Third Package Unbundling*" below.

### ***Restriction on the Use of Certain Information***

The Issuer's management and operational information is to be treated as confidential and may only be disclosed in certain circumstances, which include (a) disclosure by virtue of any requirement of a competent authority, such as the Stock Exchange, or (b) where the information (not being information provided by or relating to any person other than the Issuer) is placed by the Issuer in the public domain.

Additionally, under the Standard Licence Conditions, the Issuer may not disclose commercially sensitive information which it has obtained in the course of carrying out its activities except where required by other provisions of the OFTO Licence or other legal duties.

### ***Compliance Officer***

The Issuer is required to appoint a compliance officer and establish a compliance committee to facilitate meeting its various compliance obligations and is required to make certain reports in respect of compliance available to the Authority and publish the annual compliance report on its website.

### ***Transparency to the Public and Provision of Information to the Authority***

The OFTO Licence imposes certain obligations on the Issuer as regards the provision of information to both the public and the Authority.

An Issuer is required to prepare regulatory accounts for each financial year ending on 31 March, have these audited and deliver them to the Authority. Unless the Authority otherwise directs, the Issuer must publish its regulatory accounts on its website by 31 July following the end of each financial year to which the accounts relate. The regulatory accounts must separate data relating to the transmission business from that of any other business of the Issuer, and there are other requirements as to the details to be included in the regulatory accounts.

There are separate detailed offshore regulatory reporting and audit requirements for the provision of information in relation to the operation of the transmission system to the Authority in accordance with particular templates, to enable the Authority to monitor effectively the revenue of the transmission business. The Issuer is generally required to provide information (other than information which attracts legal privilege) to the Authority upon request. The ultimate controller undertaking (see "*Ultimate Controller Undertakings*" above) includes a requirement that the ultimate controller (and any person controlled by it) will provide the Issuer with any information required to enable the Issuer to comply fully with its obligation to provide information to the Authority. The Issuer is also required to prepare within 12 months of the condition coming into effect in the OFTO Licence, an intervention plan containing information which would be sufficient to allow an energy administrator (see "*Energy Administration Orders*" below) to obtain information on certain assets, rights and liabilities of the Issuer.

### ***Enforcement***

Where the Authority is satisfied that an OFTO is contravening or is likely to contravene any relevant licence condition or other relevant requirement, it may under section 25 of the Electricity Act secure compliance by means of an enforcement order. An order may be provisional or final. A provisional order may be used to prevent loss or damage which might otherwise arise before a final order can be made. Procedural requirements are set out in section 26 of the Electricity Act, including provision for notices setting out details of the contravention and specifying a period within which representations may be made.

Breach of a licence condition can also attract a penalty of such amount as is reasonable in all the circumstances of the case, up to 10 per cent. of the licensee's annual turnover in the year preceding the date on which the Authority gives notice of its proposal to impose a penalty. (See section 27A of the Electricity Act and the Electricity and Gas (Determination of Turnover for Penalties) Order 2002). Breach of a licence condition may also result in a consumer redress order being made under the Electricity Act and the Electricity and Gas (Determination of Turnover for Penalties) Order 2002 as amended by the Energy Act 2013. This includes a requirement to terminate or vary any contracts entered into with affected consumers or a requirement to pay compensation to affected consumers, subject to a maximum (in aggregate with any penalty) of 10 per cent. of turnover in respect of that contravention. A consumer redress order is, however, more likely to be imposed on supply licence holders than on transmission licence holders.

If the OFTO does not comply with an order, compliance can be enforced by the courts as provided for in section 27 of the Electricity Act. Under Schedule 2 of the OFTO Licence, the Authority may revoke the licence if the failure to comply with the order is not rectified to the satisfaction of the Authority, or any financial penalty is not paid, within three months after the Authority has given notice of such failure to the OFTO.

An OFTO may challenge the validity of an order or financial penalty by making an application to the High Court within 42 days from the date of service of notice of the order or financial penalty (and it is proposed that there would be a similar right of challenge in relation to a consumer redress order). The High Court may quash the order or financial penalty, substitute a reduced financial penalty or change the date of payment where it is satisfied that:

- the imposition of the order or financial penalty was not within the Authority's powers; or
- the interests of the OFTO have been substantially prejudiced by the Authority's failure to comply with the relevant procedural requirements; or
- in the case of a financial penalty, it was unreasonable of the Authority to require the financial penalty (or any portion of it) to be paid by the required date(s) (or it is proposed in relation to a consumer redress order that it was unreasonable of the Authority to require something to be done under the order).

The obligation to comply with a final or provisional order is a duty owed to any person who may be affected by a contravention of that order and, under section 27(5) of the Electricity Act, any breach of that duty which causes that person to sustain loss or damage shall be actionable at the suit of that person, but in those proceedings it shall be a defence for the regulated person to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order. (It is also proposed that a consumer redress order would be a duty owed to any person who may be affected by a contravention of that order and enforceable by civil proceedings by that person).

A financial penalty (or proposed consumer redress order) could be levied in addition to a performance availability reduction (see "*Availability Incentive*" above).

In addition, the Authority has powers under the Competition Act 1998 (concurrently with the Office of Fair Trading) to deal with certain breaches of competition law which relate to commercial activities connected with the electricity market, including breaches of the prohibitions on agreements between undertakings which aim to prevent, restrict or distort competition, or conduct which amounts to abuse of a dominant position. Where the Authority has reasonable grounds to suspect that competition law is being breached, it has powers to instigate an investigation and, following conclusion that a breach has occurred, it can issue directions to bring the breach to an end and impose financial penalties for breaches committed intentionally or negligently (up to 10 per cent. of an undertaking's turnover).

In its Enforcement Guidelines on Complaints and Investigations (June 2012), the Authority states that as an alternative to enforcement proceedings, it is open to requests from companies to enter into settlement negotiations and it will decide whether it is appropriate for the case to proceed through the settlement procedure. The settlement procedure would enable the Authority to work with the company subject to the investigation to bring the case to an early resolution by agreement. The guidance also states that settlement is likely to result in a lower penalty than would likely be imposed otherwise.

As at the date of this Prospectus, the Issuer is not aware of the Authority having taken action against an OFTO by means of an enforcement order or under the Competition Act 1998.

## NGET

As described above, the Issuer's revenue stream will be paid by NGET under the STC.

NGET's full name is National Grid Electricity Transmission plc. It is incorporated in England and Wales as a public limited company and its registered office is at 1-3 Strand, London WC2N 5EH. The nature of its business is the transmission of electricity. NGET has in place a EUR15bn programme for the issue of euro medium term notes (the **NGET Notes**). The NGET Notes have been admitted to the official list of the UK Listing Authority. According to the NGET website, approximately €4.5 billion of notes have been issued by NGET under that programme as at 31 March 2014<sup>5</sup>.

NGET recovers its costs (including payments it will be required to make to OFTOs) through charges met by users of the National Electricity Transmission System and, ultimately, consumers. NGET has a licence obligation to maintain an investment grade credit rating and, as far as the Issuer is aware, does hold such a rating. The objectives of the Authority referred to in "**Background and Key Players**" above also apply to the Authority's regulation of NGET. One key aspect of this is the "financing duty" which provides that the Authority must have regard to the need to ensure that NGET is able to finance the activities which are the subject of statutory obligations placed on it.

If NGET were to become insolvent, this would be a ground for revocation of its licence. However, as the holder of a transmission licence, it would also be a "protected energy company" for the purposes of Section 154 of the Energy Act 2004 and therefore a company in respect of which the Secretary of State or the Authority could apply for an energy administration order which would give priority to the rescue of the company as a going concern or a transfer of the undertaking as a going concern. See further "*Energy Administration Orders*" below.

The STC (which is the document under which the Issuer's revenue stream is payable) is one of the core industry documents relating to the operation of NGET's business which would be expected to form part of any transfer of its business as a going concern, although there can be no assurance as to the terms of any transfer as a going concern.

NGET is also subject to a licence condition introduced pursuant to Section 168(1)(b) and Section 169 of the Energy Act 2004 (which is now part of the Standard Conditions that should, pursuant to Section 168(8), also apply to any future transmission licences for a system operator), namely Condition C24, requiring the system operator, if a shortfall direction is issued by the Secretary of State, to raise charges in order to recover additional amounts for the purposes of meeting relevant debts and its administrative fees such as those of an energy administration. The system operator's ability to raise these charges mitigates the risk that it would fail to pay amounts owed to an OFTO under the STC.

There is currently no obvious mechanism for NGET to recover any such charges from an OFTO, but if a shortfall direction were in fact to provide for NGET to impose such charges arising from a shortfall direction on the Issuer, the Issuer would propose to seek an "income adjusting event" revenue adjustment for costs if above the relevant threshold (see "*OFTO Licence – OFTO Revenue Stream*" above).

The question of the credit exposure of other transmission owners to NGET was discussed in the Authority consultation documents in November 2004 (269/04) and February 2005 (56/05). In these consultations it was assessed by the Authority that the probability of NGET becoming insolvent was very low and that, even in the event of NGET's insolvency, the level of transmission owners' risk of exposure to non-payment in the event of NGET's insolvency was very low, bearing in mind the

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<sup>5</sup> Source: <http://investors.nationalgrid.com/debt-investors/debt-information/programmes.aspx>

investment grade rating requirement, the financial ring-fence, the Authority's obligation to perform its duties having regard to the need to secure that licence holders can finance their activities and the energy administration provisions in the Energy Act 2004. Notwithstanding this, it was also recognised that there remains a residual risk to transmission owners. The likelihood of amounts owed to transmission owners being classed as expenses of the administration and ways of making this more likely were discussed. Various credit support options were also discussed in this context and the Authority stated that it was "extremely unlikely" that payments to transmission owners would not be classed as an administration expense. However, the decision was that no specific credit cover measures would be implemented in addition to the regulatory options available (at least until such time as the Authority received a proposal that can be shown to be proportionate to the level of perceived risk and legally robust).

## ENERGY ADMINISTRATION ORDERS

The Energy Act 2004 introduced a special administration regime for entities that operate or own essential energy infrastructure known as "energy administration". This regime currently applies to the holders of transmission licences (including OFTO Licences). The Authority's guidance on the OFTO of Last Resort mechanism suggests that energy administration is one of the measures which may be used before the OFTO of Last Resort mechanism is used (see further "*OFTO of Last Resort*" below). Further details of the operation of the energy administration regime are contained in the Energy Administration Rules 2005.

Under the Energy Act 2004 as amended by the Energy Act 2013, the Secretary of State or the Authority (with the permission of the Secretary of State) may apply to the court for an energy administration order (**EAO**). The court may only make an EAO where an OFTO is or is likely to be unable to pay its debts or, where the Secretary of State has certified to the court that, on petition under Section 124A of the Insolvency Act 1986 (petition for winding-up on grounds of public interest), it would be just and equitable (disregarding the objective of the energy administration) to wind up the licensee in the public interest.

The commencement of energy administration blocks the initiation of most other insolvency procedures, including voluntary winding-up and ordinary administration, and the enforcement of security. Notwithstanding the notification obligations contemplated by Section 164(1) of the Energy Act 2004, creditors are prohibited from enforcing security against the licensee in the absence of express consent from the Secretary of State. In addition, any holder of a floating charge is restricted from appointing an administrator under paragraph 14 or 22 of Schedule B1 of the Insolvency Act to block the appointment of the energy administrator unless certain conditions are met.

If an EAO is granted, an energy administrator is appointed to assume responsibility for the management and operation of the company in order to achieve the objective of the EAO. The overriding objective of the EAO is to secure that:

- the licensee's system is and continues to be maintained and developed as an efficient and economical system; and
- it becomes unnecessary for the EAO to remain in force.

In the context of transmission, "system" means the electricity transmission system which the licensee has been maintaining. An energy administrator must secure the overriding objective by one or both of the following means:

- to rescue the company as a going concern; and/or

- to transfer as a going concern, to one or more other companies, such part of the licensee as is appropriate for the purpose of achieving the overriding objective of the energy administration (an **Energy Transfer Scheme**).

An Energy Transfer Scheme comes into effect at the time appointed by the court. However, prior to this, the Energy Transfer Scheme must be approved by the Secretary of State (having first consulted with the Authority). In deciding whether or not to approve the Energy Transfer Scheme, the Secretary of State must have regard to the public interest and the effect that the Energy Transfer Scheme is likely to have on the interests of third parties.

The powers of an energy administrator are extensive and include the ability to make modifications to the licence of the existing licensee as part of an Energy Transfer Scheme. The energy administrator must exercise and perform his powers and duties in a manner which protects the interests of the creditors of the company as a whole and, subject to those interests, the interests of the members of the company as a whole. However, ultimately members' and creditors' rights are subordinated to the achievement of the objective of the EAO. There can be no assurance that any Energy Transfer Scheme could be achieved on terms that would enable creditors to recover amounts due to them in full and any Energy Transfer Scheme does not need to be approved by creditors.

The Energy Act 2004, as amended by the Energy Act 2013 also grants the Secretary of State, with the approval of HM Treasury, the power to:

- make appropriate grants or loans to achieve the purposes of the EAO and to indemnify the energy administrator against losses or damages sustained in connection with the carrying out of his functions; and
- guarantee the payment of principal or interest and the discharge of any other financial obligations in connection with any borrowings of the licensee subject to an EAO.

As at the date of this Prospectus, the Issuer is not aware of an EAO in respect of an OFTO having been made.

## **OFTO OF LAST RESORT**

Under the terms of the OFTO Licence, the Authority has the power to direct an OFTO to act as an OFTO of Last Resort. The OFTO of Last Resort guidance issued by the Authority in February 2014 (the **guidance**) explains that this right is expected to be used where the Authority considers that there is a significant risk of a generator becoming stranded or suffering delays to connection of the offshore wind farm. An OFTO of Last Resort direction (a **direction**) could potentially require an OFTO to take on the transmission assets of another project and provide transmission services in respect of that project for periods of up to five years at a time. The five year duration provides an opportunity to appoint a new OFTO of Last Resort or to extend the appointment of an existing OFTO of Last Resort. There is no specified limit applied to the number of successive periods that an OFTO can be appointed as an OFTO of Last Resort in relation to particular transmission assets.

Before initiating the OFTO of Last Resort process, the guidance indicates that the Authority would expect to engage with affected stakeholders (including the Secured Creditors where appropriate) to seek to resolve issues. The guidance further suggests that the Authority would expect to use the OFTO of Last Resort process only once other measures for ensuring viable on-going transmission have been exhausted. Such measures might include:

- an open market sale/transfer of the assets by the OFTO; or

- a new open market competitive tender process administered by the Authority, where a tender process has failed to identify an OFTO; or
- energy administration (see "*Energy Administration Orders*" above).

The Authority may issue a direction to an OFTO only where:

- a previous direction regarding the relevant transmission assets has expired or is due to expire; or
- the Authority has not been able to determine a person to be granted an offshore transmission licence after a transitional tender exercise (and in its consultation in November 2010, on implementing further refinements to the enduring regime, the Authority said it considered that this reference would also include the generator build option under the enduring regime); or
- the Authority intends to revoke the transmission licence of an OFTO (see "*Determination or Revocation of the OFTO Licence*" above); or
- the Authority intends to revoke a direction given to another transmission licensee,
- and were the direction not given, it would significantly increase the likelihood that the generating station that is, or is expected to be, connected to the transmission assets would be unreasonably delayed or stranded.

Certain safeguards apply to protect a potential OFTO of Last Resort, including that the Authority must consider that the OFTO can comply with the direction without materially prejudicing its ability to carry out its other licence activities and contractual obligations under any relevant codes and that the Authority is satisfied that the OFTO will be able to finance the activities and recover the costs of operating the relevant transmission assets in an economical and efficient manner, including a reasonable rate of return.

Where the Authority intends to make a direction, it must notify the OFTO, setting out:

- the basis on which it considers that it is reasonable to make the direction;
- the proposed start date;
- the proposed duration of the direction; and
- the transmission assets to which the direction relates.

The OFTO is given a period within which to make representations and the Authority before a direction is made.

A direction will only take effect where the Authority has formally proposed modifications to the OFTO licence conditions that prescribe the rights and obligations of the OFTO, including the annual revenue that the OFTO may earn for providing the transmission services through the relevant transmission assets. Modifications to licence conditions can be implemented by the Authority after a consultation period, and licence holders (and, in certain circumstances, other stakeholders) can challenge the modifications by making an appeal to the Competition Commission. In setting the revenue stream, the Authority's guidance suggests that the Authority will seek to ensure that the OFTO of Last Resort will receive an annual revenue stream sufficient to fund an efficiently operating business and to meet the cost of purchasing the assets.



An OFTO will be able to request a review of a direction at any time when there has been a material prejudicial change to the basis on which the direction was given.

At present, there is no statutory power which expressly enables the Authority to require the transfer of transmission assets from an outgoing OFTO to an incoming OFTO under the OFTO of Last Resort arrangements. The Authority's powers to compulsorily transfer assets to an OFTO by way of the statutory property scheme under the Act which were recently extended until May 2025 are limited to circumstances where a tender exercise has been held and the purpose is to effect a transfer from the generator developer to the OFTO. The Authority is therefore not necessarily able to enforce a transfer of transmission assets between licensees upon appointing an OFTO of Last Resort. However, the Authority's guidance states that the regulatory framework should incentivise the OFTO to transfer the assets in a timely manner. The Authority envisages that assets will transfer following commercial agreement between the incumbent OFTO and the OFTO of Last Resort; how consideration is calculated is not prescribed, but the Authority states in its guidance that it expects the transfer value to be reflective of the net asset value after regulatory depreciation.

It is stated in the guidance that the Authority considers that the OFTO licence regime contains sufficient monitoring such that any difficulties arising in the operation of an OFTO business would be picked up through the availability performance and regulatory reporting requirements, the ring-fence conditions and the Authority's enforcement powers without the need to make use of the OFTO of Last Resort process.

Moody's report "Operational UK Offshore Transmission Owners: Solid Credit Strength comparable to that of UK Regulated Onshore Networks" dated 30 May 2013 considers that the OFTO of Last Resort mechanism carries limited additional risks for an OFTO.

Nevertheless, it should be noted that the Issuer may be directed to become the OFTO of Last Resort by taking on the transmission assets of another project, and providing transmission services in respect of that project, or that another OFTO may be directed to become the OFTO of Last Resort of the Issuer's Transmission Assets.

As at the date of this Prospectus, the Issuer is not aware of the Authority having made a direction to an OFTO for it to act as an OFTO of Last Resort.

### ***Third Package Unbundling***

All electricity transmission system operators, including the Issuer, are required by the terms of their respective licences to comply with the Third Package – that is, taking measures to ensure that such OFTOs are effectively separated from electricity or gas generation, production and/or supply interests. Failure to obtain certification of compliance with the Third Package, or failure to continue to be certified, is a licence revocation event under the OFTO Licence.

In order to obtain certification under section 10D of the Electricity Act, an OFTO must satisfy one of the "certification grounds" set out in section 10E of the Electricity Act. The main model for certification, and the grounds under which the Issuer has applied, is that it meets the ownership unbundling requirements in section 10F of the Electricity Act.

The Authority applies five tests in order to determine whether the ownership unbundling requirements are met, which in summary are:

- The first test is that the applicant: (a) does not control a relevant producer or supplier; (b) does not have a majority shareholding in a relevant producer or supplier; and (c) will not, on or after the relevant date (generally 3 March 2012), exercise shareholder rights in relation to a relevant producer or supplier.

- The second test is that, where the applicant is a company, partnership or other business, none of its senior officers has been, or may be, appointed by a person who: (a) controls an electricity undertaking which is a relevant producer or supplier; or (b) has a majority shareholding in an electricity undertaking which is a relevant producer or supplier.
- The third test is that, where the applicant is a company, partnership or other business, none of its senior officers is also a senior officer of an electricity undertaking which is a relevant producer or supplier.
- The fourth test is that the applicant is not controlled by a person who controls a relevant producer or supplier.
- The fifth test is that the applicant is not controlled by a person who has a majority shareholding in a relevant producer or supplier.

There are regulations (The Electricity and Gas (Ownership Unbundling) Regulations 2014) that enable the ownership unbundling requirement to be met if the Authority thinks that one or more of the five tests is not passed but the applicant has demonstrated to the Authority's satisfaction that it does not have a relationship with the relevant producer or supplier which might lead the applicant to discriminate in favour of the relevant producer or supplier and the Authority considers it appropriate to treat the test or tests as passed (and provided further that the relevant producer or supplier is not the operator of a generating station directly connected to that transmission system). However these regulations only apply to applications for certification received or reviews began on or after the date the new regulations came into force (which was 15 January 2015).

A relevant producer or supplier includes a producer or supplier of electricity or gas who requires a licence (or would require a licence if that activity were carried out in Great Britain) or has a relationship with the applicant which the Authority thinks might lead the applicant to discriminate in favour of that person. Control has a meaning based on the meaning of that term under the Third Electricity Directive, which, taking into account European Commission Guidance, encompasses positive control and also negative control by way of veto rights over strategic business decisions. The exercise of shareholder rights is discussed further below.

The Authority is obliged to notify its preliminary decision and the reasons for it to the European Commission before making a final decision and is required to take utmost account of the Commission's opinion in reaching that final decision.

The Authority notified the European Commission of its preliminary decision of 10 November 2014 that the Issuer complies with the relevant full ownership unbundling requirements. The European Commission gave its opinion in early January 2015 and raised no objection to the Authority's proposed certification of the Issuer.

The Issuer's application for certification was finally approved by the Authority (after taking utmost account of the European Commission's opinion) on 12 January 2015.

The Issuer's certification may be withdrawn on not less than four months' notice in certain circumstances, including if the Authority considers that the material provided by the Issuer to the Authority in respect of its application for certification is not true and complete, or the basis on which the Authority decided to certify does not continue to apply and the Authority has made a final decision that the certification should be withdrawn, or certain insolvency events have occurred, or the Issuer is found to be in breach of, among other matters, any national or European competition laws.

The Authority has a continuing obligation to monitor and, where relevant, make a decision, in respect of each certified person, whether the basis on which it decided to certify that person continues to apply, and, if it does not, the certification may cease.

The Issuer is obliged to notify the Authority as soon as reasonably practicable if it knows or reasonably should know of any event or circumstance that has occurred or is likely to occur that may affect its eligibility for certification. On 10 February 2015, the Issuer made a preliminary notification to the Authority in relation to the change of control of Equitix Transmission 2 Limited which took place on 2 February 2015.

The Issuer is obliged to notify the Authority as soon as reasonably practicable if it knows or reasonably should know of any event or circumstance that has occurred or is likely to occur that may cause the Authority to think that the Issuer is or may become a person from a third country, or that a person from a third country has or may take control of the Issuer. (A person from a third country is a person the Authority thinks is from a country that is not, and is not part of, a European Economic Area state.) If as a result of information it has received or obtained the Authority thinks that a person from a third country has taken or may take control of the Issuer, the Authority must, as soon as is reasonably practicable, notify the information to the Secretary of State and the European Commission together with any information it thinks is relevant to the question of whether the security of electricity supplies in the United Kingdom or any other European Economic Area state would be put at risk by the continued certification of the Issuer.

As discussed above, failure to obtain certification of compliance with the Third Package, or failure to continue to be certified, is a licence revocation event under the OFTO Licence (see below "*Determination or Revocation of the OFTO Licence*").

It should also be noted that under the Electricity Act, the exercise of certain shareholder rights (defined as a right to vote at general meetings or appoint or remove a member of the board, conferred by the holding of a share in a company) and certain other rights of appointment are prohibited if certain criteria are met including if the exercise of such rights would or might lead a certified person to discriminate in favour of the relevant producer or supplier. If rights are exercised in breach of the prohibition, the exercise is voidable on an application to the court by any person. The prohibition applies to: (i) the exercise by a person who controls the certified person of a shareholder right in relation to a relevant producer or supplier; (ii) the exercise by a person who controls a relevant producer or supplier of a shareholder right in relation to the certified person; (iii) the exercise by a person who appointed a current senior officer of a certified person of a shareholder right in relation to a relevant producer or supplier of electricity; and (iv) the appointment of a senior officer of a certified person by a person who has within the previous three years exercised a shareholder right in relation to a relevant producer or supplier of electricity. (As discussed above, a relevant producer or supplier includes a producer or supplier of electricity or gas who requires a licence (or would require a licence if that activity were carried out in Great Britain). In the context of the prohibition, a certified person is a person certified under the full ownership unbundling criteria.)

Enforcement of share security by the Secured Creditors, including the Bondholders, would need to be structured so as not to prejudice the Issuer's compliance with the certification criteria. The Authority does, however, have some flexibility to treat certain criteria as passed where the control of the Issuer was gained through the exercise of a right conferred as a condition of the provision of either financial support or a guarantee (or both) in relation to the Issuer's business or the control or majority shareholding in the relevant producer or supplier was gained through the exercise of such a right conferred in relation to the business of the relevant producer or supplier.

### ***System Operator – Transmission Owner Code (STC)***

The STC is a licence-based code which sets out obligations and responsibilities of transmission owners (both onshore and offshore) as between themselves and the system operator, which is NGET. The terms of the OFTO Licence require the OFTO to be a party to and comply with the STC.

The STC is divided into various sections and schedules dealing with different aspects of the relationship between transmission owners and NGET, including the requirements for the provision of transmission services, outage planning, construction agreements, and charges payable both by and to transmission owners. One of the schedules, Schedule 2, lists the approved Code Procedures which contain detailed provisions for certain processes required by the STC, and these include in STCP 19-5 the procedures for offshore transmission system compliance testing.

The STC may be modified through a process involving an "STC Modification Panel" consisting of up to two representatives from each STC party, except that the OFTOs collectively may only appoint up to two representatives. An STC modification proposal shall not be accepted unless, in respect of each category of party, the number of votes to accept the proposal is greater than 65 per cent. of the total number of groups in that party category which voted. There is a separate process for amending Code Procedures. Following one of a number of potential triggers, the Authority may institute a significant code review process, which begins on publication of a notice setting out its review. During a significant code review period, STC modification proposals that relate to the subject matter of the significant code review are restricted.

### ***Accession and Withdrawal***

An OFTO becomes a party to the STC by signing an accession agreement, but its rights and obligations in respect of requirements such as the provision of transmission services do not generally become effective until the date of notification of completion of the Party Entry Processes under the STC, which processes include for an OFTO a TO Construction Agreement (see "*TO Construction Agreement*" below). Disputes in relation to the Party Entry Processes may be referred to the Authority for determination.

Under the STC, an OFTO is entitled to issue a notice of its intention to withdraw from the STC, but any withdrawal does not become effective until steps have been put in place such that NGET (or other parties to the STC) would not be put in breach of its obligations under the STC as a consequence of the withdrawal of the OFTO. A dispute about those steps may be referred to the Authority for determination. In a case where an OFTO is notified that its OFTO Licence will be revoked, it shall be deemed to have issued a notice to withdraw. Withdrawal does not affect accrued rights and obligations.

### ***Payment Arrangements***

The details of the payments to be made by NGET to the OFTO and by the OFTO to NGET are set out in the STC.

NGET is required to pay to the OFTO (which is referred to in the STC as a **Transmission Owner** or **TO**) the following charges:

- **TO General System Charges**, determined in accordance with the statement prepared under Special Condition J2 of the Transmission Owner's transmission licence and approved by the Authority;

- **TO Site-Specific Charges**, determined in accordance with the statement prepared under Special Condition J2 of the Transmission Owner's transmission licence and approved by the Authority; and
- **Offshore Transmission Owner of Last Resort Charges**, determined in accordance with the direction issued under Standard Condition B18 or E21 of the Transmission Owner's transmission licence.

(There is a provision in Amended Standard Condition E13 of the OFTO Licence which states that references in the STC to Special Condition J2 are to be treated, in relation to the OFTO, as references to its Amended Standard Condition E12-J2, which is the condition of the OFTO Licence which sets out the allowed transmission owner revenue. The Authority has said that although the STC refers to Special Condition J2 this is intended to be a reference to Special Condition J9 and treated as a reference to Amended Standard Condition E12-J9 which sets out the requirements for charging statements.)

The OFTO is required to pay to NGET the following charges:

- **Interruption Charges**, which are amounts determined by NGET in accordance with the CUSC as payable to a User in respect of a Relevant Interruption solely as a result of the de-energisation of the Transmission Owner's plant and apparatus (but see the discussion below on pass-through component TPD in the OFTO Licence);
- **Offshore Construction Securities**, which are determined by NGET in accordance with Section D, Part Two of the STC (these relate to security provided by the OFTO in respect of its TO Construction Agreement (see the discussion below on the TO Construction Agreement));
- **Offshore Compensation Payments**, determined by NGET in accordance with the CUSC as payable to a User in respect of an Interruption (other than a Relevant Interruption) solely as a result of the de-energisation of the OFTO's plant and apparatus, where that OFTO has not met the transmission system availability target defined in Special Condition C4 of that OFTO's transmission licence (it is not clear what this is intended to refer to either in the CUSC or in the OFTO Licence but see the discussion below on pass-through component TPD in the OFTO Licence); and
- **Replacement Offshore Transmission Owner Charges**, incurred by NGET as a consequence of any event of OFTO default that leads to termination of a TO Construction Agreement where NGET is entitled to draw on the Offshore Construction Securities (see the discussion below on TO Construction Agreement).

The STC also provides for the payment of any other amounts payable under the STC or a TO Construction Agreement.

It is stated in the STC that an Offshore Transmission Owner's total liability for Interruption Charges and Offshore Compensation Payments in any year must not exceed the restriction of transmission revenue defined by the specified Special Condition of that Offshore Transmission Owner's transmission licence.

Interruption payments charged by NGET to the OFTO in accordance with the STC are included in the OFTO Licence as pass-through costs under the term "TPD", which also provides that the costs shall include any financing or other costs such as to ensure that the financial position and performance of the OFTO is, insofar as is reasonably practicable, the same as if those costs had not been incurred. Since both Interruption Charges and Offshore Compensation Payments are expressed to be in respect

of interruptions, they would be expected to be included within the phrase "interruption payments" used under the term "TPD".

Further, under the CUSC, a Relevant Interruption will not include an interruption which is provided for in the Connection Agreement. The form of Connection Agreement provided to the Issuer contains a clause which requires GyMOWFL upon request from NGET to restrict output in the event of an outage or restriction on certain circuits (that is not mitigated by alternative arrangements), which circuits appear to correspond to various Transmission Assets of the Issuer. An interruption in these circumstances would not be a Relevant Interruption and so would not trigger compensation under the CUSC in the first place. However, whether this would apply is not within the Issuer's control.

### ***Transmission Services***

The STC stipulates the transmission services which an OFTO is obliged to make available to NGET, subject to any derogations issued by the Authority. The OFTO must specify the technical limits that normally apply to its transmission services in a Services Capability Specification. This is then used as the reference point for determining availability for the purpose of the performance incentive calculation under the OFTO Licence discussed above (see "*– OFTO Licence – Availability Incentive*"). The OFTO is obliged to provide the transmission services in accordance with the Services Capability Specification.

The STC also contains provisions for the co-ordination of outages by the OFTO with NGET, with provision for disputes about late changes to the published outage plans to be referred to the Authority.

Under the STC, NGET may request an OFTO to assist with the commissioning and on-load testing of a User, in which case NGET shall pay reasonable charges to the OFTO in respect of any assistance so provided.

**Section K** sets out the minimum technical requirements with which the OFTO must ensure its transmission system complies. It is recognised that reactive power capability may be delivered using a combination of OFTO plant and plant owned by a generator. Such a combination of plant will be used for reactive power compliance on the Issuer's project.

Provisions for checking the OFTO's compliance with Section K and the Services Capability Specification are set out in Code Procedure STCP 19-5. STCP 19-5 paragraphs 3.1.3 and 3.1.4 state that prior to the OFTO assuming ownership of an offshore transmission system from a generator, NGET will issue the OFTO with a Section K Notification, and, where the generator has built the assets and energisation has already occurred, NGET will issue an Interim Section K Notification or Final Section K Notification based on the operational notification current with the generator at the time.

The STC states that the OFTO's obligations under the STC shall be relieved to the extent and for such period as such obligations are specified as being relieved by a derogation issued by the Authority under the OFTO Licence.

### ***Interface Arrangements***

Under the STC, the OFTO may be required to enter into interface agreements:

- with GyMOWFL substantially in the form set out in an exhibit to the CUSC (and these arrangements are intended to be addressed by entering into the Interface Agreement (see further "*Description of the Project Documents*" below)); and

- with NGET substantially in the form set out in a schedule of the STC (and these arrangements are intended to be addressed by entering into such an interface agreement with NGET (see further "*Description of the Project Documents*" below)).

The STC provides that if NGET permanently disconnects a User who was connected to the OFTO's transmission system, the OFTO shall remove any of its assets on that User's land within six months or such longer period as may be agreed between the User and the OFTO. The User would be GyMOWFL and in the Interface Agreement, GyMOWFL has agreed that the Issuer is entitled to retain its assets during the term of the Interface Agreement. (See "*Description of Project Documents – Interface Agreement*" below) Further, the OFTO Licence provides that a reduction in transmission system availability resulting from disconnection of a user's equipment under an event of default as defined in the CUSC or a user's request for disconnection in accordance with the Grid Code shall be excluded in calculating transmission services reductions for the purposes of the reported system incentive performance (see "*– OFTO Licence – Availability Incentive*" above).

### ***TO Construction Agreement***

As discussed above, the Party Entry Processes for the OFTO under the STC include a requirement to enter into a TO Construction Agreement. A TO Construction Agreement is normally entered into when construction work needs to be carried out, and there are standard forms for this agreement set out in the STC. Where construction work has already been carried out by the generator, the standard form TO Construction Agreement does not fit in all respects with the OFTO's position so the Issuer has negotiated the form of the TO Construction Agreement with NGET to restrict its scope so as not to include various construction provisions.

An OFTO may also be required to enter into a TO Construction Agreement if further construction work is undertaken, for example in respect of the increase in capacity up to 20 per cent.

An OFTO is required to provide security in respect of a TO Construction Agreement in an amount equivalent to the sum of: (i) 20 per cent. of the forecast offshore construction cost; and (ii) the liquidated damages liability, in each case as set out in the TO Construction Agreement. This security would constitute the Offshore Construction Securities referred to in "*– Payment Arrangements*" above. Unless the OFTO meets NGET's credit rating requirement (and has not been put on credit watch or a similar credit surveillance procedure which may give NGET reasonable cause to believe that the OFTO may not be able to maintain an NGET credit rating requirement for at least six months), the OFTO would be required to provide security such as by way of letter of credit, performance bond or cash deposit. The definition of NGET Credit Rating in the STC suggests that, in the case of an OFTO, the rating required by NGET matches that which the OFTO is required to maintain under its licence, but this definition uses the term "User" (which term excludes an OFTO) and the credit requirement for an OFTO is not completely clear. Otherwise, NGET credit rating requirements require an A- Standard & Poor's or A3 Moody's rating. NGET has confirmed that no security is currently required from the Issuer since the connection was constructed by GyMOWFL and the existing TO Construction Agreement does not contain a forecast construction cost or a liquidated damages liability.

### ***Changes***

Under the STC, if it is agreed that a change is necessary to an offshore transmission system as a result of NGET's or another Transmission Owner's investment plans, NGET or the other Transmission Owner shall compensate the OFTO for the reasonable and proper costs and expense of such change.

An OFTO is obliged not to undertake a modification which would have a material effect on a User (generally involving expenditure of more than £10,000) unless NGET has notified the OFTO that

NGET has either agreed the modification with the affected User or that any dispute as to the modification has been determined by the Authority pursuant to the CUSC.

An OFTO may be required to carry out activities to support NGET in its offshore development information statement and disputes as to the programme of activities may be referred to the Authority.

Under the STC, an OFTO may be required to provide assistance to another party to the STC in relation to matters such as a modification of User equipment or a new connection, subject to payment of its reasonable charges.

### ***Liability***

The liability of parties to the STC is generally limited (with exceptions for liquidated damages provisions of any TO Construction Agreement and certain indemnities under the STC as well as for certain liabilities which may not be excluded by law) to loss directly resulting from physical damage to the property of any other party to the STC or liability of any other party to the STC in respect of physical damage to the property of any other person. Liability for loss of revenue, loss of profit, loss of use, loss of contract or loss of goodwill and indirect or consequential loss is generally excluded (with exceptions for liquidated damages provisions of any TO Construction Agreement and certain indemnities under the STC as well as for certain liabilities which may not be excluded by law). Liability is also subject to a cap of £5,000,000.00 per incident or series of related incidents (or £1,000,000.00 where the incidents arise on or affect a part of a distribution system required to connect an offshore transmission system).

The right of the OFTO to claim in tort or otherwise against any CUSC party (other than NGET) (or DCUSA party (other than NGET)) in relation to the subject matter of the CUSC (or the DCUSA) is expressly excluded, save for certain liabilities which may not be excluded by law. Provisions are included to enable the enforcement of this exclusion of liability by CUSC parties and DCUSA parties under the Contracts (Rights of Third Parties) Act 1999. There is a corresponding provision in sections 6.12.3 and 6.22 of the CUSC for the CUSC parties (other than NGET) to waive rights in tort or otherwise against the OFTO in relation to the subject matter of the STC, save for certain liabilities which may not be excluded by law, and for this to be enforceable by the OFTO under the Contracts (Rights of Third Parties) Act 1999.

Under the STC, an OFTO may be required to take reasonable and proper action necessary to comply with (or avert an anticipated breach of) requirements related to a nuclear site licence and NGET shall indemnify and keep indemnified the OFTO for loss, damage, costs and expenses incurred as a consequence, to the extent the action was not required by any licence or agreement binding on the OFTO.

### ***Transfer***

The OFTO may not assign or transfer a benefit or burden under the STC, save on the disposal of the whole or part of its business (and subject to certain requirements being satisfied) or save as an assignment or charge by way of security.



## DESCRIPTION OF THE PROJECT DOCUMENTS

*The following is a summary of certain provisions of the principal Project Documents relating to the transactions described in this Prospectus, prepared on the basis of Completion occurring on or about the Issue Date.*

### SALE AND PURCHASE AGREEMENT

#### *Sale and Purchase*

The SPA specifies the basis on which the Issuer and the SPA Counterparties will complete the sale and purchase of the Transmission Assets.

The purchase price payable by the Issuer for the Transmission Assets on Completion under the SPA is £351,857,878.24, which will be funded in part by the proceeds of the issuance of the Bonds.

The assets purchased under the SPA include various spares and, under the SPA, the Issuer agrees not to use the spare transformers or spare subsea export cable which are included in those spares for any purpose other than the operation and maintenance of the offshore transmission system and the other Transmission Assets. Some of the spares purchased under the SPA are not expected to be in stock at the time of Completion, for example because cable joints were used for the June 2014 cable repair, and the SPA provides for the Vendors to deliver the missing items to the agreed storage location within six months of Completion. The storage location for the spares set out in the SPA differs depending on the part concerned. Under the SPA the Issuer is entitled to store certain spares at GyMOWFL's storage facility at the Port of Mostyn at agreed rates for a limited period of time, after which the Issuer is required to move those spares.

#### *Completion*

The SPA provides for the Issuer and the SPA Counterparties to satisfy various obligations on signing the SPA, including the delivery into escrow of documentation for the transfer of certain onshore and offshore property and the transfer of various other contracts including the cable crossing agreements, which documentation will come into effect upon Completion. The new Crown Estate Lease for the Transmission Assets is to be entered into by GyMOWFL upon signing, but the assignment to the Issuer will not take effect until Completion. The Issuer intends for Completion to occur immediately after the Bonds are issued, with some or all of the proceeds of the Bond issuance being paid to the Vendors.

#### *Warranties*

Each of the SPA Counterparties (and the Issuer) gives warranties on signing the SPA relating to its power and authority to enter into (and perform its obligations under) the SPA and that the SPA is a valid and binding obligation on it in accordance with its terms (the “**Validity Warranties**”).

The Issuer also gives certain warranties relating to VAT (including that it or the representative member of its VAT group is registered for VAT).

Each Vendor also gives certain limited warranties on signing the SPA concerning the Transmission Assets and associated consents, permits and property, taxation and litigation, including those set out below. These warranties are subject to disclosures made in the Disclosure Letter.

Each Vendor warrants that GyMOWFL is solely entitled to the legal title to the property contracts which it holds as bare trustee for the Vendors and the Vendors are solely legally and beneficially

entitled to their interest under the property contracts, in each case free from encumbrances and the Vendors are in possession and actual occupation of the whole of all of the real property (including land and buildings) used or occupied by the Vendors in connection with the business and each and every part of it and them (referred to in the SPA as the **Site**) on an exclusive basis, and no right of occupation or enjoyment has been acquired or is in the course of being acquired by any third party.

Each Vendor further warrants that the Transmission Assets (other than the Site referred to above) are the absolute property of the Vendors free from any encumbrance and are not the subject of any leasing, hiring or hire purchase agreement or agreement for payment on deferred terms or assignment or factoring or other similar agreement and each such Transmission Asset is in the exclusive possession or under the control of the Vendors and none of the Vendors nor GyMOWFL has agreed to grant any option or right of pre-emption in respect of, or offered for sale its estate or interest in any of the Transmission Assets.

#### *Condition of the Transmission Assets*

Each of the Vendors warrants that the Transmission Assets have been operated and maintained in all material respects in accordance with relevant manufacturing guidelines and manuals, good industry practice and certain other requirements.

Each of the Vendors also warrants that no defect or damage has been discovered in relation to specified assets, that is reasonably likely to cause material disruption to the offshore transmission system.

There are also various warranties given in relation to information technology systems.

The Disclosure Letter identifies some outstanding maintenance, defects and systems, including the Grid Code compliance activities and outstanding works discussed further below and the following matters:

- outstanding maintenance on the uninterruptible power supply from the low voltage distribution board;
- horizontal directional drilling and ducts installed under the railway has resulted in the cable depth being deeper than originally designed, which may limit the full load capacity of the export cables;
- the target depth of penetration of the offshore substation platform jacket piles was not reached in all cases;
- the fire protection water mist system's back up power supply comes from the diesel generator so the water mist system may not be available if all the power to an offshore substation platform is lost and the diesel generator is not available (a multiple failure scenario); and
- a disaster recovery plan is yet to be developed.

The Issuer has been advised by a reputable technical adviser in respect of these disclosures, and considers such defects to be low risk.

#### *Other Transmission Asset Assurances*

Each Vendor provides further warranties in relation to the Transmission Assets including warranties providing that, or, as far as it is aware, that:

- (i) no assets are used or employed in relation to the business other than the Transmission Assets;
- (ii) there is nothing subsisting which will (i) require any further regulatory consents, licences, authorisations or permits to be obtained in connection with the business; (ii) lead to the revocation, cancellation, suspension or modification of the identified permits; or (iii) necessitate any works or expenditure (other than routine maintenance) in order to continue to comply with such permits and which, in each case, would have a material adverse effect on the business;
- (iii) the Site has the rights and easements necessary for its present or intended use and enjoyment in connection with the operation of an offshore transmission system as contemplated by the Vendors on entering into the original contract for the construction of the Gwynt-y-Môr offshore wind farm;
- (iv) the landlord, licensor, grantor, covenantor, covenantee, tenant, licensee or grantee (as the case may be) under the identified property contracts has observed and performed in all material respects all covenants, restrictions, stipulations and other encumbrances relating to that property contract and there are no present or anticipated disputes relating to any such matters;
- (v) no covenants, conditions, restrictions, limitations or other matters affecting the Site are unusual or onerous or prejudicially affect the present or intended use or occupation of the Site;
- (vi) there are no events or circumstances subsisting which would entitle any party to exercise a right of entry to, or take possession of all or any part of, the Site or to determine any of the property contracts; and
- (vii) no action, claim, proceeding, demand, dispute or liability (contingent or otherwise) in respect of any of the property contracts is outstanding or anticipated.

*Material Information, Legal Proceedings and Unlawful Acts*

Each Vendor also provides certain limited warranties that all material information has been provided, it is not engaged in any litigation, arbitration, prosecution or other legal proceeding in relation to the Transmission Assets and, as far as it is aware, there are no claims or actions in progress, outstanding, pending or threatened by or against the SPA Counterparties in relation to the Transmission Assets, nor have they or their officers or employees committed any unlawful act or default in relation to the Transmission Assets or the business. In addition, each Vendor warrants that no governmental or official investigation or inquiry concerning the Transmission Assets or the business is in progress or, so far as the Vendors are aware, threatened. There are some disclosures against these warranties set out in the Disclosure Letter, including:

- claims by the SPA Counterparties against the offshore export cable contractor for delay liquidated damages and costs of repair of the SSEC 1 cable and a claim by the offshore export cable contractor for matters including changes to survey information, for which an overall compromise has been agreed and documented by a settlement agreement involving a net payment by the SPA Counterparties to the offshore export cable contractor;
- a potential claim by the SPA Counterparties against the offshore export cable contractor in respect of repair costs for the SSEC 3 cable which is dependent on the outcome of the insurance claim made for the cable cut of September 2012;

- outstanding insurance claims for the export cable cut of September 2012, an export cable failure of December 2013, and a potential claim in respect of the fibre optic offshore temperature anomaly (see further item (i) in the section on "*Outstanding Works*");
- a claim by the SPA Counterparties against the onshore cable contractor for delay liquidated damages which is still disputed;
- a dispute with the electrical systems contractor over whether the substation has already been taken over and as to the start date of the warranty period;
- a dispute with the electrical systems contractor in relation to the pricing principle of the time and material element of the non-fixed scope of works, in particular the offshore hook up works, and which has now been the subject of an expert determination in relation to certain matters of interpretation but the implications of which have not yet been finally resolved;
- outstanding payments to the electrical systems contractor for the milestones of "Acceptance of O&M" and "Completion of final performance tests";
- missing documentation in relation to the 400 kV gas insulated switchgear bays in respect of which the SPA Counterparties are withholding payment from NGET and a missing health and safety file from the electrical systems contractor;
- the investigation by the Competition and Markets Authority (the **CMA**) into the energy market in Great Britain, in respect of which the RWE group (which holds a 60% Vendor Participant Percentage), and the Gwynt y Môr Offshore Wind Farm as a generation project are within the scope of investigation currently being carried out by the CMA.

In relation to the CMA investigation into the energy market, although this may have implications for the RWE group and the Gwynt y Môr Offshore Wind Farm, it is not currently expected to directly affect the Transmission Assets after their separation from the Gwynt y Môr Offshore Wind Farm as the CMA has indicated in its issues statement that it does not propose to review the mechanisms in place for regulating revenues from transmission and distribution networks.

### ***Pre-Completion Undertakings and Damage***

In addition, between signing of the SPA and Completion (which is expected to be a matter of days), the SPA Counterparties agree to comply with certain covenants in relation to the provision of information to the Issuer, site access for the Issuer and continued maintenance and operation of the offshore transmission system and the Transmission Assets in the interim period. This includes covenants to operate and maintain the offshore transmission system in all material respects in accordance with good industry practice and certain other requirements. There are also various restrictions placed on the SPA Counterparties in relation to the conduct of business between signing of the SPA and Completion, including restrictions which prohibit the SPA Counterparties from disposing of the Transmission Assets, creating encumbrances or terminating or varying certain contracts without the consent of the Issuer.

If the Transmission Assets are damaged prior to Completion, the SPA Counterparties agree to indemnify the Issuer against the cost of reinstatement of the damage, subject (other than to the extent recovered by the SPA Counterparties from insurers or third parties) to the cap of 20% of the Purchase Price as discussed below and to the SPA Counterparties being given the opportunity to make good that damage and/or replace the damaged asset. If the Issuer and the SPA Counterparties do not agree on the repair proposal the SPA provides for the matter to be referred to an expert. (See also – *Limitations on Liability and Indemnities*" below.)

The SPA Counterparties also agree to maintain their insurance cover for the Transmission Assets during the period between signing the SPA and Completion and to add the Issuer as an additional insured to the insurance for that period.

### ***Limitations on Liability and Indemnities***

The liability of the Vendors under the SPA is limited in amount. There is an overall aggregate cap on liability of 100 per cent of the Purchase Price and there are also specific limits on certain types of claim.

Claims for breach of the Validity Warranties, warranties as to title to assets and property and various solvency warranties will be subject to the overall cap of 100 per cent of the Purchase Price.

All other claims for breach of warranties will (together with any claims for damage to the assets prior to Completion and claims for loss as a result of breach or negligence in carrying out the Outstanding Works (see below)) be subject to a cap of 20 per cent of the Purchase Price.

Claims in relation to the offshore temperature anomaly and the onshore hotspot issue (see further items (i) and (iv) of the section " – *Outstanding Works*" below) are subject to an aggregate cap of £25,000,000.

Claims for the cost of completing the other Outstanding Works are subject to various sub-caps and an aggregate cap of approximately £2,000,000.

Claims in relation to Grid Code compliance activities are subject to an aggregate cap of £15,000,000.

The Issuer does not have a liability cap under the SPA.

The SPA provides that neither the Vendors nor the Issuer is liable to the other for any indirect or consequential loss, loss of revenue, loss of profit or punitive damages, subject to certain exceptions in relation to claims for taxation and claims of third parties pursuant to the crossing agreements, other property contracts, construction contracts or the planning and environmental permits. This exclusion is also stated not to apply to the provisions for damages for loss of revenue in relation to the offshore temperature anomaly and onshore hotspot issue (see further the section on "– *Outstanding Works*" below).

The Vendors will not be liable under the warranties unless and until the amount of the warranty claims (excluding a claim for breach of the Validity Warranties) exceeds a certain level (in which case the Vendors will be liable for the full amount of the warranty claim(s) and not only the excess over that level) and each warranty claim (excluding a claim for breach of the Validity Warranties) (or the aggregate of a series of connected warranty claims) must be over a specified amount (in which case the Vendors will be liable for the full amount of the claim(s) and not only the excess over that specified amount).

The SPA also contains specific time limits during which certain claims must be brought by the Issuer. All warranty claims (excluding (a) tax claims and (b) a claim for breach of the Validity Warranties) have a two year time limit from Completion; and tax claims have a seven year time limit from Completion.

The Vendors will not be liable in respect of a warranty claim (excluding a claim for breach of the Validity Warranties) to the extent it arises from changes in law or accounting practice after the date of the SPA or changes in the accounting policies or practice of the Issuer or its parent companies after the date of Completion.

The Vendors will also not be liable in respect of a claim to the extent the loss is recoverable by the Issuer under its insurance.

The SPA also includes provisions governing the recovery of sums from a third party in respect of matters which give rise to a claim under the SPA requiring these to be brought into account.

The Vendors are jointly and severally liable for their obligations under the SPA (and the Vendors are jointly and severally liable for the obligations of GyMOWFL under the SPA), except that no Vendor shall be liable for a breach by another Vendor of its Validity Warranties. However the liability of each Vendor for any claim (other than a claim for breach of its Validity Warranties) shall be limited to its Vendor Participant Percentage of that claim and each Vendor's total liability for all claims shall be limited to its Vendor Participant Percentage of the amount of the relevant cap.

### ***Guarantees***

RWE Innogy UK Holdings Limited (**RWE**) provides a payment guarantee to the Issuer for the payment when due of 100 per cent of all amounts payable by RWE Innogy GYM 1 Limited, RWE Innogy GYM 2 Limited, RWE Innogy GYM 3 Limited and RWE Innogy GYM 4 Limited (the **RWE Vendors**) under the SPA (the **RWE Guarantee**). The Issuer understands that RWE holds indirectly 100 per cent of the shares in the RWE Vendors. The RWE Vendors are named Vendors under the SPA and together hold a 60 per cent Vendor Participant Percentage. RWE's liability under the RWE Guarantee is capped at approximately 12 per cent of the Purchase Price.

Siemens Aktiengesellschaft (**Siemens AG**) provides a payment guarantee to the Issuer for the payment when due of 100 per cent of all amounts payable by GYM Renewables One Limited (the **Siemens Vendor**) under the SPA (the **Siemens Guarantee**). The Issuer understands that Siemens AG holds indirectly 100 per cent. of the shares in the Siemens Vendor. The Siemens Vendor is a named Vendor under the SPA with a 10 per cent Vendor Participant Percentage. Siemens AG's liability under the Siemens Guarantee is capped at approximately 2 per cent of the Purchase Price.

Stadtwerke Munchen GmbH (**SWM**) provides a payment guarantee to the Issuer for the payment when due of 100 per cent of all amounts payable by GyM Offshore One Limited, GyM Offshore Two Limited and GyM Offshore Three Limited (the **SWM Vendors**) under the SPA (the **SWM Guarantee**). The Issuer understands that SWM indirectly holds 100 per cent of the shares in the SWM Vendors. The SWM Vendors are named Vendors under the SPA and together hold a 30 per cent Vendor Participant Percentage. SWM's liability under the SWM Guarantee is capped at approximately 6 per cent of the Purchase Price.

The total amount recoverable pursuant to the guarantees, in aggregate, is approximately 20 per cent. of the Purchase Price. In the event that the Issuer has claims under the SPA which are in aggregate in excess of this, these claims will not be backstopped by the guarantees.

If the guarantors reduce their direct or indirect ownership interest in the Vendors the guarantees are to be replaced pro-rata with new parent company guarantees or corresponding security provided by the parent company of the acquirer or if that is not acceptable to the Issuer acting reasonably, a bank or other financial institution satisfactory to the Issuer acting reasonably. The Issuer understands that the RWE Vendors intend to sell part of their interest to the Green Investment Bank and that the RWE Guarantee would then be adjusted accordingly.

### ***Assumed Liabilities***

The Issuer agrees to indemnify the SPA Counterparties for losses associated with the Issuer's assumed liabilities under the SPA, which basically relate to liabilities in relation to the Transmission Assets with respect to the period on or after the Completion Date. (See also – *Limitations on Liability and*

*Indemnities* above in relation to restrictions on recoverability of losses for this purpose.) The Issuer does not have a liability cap under the SPA. Under the SPA, the Issuer agrees to assume all liabilities and obligations of the SPA Counterparties first arising and falling due for performance on or after Completion out of or in connection with the Transmission Assets other than specified excluded liabilities.

The excluded liabilities include:

- (i) liabilities or obligations of the SPA Counterparties to the extent they relate to specifically excluded assets;
- (ii) liabilities or obligations of the SPA Counterparties to a third party which arose prior to Completion;
- (iii) liabilities for taxation for which the SPA Counterparties are or will become liable (whether or not such liability arose or will have arisen at Completion);
- (iv) amounts payable to contractors under certain identified construction contracts or the contracts for outstanding works; and
- (v) liabilities or obligations of the SPA Counterparties under contracts or agreements relating to the Transmission Assets arising prior to Completion.

Under the SPA, the Vendors agree to indemnify the Issuer against losses incurred by the Issuer in respect of the excluded liabilities, subject to certain limitations. (See also – *Limitations on Liability and Indemnities* above in relation to restrictions on recoverability of losses for this purpose and the caps on the Vendors' liability.)

The assumed and excluded liabilities as between the Issuer and the Vendors in relation to environmental matters are discussed further below (see "– *Environmental and Planning Licensing and Consents*" below).

### ***Construction Contracts***

A number of the construction contracts originally entered into by the SPA Counterparties for the construction of the Transmission Assets and certain associated performance security will be assigned or novated to the Issuer on Completion and others may be assigned or novated to the Issuer at some time following Completion.

Between Completion and the time these contracts are assigned or novated to the Issuer, the SPA Counterparties agree, if requested by the Issuer, to procure performance by the construction contract counterparties under these contracts, to the extent this does not interfere with the commitments of the SPA Counterparties to the Issuer under the SPA in relation to the compliance activities and the outstanding works. The SPA Counterparties have obligations to the Issuer in respect of those failures of performance by the construction contract counterparties, but the obligations of the SPA Counterparties are subject to the outcome of their claims against the construction contract counterparties such that the Issuer retains some recoverability risk. The Issuer is also required to pay the costs incurred by the SPA Counterparties in such claims against the construction contract counterparties.

The electrical systems contract with Siemens Transmission and Distribution Limited is to be retained by the SPA Counterparties, but the Issuer is given the benefit of a collateral warranty in respect of this contract. The SPA Counterparties and the Issuer agree to share the liability cap in respect of claims under the contract and the collateral warranty in broadly equal proportions, subject to some provisions

for a shared proportion and reallocation depending on likely claim requirements and to some special provision in relation to and an associated guarantee.

Some other contracts may also be retained by the SPA Counterparties.

The payment obligations (whether for the price or for variations or claims) assumed under the novations of the construction contracts to the Issuer are to constitute excluded liabilities as described above, which may be recovered by the Issuer from the SPA Counterparties, subject to limitations (See – *Limitations on Liability and Indemnities* above). Some other obligations, such as obligations to maintain insurance arrangements, may require the Issuer to make its own additional arrangements.

The rights acquired by the Issuer under those assignments or novations will principally relate to claims for defective work, the outstanding liability periods for which vary in length depending on the contract concerned.

The SPA Counterparties remain entitled to receivables under the construction contracts in relation to matters for which the SPA Counterparties are liable to the Issuer under the SPA as part of the outstanding works and certain identified existing claims such as for delay liquidated damages.

The SPA Counterparties agree to maintain their existing construction all risk insurances until completion of the outstanding works and to add the Issuer as a named insured on those insurances. The SPA Counterparties agree that insurance monies recovered under those insurances are to be applied in performing the outstanding works or reinstating the assets or otherwise shall be paid over to the Issuer, except that recoveries in respect of the claims for the cable damage in September 2012 and the cable failure in December 2013 are in any case to be retained by the SPA Counterparties given the reinstatement activities already undertaken.

The SPA Counterparties also agree to maintain third party liability insurance in respect of the outstanding works and add the Issuer as an additional insured.

### ***Assignment***

The Issuer may assign the benefit of all or part of the SPA by way of security in favour of its financiers. Other assignments by the Issuer (except to an affiliate) require the consent of GyMOWFL. In the event of an assignment, the original party will remain liable to procure the performance of its obligations under the SPA.

### ***Outstanding Works***

The SPA Counterparties agree in the SPA to undertake activities to resolve the outstanding Grid Code compliance requirements in the notification from NGET (constituting the interim operational notification Part A) to GyMOWFL dated 20 June 2014 (and which are expected to be transferred to the Issuer's Interim Section K Notification) (See also " *Description of the OFTO Licence and the Regulatory Regime –System Operator – Transmission Owner Code (STC)– Transmission Services*" above).

In addition to this, a list of outstanding items of work which are required to be carried out on the Transmission Assets has been developed and set out in the SPA (the **Outstanding Works**). The most notable items of work are described further below and the Issuer understands the status of that work to be as follows:

- (i) SSEC3 cable offshore temperature anomaly – where the SSEC3 cable was cut and jointed during installation there are indications of a localised temperature rise which is likely to be at



the fibre optic joint and the SPA Counterparties agree to investigate the situation and if relevant undertake remedial work;

- (ii) fire protection – there are some outstanding issues with the fire protection arrangements including with the doors on the offshore platform to enable the fire rating to be confirmed and with the Tyco fire protection system, and the SPA Counterparties agree to undertake remedial works;
- (iii) painting works – the noise enclosures on transformers SGT1 and SGT2 require further painting and the SPA Counterparties agree to complete the painting;
- (iv) onshore cable transition joint hotspot – remediation works are required to remedy an onshore hotspot and the SPA Counterparties agree to undertake remediation works by correctly earthing the fibre optic cable armour wire earth connection inside the appropriate transition pit fibre bay.

In relation to these works, if an outage is expected to be required to carry out the works protection has been negotiated in the OFTO Licence (for the offshore temperature anomaly and for the works listed in Table 2 of Annex 1 of Schedule 14 of the SPA which are items (ii) and (iii) above) and/or in the case of the offshore temperature anomaly and the onshore hotspot work there are provisions for loss of revenue to be payable by the SPA Counterparties under the SPA. (See also "*Description of the OFTO Licence and the Regulatory Regime – OFTO Licence – Transmission Services*" above and "*Limitations on Liability and Indemnities*" above).

There are various other outstanding works specified in the SPA, such as the rock berm requirements and the array cable transits, which are the responsibility of the Vendors to complete but which are of a more minor nature and which are not expected to require an outage to complete.

The SPA Counterparties have an obligation to undertake the Outstanding Works and, on completion of that work, each of the Vendors is required to assign to the Issuer its rights in respect of any other contracts entered into for the completion of that work, so far as it is able to do so. In the event that the relevant item of Outstanding Works is not completed by the specified date for that item of the Outstanding Works, the Issuer may procure the carrying out or completion of that item of Outstanding Works. In this event, the Issuer will be paid by GyMOWFL for a certain period of time for the costs of having that work carried out, subject to certain limitations of liability described above in "*Limitations on Liability and Indemnities*". In the case of the onshore hotspot issue referred to at item (iv) above and the offshore temperature anomaly referred to at item (i) above and discussed further below, the Issuer may also claim compensation for lost revenue, subject to limitations of liability – see also "*Limitations on Liability and Indemnities*" above.

The offshore hotspot issue remains subject to further investigation. The SPA provisions require GyMOWFL either to establish that there is no elevated temperature issue (with reference to an independent expert if the Issuer disputes the findings provided by GyMOWFL) or to undertake remediation works by a long stop date of 1 September 2016 and achieve satisfaction of the performance criteria by 1 January 2017. If remediation works are to be undertaken, GyMOWFL shall provide details of the technical solution (having consulted with the cable supplier, NKT Cables) for approval by the Issuer, with reference to an independent expert if the Issuer disputes the solution. GyMOWFL's responsibility for the remediation works shall cease once the issue has been resolved such that (a) SSEC3 can safely operate at full capacity of 144MW without any limitations due to the design temperature limits of the fibre optic cable, (b) the remediation works have been tested in accordance with agreed technical completion criteria, and (c) the remediation works have not caused other issues affecting the normal operation of the offshore transmission system as assessed over a continuous four month period following completion of the remediation works. The SPA Counterparties agree to indemnify the Issuer for the cost of carrying out the remediation works (if not

completed by the long stop date and the Issuer has to complete them), losses suffered by the Issuer as a result of its insurance policies containing an exclusion of cover specific to the issue of the earth connections at the fibre splice boxes on SSEC3 housed within the offshore joint at the location known as KP12.5 prior to resolution of the hotspot issue as described above, and damage arising out of the remediation works. The capacity of SSEC3 is likely to be affected until the point that the issue has been resolved and it is recognised that SSEC3 is intended to be operated at a reduced load of 135MW and may be operated at a lower limit if technically justified (subject to determination by an expert in the case of a dispute). The requirements of the Marine Licence mean that remediation works may be restricted until March/April 2015. GyMOWFL is required to obtain the Issuer's consent (not to be unreasonably delayed) to any outage required to undertake the remediation works. The Issuer may (acting reasonably) allow GyMOWFL to use strategic spares in the remediation works in which case GWMOFL shall pay the Issuer a reasonable market rate for the use of the strategic spares or provide replacements.

The SPA Counterparties also agree to pay the Issuer for loss of revenue evidenced as suffered by the Issuer due to reduction in capacity prior to the offshore temperature anomaly works and the onshore hotspot works being completed. However, the SPA Counterparties are not liable to the extent the OFTO Licence gives protection for those losses. (See "*Description of the OFTO Licence and the Regulatory Regime – OFTO Licence - Availability Incentive*" above.)

The indemnities and the liability for loss of revenue are subject to limitations on liability (see – *Limitations on Liability and Indemnities* above).

The Issuer's insurance arrangements will contain certain exclusions of cover in respect of the offshore temperature anomaly until this issue is remedied.

## ***Tax***

### *VAT in relation to the transfer of the Assets*

HMRC has confirmed that in its view the transfer will be treated as a "transfer of a going concern" and that accordingly no UK VAT will be due on the sale. However, this confirmation is not binding and if an SPA Counterparty were to be required to account to HMRC for VAT on the transfer of the Assets, the Issuer may be obliged to pay the SPA Counterparties an amount equal to such VAT. Where the transfer is not a transfer of a going concern by virtue of an Issuer warranty being untrue, the Issuer will also be responsible for paying any interest and penalties in relation to such VAT.

### *Capital allowances on fixtures*

In order for the Issuer to be entitled to claim capital allowances on any fixtures which are transferred under the SPA, the requirements of section 187A of the Capital Allowances Act 2001 must be satisfied. The SPA provides for the parties to co-operate to fulfil these requirements, including pooling relevant expenditure and signing elections pursuant to section 198 of the Capital Allowances Act 2001 to jointly fix the amounts of the purchase price that are to be treated as incurred on the fixtures transferred under the SPA for capital allowance purposes. In addition, the parties agree, to the extent permitted by law and consistent with HMRC guidance, to take all reasonable steps to ensure that the requirements of section 187A are satisfied in respect of any fixtures transferred under the SPA.

## OPERATIONS AND MAINTENANCE AGREEMENT

### *General*

The Transmission Assets require operation and maintenance services including routine "day to day" services and scheduled maintenance. Services will also be required to be provided in relation to events requiring unscheduled maintenance and to respond to unexpected failures or problems.

The Issuer has engaged Balfour Beatty Utility Solutions Limited acting as agent for Balfour Beatty Group Limited (the **Operator**) to perform certain operations and maintenance obligations on its behalf.

The Operations and Maintenance Agreement (**O&M Agreement**) (dated on or about the Completion Date) between the Operator and the Issuer sets out the scope of activities to be performed by the Operator in relation to the Transmission Assets.

### *Term*

The O&M Agreement has an initial term of 20 years from the date of the agreement (subject to earlier termination in accordance with the O&M Agreement).

The initial term may be extended for an additional period of five years subject to the approval of the Issuer. Notice requesting extension must be provided no later than six months prior to the expiry of the initial term.

### *Operator Obligations*

The Operator's primary responsibility is to perform the services set out in the O&M Agreement according to the standards of a reasonable and prudent operator. The services include:

- (i) maintaining the Transmission Assets in a safe and reliable manner;
- (ii) establishing policies, procedures, plans and budgets;
- (iii) ensuring the Transmission Assets are maintained in compliance with the requirements set out in the O&M Agreement, which include compliance with applicable laws, finance documents and property, interface agreements and the operating approvals (including but not limited to the transmission licence and permits such as the marine licence);
- (iv) using best endeavours to ensure the Transmission Assets are available at all times;
- (v) complying with various reporting and record maintenance requirements, including regular reporting to the Issuer;
- (vi) the provision of a general manager and commercial manager; and
- (vii) operating the system, including responding to alarms and undertaking switching activities when required.

Some activities are not included in the scope of the fixed price services and are to be performed if so provided in the O&M Agreement (such as for certain adverse weather conditions) or if instructed by the Issuer as additional services (see further "**Additional Services and Changes**" below), including replacement of strategic spares and activities arising from major breakdowns or cable reburial

necessitated by changes in seabed conditions, which have not been caused by acts or omissions of the Operator.

The Operator has the responsibility for recruiting, hiring and remunerating all personnel for the performance of the O&M Agreement services, although the Issuer has some control over the replacement of the general manager and the commercial manager and can, subject to applicable laws, require the Operator to replace (i) any personnel for reasons of gross negligence and wilful default or (ii) any personnel, the subject of a complaint, where the reason for the complaint is not rectified.

The Issuer is entitled to access the Operator's premises for inspection and also to visit the site.

### ***Additional Services and Changes***

The O&M Agreement provides that the Issuer may request the Operator to perform additional services and/or change the scope of the fixed price services set out in the O&M Agreement. Additional services may include operation and maintenance services arising as a result of major breakdowns, reburial/retranching work related to the subsea cable and/or the provision of vessels in certain circumstances. Any proposed additional services or changes to the fixed price services set out in the O&M Agreement must be requested in writing to the Operator and be sufficiently detailed in order for the Operator to make a cost assessment of the request, and, in the case of additional services, the charges shall be calculated in accordance with a schedule of charges (see further "***Payment for Services***" below). The Issuer is entitled to accept or reject the cost estimate at its sole discretion.

### ***Issuer Obligations***

The main obligations of the Issuer under the O&M Agreement are to pay amounts due to the Operator, provide the Operator with site access and provide the Operator with the necessary documents and specifications of the Transmission Assets it requires to operate and maintain them.

### ***Payment for Services***

The Issuer pays the Operator a semi-annual charge for the services; such charge is apportioned and is payable on a monthly basis. The semi-annual charge is subject to annual indexation in accordance with the Retail Price Index.

The semi-annual charge may be adjusted (either up or down) to take into account deduction penalties and outperformance incentives (if applicable) in relation to the relevant period.

The charges payable to the Operator by the Issuer for any additional services are calculated according to a schedule of specified rates and, in some cases, a mark-up allowance is provided for. In the event that any strategic spares are required for the performance of additional services, the market rate will be charged for such parts. The Operator may also charge reasonably and properly incurred costs of third party advisers and consultants for the provision of any additional services and any other amounts agreed between the parties. The charges resulting from changes to the O&M Agreement fixed price services will be agreed between the parties and the fee payable to the Operator will be increased or decreased as required.

### ***Sub-contracts***

The Operator is entitled to sub-contract certain of the services to Siemens plc, NGET and Natural Power Services Limited and GyMOWFL. The Issuer must approve any other sub-contracting of the services.

The Operator will not be relieved from any liability or obligation under the O&M Agreement as a result of its sub-contracting any part of the services and it will continue to be responsible for the negligent acts, omissions or defaults of any sub-contractor as if they were the negligent acts, omissions or defaults of the Operator, its officers, employees or agents.

### ***Termination***

The Issuer may terminate the O&M Agreement in certain circumstances including:

- (i) upon Operator insolvency; or
- (ii) upon Operator gross negligence or wilful default, subject to cure periods; or
- (iii) upon material failure of the Operator to perform its obligations under the O&M Agreement, subject to cure periods; or
- (iv) if the Operator abandons operation of the Transmission Assets for a period of 48 hours or more; or
- (v) if the OFTO Licence is revoked for any reason; or
- (vi) if the parent company guarantee (see below) ceases to be valid and enforceable or is otherwise materially prejudiced and not replaced; or
- (vii) if an event of force majeure affecting the Operator continues for more than 180 days; or
- (viii) if there is a change of control of the Operator;
- (ix) in the event of persistent breach; or
- (x) in the event that the deduction penalties exceed the relevant liability cap and the Operator's budget shows an inability to pay the rolled over deduction penalties within a subsequent specified period.

The Operator must take steps to facilitate the appointment of and commencement of duties by any successor after receiving a termination notice from the Issuer.

Conversely, the Operator may terminate the O&M Agreement upon:

- (i) insolvency of the Issuer;
- (ii) failure of the Issuer to pay or perform its other material obligations subject to cure periods; or
- (iii) the involuntary transfer of the Transmission Assets pursuant to the OFTO of last resort mechanism or the occurrence of a similar action with respect to substantially all of the assets or rights of the Issuer in respect of the Transmission Assets.

Upon termination, the Operator is required to co-operate with the Issuer and the successor operator and comply with their reasonable requests, provided the Owner bears any reasonable costs incurred by the Operator.

### ***Indemnification***

The Operator is to make good at its own expense damage it causes to the Transmission Assets in the performance of or failure to perform its obligations. This is subject to the limits on liability described below.

In addition, subject to certain exceptions, the Operator indemnifies and holds the Issuer harmless against loss, damage and expense in respect of any personal injury or death of third parties or damage to third party property to the extent it arises out of negligence or default of the Operator.

There is an exception where any loss or damage in respect of death or personal injury is caused by the Issuer's negligence or default or that of its other contractors. In this case the Issuer indemnifies the Operator on a corresponding basis to the indemnity described above.

There is also an exception in relation to death or injury to workmen employed by the Issuer or Operator or their contractors, in which case the parties provide mutual indemnities to each other to the extent the death or injury was caused to their respective employees, except to the extent the death or injury is as a result of the negligence or default of the other party or its contractors.

### ***Limits on Liability***

The liability of the Operator is subject to an annual cap (indexed) including payment of any liquidated damages. However, if the Operator's liability to the Issuer arises out of or in connection with an act or omission of the Operator which results in the Issuer terminating the O&M Agreement, the Operator's aggregate liability to pay damages to the Issuer is a higher sum (indexed). There is also a sub-cap in relation to insured events.

The limits on liability described above do not apply in certain circumstances, including to the indemnities provided for in respect of death or personal injury, fraud or fraudulent misrepresentation, or to the liability of the Operator to pay damages to the Issuer in connection with the wilful default or gross negligence of the Operator, and exclude amounts recovered under insurance by the Issuer.

Except in respect of fraud, fraudulent misrepresentation or death or personal injury resulting from its negligence, the Issuer's liability is subject to a cap in respect of each claim or series of claims arising from the same event.

The O&M Agreement provides for exclusion of liability for certain types of losses, including but not limited to loss of revenue, cost of capital, loss of opportunity, goodwill and loss due to business interruption, save for penalties relating to availability.

### ***Insurance***

The Issuer is required to procure that the Operator is named on certain insurance policies and that its insurance policies specify that the insurers waive all rights of subrogation against the Operator. Notice of material modifications to the policies must be given to the Operator. In addition, all relevant policies obtained by the Issuer shall be primary to any insurance taken out by the Operator covering the same risks.

The Operator must take out certain specialist insurance policies, including marine hull and machinery insurance, and protection and indemnity insurance.

### ***Intellectual Property***

Any intellectual property specifically developed by the Operator for the purposes of the Transmission Assets in the course of performing its obligations under the O&M Agreement is expressed to belong to the Issuer; the Issuer in respect of such property grants an irrevocable, royalty-free, worldwide licence to the Operator on a non-exclusive basis for the purposes of the O&M Agreement.

The Operator grants an irrevocable, royalty-free, worldwide licence to the Issuer in connection with any intellectual property of the Operator which is required for the purposes of performance of the O&M Agreement; such licence is expressed to terminate on the day falling two years following termination of the O&M Agreement. The Operator shall use reasonable efforts to ensure that intellectual property developed by third parties used by the Operator is licensed to the Issuer and otherwise shall require the agreement of the Issuer for the use of that intellectual property.

The Issuer grants to the Operator a licence to use intellectual property owned by or licensed to the Issuer by third parties (to the extent it is legally able to do so) to the extent necessary to enable the Operator to perform its obligations under the O&M Agreement.

Each party gives infringement indemnities to the other in respect of its intellectual property.

### ***Assignment***

The Issuer may assign the benefit of the O&M Agreement for the purposes of the financing of the project and the enforcement of that security, but must notify the Operator within 60 business days of the assignment. Other assignments by the Issuer require the approval of the Operator, not to be unreasonably withheld or delayed.

### ***Parent Guarantee***

The obligations of the Operator under the O&M Agreement are guaranteed by Balfour Beatty Investment Holdings Limited.

The Issuer is entitled by notice to the guarantor to assign the whole of the benefits of the guarantee:

- (a) by way of security in accordance with the agreements pursuant to which long-term financing or credit support for the acquisition and on-going funding of the Transmission Assets is provided to the Issuer by the financial institutions or entities providing such long-term financing; or
- (b) to any substitute company to whom the benefit and obligations of the Operator is novated in accordance with the terms of the notice of assignment issued under the agreements referred to in (a).

## ENVIRONMENTAL AND PLANNING LICENSING AND CONSENTS

### **Background**

The construction and operation of the Gwynt-y-Môr Project are subject to a number of consents, permits and licences issued under environmental, planning and electricity infrastructure legislation.

In the SPA, the Vendors provide the Issuer with certain warranties including that they have complied in all material respects with the specified environmental and planning permits and that there are no circumstances or events subsisting which will require further permits to be obtained. (See also “– *Sale and Purchase Agreement - Limitations on Liability and Indemnities*” above.)

On and from Completion under the SPA, the Issuer will:

- (a) hold certain licences that either run with the land that is acquired by the Issuer or are transferred to it by the SPA Counterparties (**Transferring Asset Permits**);
- (b) assume responsibility for certain ongoing obligations and responsibilities under identified permits which are retained by GyMOWFL (**Shared Permits**);
- (c) hold a marine licence;
- (c) assume certain environmental responsibilities under the SPA and have liability under, and the benefit of, an environmental indemnity and counter-indemnity (respectively); and
- (d) have liability under a decommissioning indemnity given to the Vendors in the SPA.

In addition, the SPA provides for the Vendors to be responsible for certain post-completion “outstanding works” obligations in relation to the Transmission Assets, including obligations in relation to rock burial of exposed sections on the SSEC3 cable. (For more information on the SPA's treatment of such works, see “– *Sale and Purchase Agreement – Outstanding Works*”).

### **Transferring Asset Permits**

Under the SPA, the SPA Counterparties and the Issuer agree to use reasonable endeavours to provide information and assistance in relation to any application to transfer the Transferring Asset Permits.

The SPA provides for a general division in obligations and liabilities relating to the Transferring Assets Permits such that, on and from Completion under the SPA:

- (a) the Issuer bears the responsibility for all such obligations and liabilities to the extent they arise on or fall due for payment, performance or discharge on or after Completion (unless they result from the SPA Counterparties’ failure to pay, perform or discharge a liability or obligation which arose or fell due for payment, performance or discharge prior to Completion under the SPA); and
- (b) the SPA Counterparties bear responsibility for all such obligations and liabilities arising, falling due for payment, performance or discharge prior to Completion under the SPA.

Under the SPA, the Issuer and the SPA Counterparties each agree to discharge those obligations that it has been allocated in relation to the Transferring Asset Permits and the Vendors indemnify the Issuer in relation to losses which it suffers or incurs as a result of the SPA Counterparties’ act, neglect, default or omission to perform or comply with the SPA Counterparties’ obligations under the



Transferring Asset Permits. The Vendors' indemnity is capped. (See also "*Sale and Purchase Agreement - Limitations on Liability and Indemnities* above.)

The Transferring Asset Permits under the SPA include:

- (a) a grant of planning permission by Denbighshire County Council (the **County Council**) on 18 February 2009 under reference 31/2008/1123/PF authorising the installation of a 132/400 kV electrical substation and associated underground 132 kV cables between St Asaph and Pensarn in connection with the proposed Gwynt-Y-Môr offshore windfarm at land south of St Asaph Business Park (south) Glascoed Road St Asaph (the **February 2009 Planning Permission**).

The February 2009 Planning Permission was granted subject to 24 conditions none of which the Issuer regards as onerous in their context and some of which have an ongoing impact on the operation of the development authorised, notably:

- \* Condition 2 which makes provision for alternative details to be submitted of the cable route in a specified location. Permission in respect of these alternative details was given on 1st June 2009 under reference 31/2009/0499/AC. This latter approval is therefore now an integral part of the overall consent authorised pursuant to the February 2009 Planning Permission;
- \* Condition 5 which provides that there must be no permanent raising of ground levels within floodplain areas;
- \* Condition 8 which provides that there shall be no direct access from the A55 trunk road for vehicles associated with the haul route or access pits (to the cables); and
- \* Conditions 16, 17 and 18 which make provision for the protection of archaeological environmental and ecological interests, including the mitigation of the impact of the development on the great crested newt and the future management (including landscape management) of the site.
- \* Condition 22 which provides that the substation shall not be brought into operation until the written approval of the local planning authority has been taken to the maximum permissible noise levels arising therefrom, as measured from the façade any noise sensitive receptor. The agreed level shall not be exceeded at any time. On 9 April 2013, the local planning authority approved the predicted noise levels submitted in a letter dated 27 February 2013 with an accompanying noise impact assessment dated 25 September 2012.

- (b) a grant of planning permission by Conwy County Borough Council on 16 April 2009 under reference 0/35417 authorising development described as "the installation and operation of onshore underground 132kV cables and associated infrastructure for the Gwynt-Y-Môr offshore windfarm" at "between Mean Low Water near Belgrano and A547 Road West of the Porth Farm Roundabout" (the **April 2009 Planning Permission**). The April 2009 Planning Permission was granted subject to 6 conditions none of which the Issuer regards as onerous in their context, but 2 of which have a notable ongoing impact on the operation of the development authorised, namely Condition 4 which makes provision for the protection of environmental and ecological interests and Condition 6 which provides that there shall be no buildings or structures or raising of ground levels within 7m of the bank of any watercourse.

- (c) six flood defence consents (NE2009LD242, NE2009LD241, NE2009LD240, NE20010LD217, NE2009LD201 and NE2014LD105). The Issuer has been advised that all

works under these consents have been completed, except for the new consent NE2014LD105 (field drainage headwall and outfall to Pengwern Drain) which is effective since 6 November 2014.

- (d) a street works licence under s50 of the New Roads and Street Works Act 1991 (HNS/17/A/7950) permitting the installation of a drainage pipe under the Nant y Faenol Road to connect to the headwall structure
- (e) 10 street works licences under s50 of the New Roads and Street Works Act 1991 (HNS/17/A/262, HNS/17/A/263, HNS/17/A/264, HNS/17/A/265, HNS/17/A/266, HNS/17/A/267, HNS/17/A/268, SW/1600/357/SD, SW/1600/358/SD, SW/1600/359/SD) of various dates permitting the installation of, and subsequent rights to inspect, maintain, adjust, repair alter or renew, the onshore transmission cable under various roads, subject to complying with the terms and conditions set out in the New Roads and Street Works Act 1991.
- (f) consent under 61 of the New Roads and Street Works Act 1991 dated 4 March 2010 permitting the installation of the onshore transmission cable under the A55 near St. Asaph, subject to the approval of the method statement; the consent includes an obligation to maintain the installed apparatus in a good state of repair and condition, although no further works are permitted without approval of the Welsh Assembly Government.

Details have also been provided of:

- (g) a consent granted by the Department of Energy and Climate Change under Section 37 (1) of the Electricity Act 1989 to NGET on 13 November 2009 under reference 01/08/10.05/1942/C (Case No 14/16) (the Section 37 Consent) authorising the installation of above ground electric lines on a route identified by reference to the attached plans within the Community of Cefnmeiriadog (the **s37 Consent**).
- (h) a deemed planning permission granted for the development authorised by the s37 Consent under Section 90 of the Town and Country Planning Act 1990 (planning authority reference 31/2008/1172/EA) (the **s90 Consent**).

The s37 Consent and the s90 Consent (which were granted within the same document) were granted subject to conditions (i) allowing the Secretary of State to revoke his consent whereupon the lines should be removed (ii) requiring the dismantling and removal from the site of any redundant lines and apparatus within six months of the date of the commissioning of the lines (iii) making provision for the protection of features of ecological interest including great crested newts and (iv) requiring that there must be no permanent structures or raising of ground levels within 4 metres of the top of the bank of any watercourse. As to condition (i) above, this power of revocation may only be exercised after 5 years and the Issuer understands that this is a standard condition of this type of consent.

- (j) a grant of planning permission by the County Council on 18 February 2009 under reference 31/2008/1173/PF authorising the installation of a cable sealing end compound in connection with the Gwynt-Y-Môr offshore windfarm at land south of St Asaph Business Park (South) Glascoed Road, St Asaph (the **Second February 2009 Planning Permission**).

The Second February 2009 Planning Permission was granted subject to 16 conditions, none of which the Issuer regards as onerous in their context, but 6 of which have a notable ongoing impact on the operation of the development authorised, namely:

- \* Condition 2 which provides that no part of the development shall display any name, sign, logo, advertisement or means of illumination without the prior approval of the Local Planning Authority;
- \* Condition 3 which provides that there must be no permanent structures or raising of ground levels within 4 metres of the top of the bank of any watercourse;
- \* Condition 10 which provides that no light source shall be directly visible to drivers of vehicles using the adjoining highway; and
- \* Conditions 11, 12 and 15 which make provision for the protection of archaeological, environmental and ecological interests, including the mitigation of the impact of the development on the great crested newt and the future management (including landscape management) of the site.

The February 2009 Planning Permission, the Second February 2009 Planning Permission, the April 2009 Planning Permission, the s37 Consent and the s90 Consent run with the land to which they relate.

### ***Shared Permits***

Under the SPA, **Shared Permits** refers to those permits which will be retained by the SPA Counterparties but in respect of which there are ongoing obligations which relate to the Transmission Assets that will continue to require compliance on and from Completion under the SPA.

The SPA provides for a general division of all past, present and future obligations and liabilities under the Shared Permits such that:

- (a) the Issuer bears the responsibility for all such obligations and liabilities relating to the Transmission Assets to the extent they arise, fall due for payment, performance or discharge on or after Completion (unless they result from the SPA Counterparties' failure to pay, perform or discharge a liability or obligation which arose or fell due for payment, performance or discharge prior to Completion under the SPA); and
- (b) the SPA Counterparties bear responsibility for all such obligations and liabilities arising, falling due for payment, performance or discharge:
  - (i) prior to Completion under the SPA; and
  - (ii) on and from Completion under the SPA to the extent they relate to the Wind Farm.

In addition to this general division, the SPA provides a schedule which allocates responsibility and liability for discharging specific identified conditions of the Shared Permits between the Issuer and the SPA Counterparties. In the case of a conflict between the general division of obligations and the specific allocation of conditions, the SPA provides that the specific allocation of conditions shall prevail.

Under the SPA, each party agrees to discharge those obligations that it has been allocated in relation to the Shared Permits. The SPA provides each party with the right to step-in and carry out works in the event that the other party fails to discharge its obligations (although only where the failure is likely to result in liabilities for the first party and the failure has been notified to the other party and has not been remedied in a 30 day period). Each party also indemnifies the other party in relation to losses (broadly defined) which it suffers or incurs as a result of the first party's act, neglect, default or omission to perform or comply with its obligations under the Shared Permits provisions in the SPA.

The SPA also contains similar provisions for the Vendors and GyMOWFL to those in the Interface Agreement described below. The Interface Agreement includes provisions requiring the Vendors and GyMOWFL to obtain the Issuer's written consent (which shall not be unreasonably withheld) prior to applying, proposing or (where a proposal is capable of being voluntarily accepted) accepting any amendment to any condition of the Shared Permits where such amendment would have an adverse effect on the operation of the Transmission Assets (including a material increase in the costs of such operation). Furthermore, the SPA and the Interface Agreement require each of the Vendors, GyMOWFL and the Issuer to notify the other (providing relevant information) in the event it becomes aware of a proposal by the relevant authority to amend, suspend or revoke a Shared Permit (where such amendment, suspension or revocation would have an adverse effect on the operation of the Transmission Assets (including a material increase in the costs of such operation)).

The only permit identified as within the category of Shared Permits in the SPA is the grant of consent under s36 of the Electricity Act 1989 dated 3 December 2008 under reference 01.08.04.01/10C which authorises the: "construction and operation by GyMOWFL ("the Company"), on the areas outlined in red on Figures 1 and 2 annexed hereto and duly endorsed on behalf of the Secretary of State, of an offshore wind turbine generating station ("the Development") located approximately 13-15 km from the coast of North Wales and approximately 18 km from the coast of the Wirral" (the **s36 Consent**). The Development authorised by the s36 Consent may be up to 750 MW capacity and comprise up to 250 wind turbine generators, up to 4 offshore substations and up to 5 meteorology masts and includes inter-turbine cabling. The s36 Consent was subject to a minor variation relating to the positioning of the turbines on 8 April 2009.

The s36 Consent was granted subject to 8 Conditions, none of which are considered by the Issuer to be unusual or onerous in their context, but several of which have a notable ongoing impact on the operation of the development authorised, namely:

- \* Condition 3 (c) requires the submission of a decommissioning programme in compliance with a notice served by the Secretary of State pursuant to section 105 (2) of the Energy Act 2004;
- \* Condition 3 (d) requires the approval of the Secretary of State (in consultation with the Maritime and Coastal Agency (MCA)), to be given for a plan for an Active Safety Management System; and the Secretary of State to be satisfied that the MCA's recommendations, including those in the document "Proposed UK Offshore Renewable Energy Installations – Guidance on Navigational Safety Issues" have been adequately addressed;
- \* Condition 3 (e) requires the Secretary of State, in consultation with the Civil Aviation Authority (CAA), to be satisfied that an appropriate technical solution or operational mitigation to any interference upon the NATS (En-Route) Limited use of St Annes air traffic control radar that has been shown as likely to arise from the development has been implemented;
- \* Condition 4 specifies the maximum dimensions of the turbines and their positioning and requires that unless otherwise stated, they shall be lit as directed by the CAA and painted (as with the substations and meteorology masts) submarine grey RAL 7035;
- \* Condition 5 and 7 make provision for navigational safety, including as to the colour of structures and the requirement to liaise with the MCA, the UK Hydrographic Office and Trinity Lighthouse Service and, as specified, to follow the directions of the latter;

- \* Condition 6 provides that where the development is abandoned or falls into decay, the Secretary of State may require (at the Issuer's expense) the restoration or repair of the development, or if appropriate, its removal and the site's restoration; and
- \* Condition 8 provides that the Secretary of State may if he deems it expedient, order a survey and examination of the development (or its site) at the Issuer's expense, but, save in the case of an emergency, no more frequently than once a year.

### ***Shared Permit Obligations Relating to s36 Consent***

In addition to the general division of responsibility between the Issuer and the SPA Counterparties, the SPA identifies specific conditions of the s36 Consent that the Issuer shall be responsible for complying with in relation to the Transmission Assets, including:

- (a) taking measures to prevent danger to navigation throughout any alteration, placement or decommissioning works (including as directed by Trinity House) and providing notices to the UK Hydrographic Office;
- (b) the responses that must be made to the damage, destruction or decay or abandonment of, or any part of, the Transmission Assets; and
- (c) compensating the Secretary of State for any costs incurred in relation to certain surveys that he may undertake examining the Transmission Assets.

### ***MCAA Marine Licences***

The Gwynt-y-Môr Project was constructed pursuant to licences and consents issued initially under the Food and Environment Protection Act 1985 (**FEPA**) and Coast Protection Act 1949 (**CPA**) regime. The Marine and Coastal Access Act 2009 (**MCAA**), which came into force in April 2011, introduced a new regime to regulate activities in the coastal and marine area and consolidated and replaced previous statutory regimes under FEPA and CPA. In Wales, the licensing authority under the MCAA is the Welsh Ministers. Since April 2013, the Welsh Ministers delegated marine licensing to Natural Resources Wales (**NRW**).

Part 4 of the MCAA provides that "licensable activities" may only be carried on in accordance with a marine licence granted by the relevant licensing authority. Licensable activities include, among others, depositing a substance or object, constructing, altering or improving marine works and dredging in the coastal marine area. The licensing authority may grant the licence subject to such conditions as it thinks fit.

A person commits an offence under the MCAA if he/she carries out a licensable activity without a licence or he/she breaches the conditions of a marine licence. On conviction, such a person is liable, in the Magistrates Court, to a fine not exceeding £50,000 or, in the Crown Court, to an unlimited fine and/or imprisonment for a term not exceeding two years. The licensing authority has additional powers including the power to issue compliance, remediation, emergency safety or stop notices. Following a breach of licence, the licensing authority may also vary, revoke, suspend or transfer the licence in question.

In November 2011, the Welsh Ministers issued GyMOWFL with a Marine Licence which was due to expire on 31 December 2014 (reference number 11/52/ML, including variations 11/52/ML/1 and 11/52/ML/2). The Marine Licence authorised the licensable activities associated with the construction of the Wind Farm and Transmission Assets and combines and supersedes the previous FEPA licences and CPA consents (on substantially similar conditions). A request for a variation of this Marine Licence was submitted to the Welsh Ministers, for the issuance of two separate licences,

one relating to the windfarm, to be retained by GyMOWFL, and the other relating to the Transmission Assets, to be granted directly to the Issuer. On 29 December 2014, NRW indicated that the extant Marine Licence (11/52/ML/2) was extended until the final decision of the Welsh Ministers on the new Marine Licences. Both Marine Licences were granted on 9 February 2015, around the time of signing of the SPA.

All Marine Licences previously held by GyMOWFL in relation to the windfarm or the Transmission Assets will remain the responsibility of the Vendors and GyMOWFL, in accordance with the provisions of the SPA on Excluded Liabilities.

The previous Marine Licence (11/52/ML/2) has been varied (11/52/ML/3) so that it relates to the windfarm only (the **Windfarm Marine Licence**), and is held by GyMOWFL. The new Marine Licence relating to the Transmission Assets (CML 1452) (the **OFTO Marine Licence**) has been issued directly to the Issuer. The latter is valid from 9 February 2015 to 8 February 2035. The SPA contains specific provisions to the effect that:

- (a) the Vendors and GyMOWFL will be responsible for:
  - (i) all liabilities and obligations under the Windfarm Marine Licence; and
  - (ii) all liabilities and obligations under the OFTO Marine Licence which arose or fell due for payment, performance or discharge prior to Completion or are attributable to any failure by the Vendors and/or GyMOWFL to pay, perform or discharge any liability or obligation which arose or fell due for payment, performance or discharge prior to Completion.

The Vendors and GyMOWFL have an obligation to indemnify the OFTO against all losses suffered or incurred as a result of any act, neglect, default or omission on their part to perform or comply with their obligations under these provisions;

- (b) the OFTO will be responsible for all liabilities and obligations under the OFTO Marine Licence arising after Completion, save to the extent attributable to any failure by the Vendors and/or GyMOWFL to pay, perform or discharge any liability or obligation which arose or fell due for payment, performance or discharge prior to Completion.

The SPA contains additional protection for the period between signing and Completion. The Vendors and/or GyMOWFL have an obligation, until Completion, to perform all works and comply with all liabilities and obligations under the OFTO Marine Licence, and the Vendors will indemnify the Purchaser against all losses suffered or incurred by the Purchaser as a result of any act, neglect, default or omission on the part of the Vendors or GyMOWFL under or in connection with the OFTO Marine Licence and attributable or relating to the period on or prior to Completion.

The SPA also provides that the surveys and monitoring obligations required under both licences (as specified in the SPA) will be completed by the Vendors and/or GyMOWFL. The costs associated with such surveys and monitoring obligations will be split between the parties in accordance with the allocation of costs provided in the SPA.

#### ***Allocation of Environmental Responsibility and Indemnities***

The SPA also provides for the Issuer's assumption of, and the Vendors' retention of, certain responsibilities for Environmental Matters under the SPA. **Environmental Matters** is defined broadly to include any breach of environmental law or permit, pollution, contamination, harm and damage to the environment, including noise, vibration, nuisance, electromagnetic fields and/or radiation, in each case arising from or in relation to the Transmission Assets. That responsibility is

then supported by way of indemnities and counter-indemnities to be given by each of the Issuer and the Vendors.

Under the SPA, the Vendors retain obligations, responsibility and liability in relation to all past, present and future liabilities to any third party or governmental agency to the extent that the Environmental Matter relates to any act, event, condition or omission prior to Completion under the SPA. In contrast, the Issuer assumes responsibility, obligations and liability in relation to all past, present and future liabilities to any third party or governmental agency to the extent the Environmental Matter relates to any act, event, condition or omission following Completion under the SPA.

The Vendors and the Issuer agree to indemnify each other for any losses suffered or incurred by the other party after Completion under the SPA in relation to or arising from any Environmental Matter for which they were responsible under the relevant part of the SPA. (See also “*–Sale and Purchase Agreement - Limitations on Liability and Indemnities*” above in relation to restrictions on losses for this purpose.)

## DECOMMISSIONING

### *Decommissioning Indemnity*

In addition to the decommissioning obligations assumed by the Issuer pursuant to the Marine Licence, the SPA also provides for the Issuer to be responsible for all past, present and future liabilities and obligations of the SPA Counterparties to any third party or governmental agency in relation to the decommissioning, removal, demolition or dismantling of the offshore transmission system. Under the SPA, the Issuer also agrees to indemnify the Vendors (and keep them indemnified) against any losses suffered or incurred by the SPA Counterparties after Completion under the SPA in relation to or arising from Decommissioning. (See also “*– Sale and Purchase Agreement - Limitations on Liability and Indemnities*” above in relation to restrictions on recoverability of losses for this purpose.) "Decommissioning" is defined broadly to include the decommissioning, removal, demolition or dismantling of the offshore transmission system. This indemnity is unlimited in time and amount.

### *Decommissioning Obligations*

Decommissioning obligations on OFTOs, including the Issuer, arise in relation to their transmission assets pursuant to the Energy Act 2004 and pursuant to the various property documents and consents which apply to those assets.

### *Offshore Obligations*

The Issuer is expected to be required to submit a decommissioning programme to the Secretary of State pursuant to the Energy Act 2004. Under the SPA, the Issuer agrees to submit a draft decommissioning programme not later than 5 business days following Completion.

In reviewing the decommissioning programme, the Secretary of State may require security to be provided (including a charge over a bank account or any other asset, a deposit of money, a performance bond or guarantee, an insurance policy, a letter of credit or a letter of comfort).

The decommissioning programme that is ultimately approved by the Secretary of State (the **Decommissioning Programme**) is also the decommissioning programme that applies in relation to the decommissioning obligations pursuant to the Crown Estate Lease. There is a commitment to co-ordinate the decommissioning of the Wind Farm assets and the offshore Transmission Assets to the extent reasonably required to do so pursuant to the Crown Estate Lease where decommissioning of both is occurring at the same time. The Crown Estate Lease also requires the decommissioning works

to be completed before the end of the term (see "*Offshore Property*" below). It also requires the Issuer to comply with a post-decommissioning monitoring, maintenance and management plan for as long as it is required by the Decommissioning Programme (or a legal obligation).

The consent of the Crown under the Crown Estate Lease is not required to commence decommissioning unless this predates the date on which the Wind Farm itself has been decommissioned to a stage when the Wind Farm no longer requires the Transmission Assets for the transmission of electricity. Even then the Crown's consent cannot be unreasonably withheld.

In carrying out decommissioning activities, it may be determined taking into account several factors, including environmental factors, that it may be most appropriate for some objects to remain buried in the seabed (for example, export cables). If this is the case, the Issuer may be required to monitor the objects which are not removed in the decommissioning process and provide for contingency plans should such objects become exposed (under such contingency plans the Issuer might, for example, be required to re-bury cables if they become unburied).

### ***Onshore Obligations***

See section below "*Onshore Property Interests*" for further information on the onshore elements in relation to the Transmission Assets.

### ***Marine Licence and SPA Obligations***

Please refer to the section "*Environmental and Planning Licensing and Consents*" above for further information on the Marine Licence and SPA decommissioning obligations.

## **OFFSHORE PROPERTY**

### ***Background***

The offshore elements comprise, broadly speaking: (i) two offshore platforms which are located reasonably centrally within the Wind Farm); and (ii) the electricity cables to transmit power from the offshore platforms to shore, all of which form part of the Transmission Assets. There is a corridor within which the electricity supply cables sit that connects the two offshore substations with the onshore substation. Rights to locate those electricity supply cables in the corridor and to place the offshore platform on the bed of the sea are granted by the Crown Estate Lease referred to below. The onshore substation then has a connection point with the onshore transmission system owned by NGET. The offshore elements for the Gwynt-y-Môr Project are split between two sites. The two sites are reasonably adjacent to one another. Both are within the line of territorial waters (that is 12 nautical miles from the mean low water mark).

### ***Interests being created***

The Issuer will, at Completion under the SPA, have:

- (i) a lease of the Offshore Site and rights to lay supply cables from the offshore platforms to the mean high water mark onshore from the Crown Estate; and
- (ii) leases of the onshore substation site together with rights to lay cables within a corridor that connects into the mean high water mark onshore to that substation by virtue of easements (see further— *Onshore Property* below).



## ***Overview of the Crown Estate Lease***

### *Parties and Term of New Lease*

A lease will be entered into by GyMOWFL (as tenant), the Participants, and The Queen's Most Excellent Majesty and The Crown Estate Commissioners (together referred to as the **Crown Estate**, as landlord). It is a term of the SPA that this lease is then assigned by GyMOWFL to the Issuer. Its term will expire on 15 February 2061, subject to early termination in accordance with its provisions (see below).

### *Main Terms of New Lease*

Some of the key provisions in that lease include:

The tenant is to pay a nominal rent if demanded unless a period of non-operation arises, in which case a substantive rent becomes due that is calculated on the basis of an agreed figure that is indexed over the term. The indexation is by reference to the Retail Price Index. This non-operational rent only becomes due 24 months after the Generation Cessation Date (which is the date on which the Wind Farm's need for transmission of electricity has permanently ceased following decommissioning of the Wind Farm).

The tenant is to keep the Offshore Site and the Works (being the two substations located offshore and all ancillary structures together with all conducting media, including the electricity supply cables located in the corridor, but excluding the generator cables) in good and safe repair and condition and the Works properly maintained and in good working order.

The tenant is to keep the Works in operation at all times during the Term for the purposes of the voltage transformation and/or conversion of alternating to direct current switching and transmission of electricity generated by the Wind Farm (and ancillary uses such as the receipt and transmission of electronic data). Exceptions to this include any occasion when the tenant is prevented from doing so by an event or circumstance that is beyond its reasonable control, including unsuitable weather conditions and for safety reasons. No other use is permitted.

The only alterations or additions that are permitted are the renewal or replacement of the Works in materially the same form and layout provided the consent of the Crown Estate has been obtained (which is not to be unreasonably withheld) and the alteration or addition is to the substation or related equipment and is within the Offshore Site or is to the supply cables and is within the corridor. Aside from activity on the seabed to implement these rights, there are express provisions preventing the digging of or extraction from the seabed of any sand, stone or other materials.

The tenant gives a wide-ranging indemnity to the landlord covering the occupation of the Offshore Site, the state of repair and condition of the Offshore Site and the Works, the exercise of the rights granted, any breach of covenant and any Works that remain on the Offshore Site or within the corridor after the end of the term.

The Issuer is liable under this indemnity to the Crown Estate by virtue of being tenant under the Crown Estate Lease and additionally by having given a covenant under the licence to assign direct to the Crown to observe and perform all obligations of the tenant under the lease from the date of assignment. The consequence is that liability will attach to the Issuer in respect of any disrepair it inherits and also any breach of statute or legal obligation that is a continuing obligation in relation to the Offshore Site, its occupation, use or the Works. For identified matters of disrepair, see the section on "– *Outstanding Works*" and the commitments agreed with GyMOWFL.

The tenant is to insure the Works against physical destruction or damage by an agreed list of insured risks (which include terrorism and mechanical breakdown and any additional risks that the tenant wishes to insure against or the landlord reasonably requests be insured) in a sum that is equal to the estimated maximum loss (an express figure based on a study to calculate the estimated maximum loss arising from the worst case credible scenario that could be expected to affect the Works, which figure is then indexed each year). In the event of damage or destruction by any of the insured risks, the tenant is to reinstate the Works and make good any deficit in the insurance proceeds out of its own moneys.

On one occasion during each five year period of the term, either the landlord or the tenant may serve a notice requiring a new estimated maximum loss study to be carried out to assess the estimated maximum loss at that time.

There are express obligations on the tenant in respect of decommissioning; see the section on "*Decommissioning Obligations*" above.

### ***Mortgage of the Crown Estate Lease***

A mortgage does not require the landlord's consent if it is a mortgage of the whole (rather than part) and it is a mortgage to a reputable bank or a reputable and substantial financial institution. (See "*Description of the Guarantee and the Security – Security Agreement*" below.) Further assignment would require landlord's consent (not to be unreasonably withheld and subject to the assignee satisfying various conditions).

### ***Crown Estate Rights***

The key rights in favour of the Crown Estate are:

It can require the Issuer, as tenant, to divert any or all of the supply cables to such alternate position as the Crown Estate reasonably requires on reasonable notice of at least six months. The Issuer would be obliged to carry out the diversion works by the end of the notice period and the Crown Estate would be obliged to pay the costs and expenses reasonably incurred by the Issuer in doing so (including reasonable compensation for loss of income sustained as a direct consequence). There is a commitment to take all reasonable steps to minimise interruption to transmission of electricity from the Wind Farm and its operation and to avoid loss of income to the tenant of the Wind Farm, but the Crown would again pay the Issuer's reasonable costs of doing so.

Rights to terminate the lease. These take three forms:

- (i) a right to terminate for tenant default. This includes non-payment of rent during any period of non-operation or breach of covenant on the part of the tenant at any time that has or in the reasonable opinion of the landlord is likely to have a material adverse effect on the landlord. The other default rights to terminate are: (i) if the tenant ceases at any time to be the licensed operator of the Works and is not taking reasonable steps to assign to someone who is; and (ii) if the tenant ceases at any time to be the licensed operator of the Works and continues not to be licensed for a period of six months or more. Before exercising its right to terminate the lease, the landlord is to give 21 days' notice to the tenant and any chargee of which it has notice (in respect of the non-payment of rent) and three months' notice for breach of other covenants. No notice is necessary where the rights arise because the Issuer is no longer the holder of the requisite licence from the Authority or any successor authority;
- (ii) the landlord can terminate the lease on not less than 24 months' written notice at any time after the Generation Cessation Date, but this notice cannot be served to expire before the 22nd anniversary of the date on which the lease was granted; and

- (iii) the landlord may at any time during the term terminate the lease (as to whole or part) by giving reasonable notice (not further defined) where the Secretary of State for the purposes of the Petroleum Act 1998 requests that the landlord determine the lease because the Offshore Site is required or rights over it are required (in whole or part) for any pipeline, platforms, wellheads or other works for the exploration or exploitation of oil and gas in respect of which the consents of the Secretary of State under licence pursuant to that Act have been issued (any of which being **Oil and Gas Works**). There is an express provision in the lease stating that there is no obligation on the landlord to pay any compensation to the tenant if the lease is terminated due to Oil and Gas Works. There has been considerable debate within the renewables industry in relation to this clause and in response to such debate the then Secretary of State issued a ministerial statement in July 2011 that included a statement of intention by the Secretary of State not to give consent for oil and gas developments which would involve termination of a renewables lease unless payment of appropriate compensation had been negotiated or in exceptional cases had been determined by an independent third party. More recently (June 2014), guidance has been published that confirms that the Secretary of State would prefer the parties to agree commercially at an early stage a solution to any conflict between the proposed oil and gas development and the wind farm (including compensation payments), but if this cannot be agreed the proposed oil and gas developer can apply to the Secretary of State who can appoint an independent third party to assist in determining the application, which determination would include (a) whether the lease of the whole or any part of the wind farm needed to be determined (b) what the smallest area reasonably necessary for the oil and gas development was and (c) the amount of compensation due (to the extent not agreed between the parties).

### ***Tenant right to determine the lease***

The Issuer can terminate the lease on not less than one month's written notice at any time after the Generation Cessation Date, which is, essentially, the date on which the Wind Farm has been decommissioned to the stage where the Wind Farm's requirement for the Transmission Assets for the transmission of electricity generated by the Wind Farm has permanently ceased.

## **ONSHORE PROPERTY**

### **Introduction**

The Issuer's onshore property interests will constitute the following:

- (i) a leasehold interest, pursuant to the lease dated 6 November 2009 and made between (1) Sir David Watkin Williams Wynn (**First Landlord**) and (2) GyMOWFL and which is registered with registered title number CYM475317 (**First Lease**);
- (ii) a leasehold interest, pursuant to the lease dated 6 November 2009 and made between (1) Griffith Trevor Jones and Betty May Jones (**Second Landlord**) and (2) GyMOWFL registered title CYM476173 (**Second Lease**);
- (iii) the following easements (each an **Easement** and together the **Easements**):

Lease of Easement dated 4 April 2011 made between Network Rail Infrastructure Limited (1) and GyMOWFL (2)

Deed of Grant of Easement dated 1 September 2010 made between Clifford Frazier and Jeffrey Frazier (1) and GyMOWFL (2)

Deed of Grant of Easement dated 31 August 2010 made between Danbanks Development Limited (1) and GyMOWFL (2)

Deed of Grant of Easement dated 31 August 2010 made between Robert Henry Lloyd Jones (1) and GyMOWFL (2)

Deed of Grant of Easement and 2 September 2010 made between Nora Parry & Alfred Henry Parry (1) and GyMOWFL (2)

Deed of Grant of Easement 2 September 2010 made between Nora Parry (1) and GyMOWFL (2)

Deed of Grant of Easement dated 3 September 2010 made between Peter David Brogden (1) and GyMOWFL (2)

Deed of Grant of Easement dated 1 October 2010 made between George Berwyn Lloyd Kerfoot, Iola Morris Kerfoot & Jeremy Charles Salisbury (1) and GyMOWFL (2)

Deed of Grant of Easement dated 1 October 2010 made between George Berwyn Lloyd Kerfoot, & Iola Morris Kerfoot (1) and GyMOWFL (2)

Deed of Grant of Easement dated 20 September 2010 made between Edward Dickon Hanning Fethersonhaugh (1) and GyMOWFL (2)

Deed of Grant of Easement dated 20 September 2010 made between Hugh Simon Fethersonhaugh (1) and GyMOWFL (2)

Deed of Grant of Easement dated 5 October 2010 made between Malcolm Spencer Humbert Ring, Michael William Verity & Mark Henry Hudson (1) and GyMOWFL (2)

Deed of Grant of Easement dated 20 September 2010 made between Malcolm Spencer Humbert Ring, Anthony Francis Anson & Mark Henry Hudson (1) and GyMOWFL (2)

Deed of Grant of Easement dated 8 September 2010 made between Raymond Ivor Beech (1) and GyMOWFL (2)

Deed of Grant of Easement dated 26 April 2010 made between Wynford Davies (1) and GyMOWFL (2)

Deed of Grant of Easement dated 31 August 2010 made between Catherine Nerys Thomas (1) and GyMOWFL (2)

Deed of Grant of Easement dated 31 August 2010 made between Islwyn Williams and Elizabeth Eirlys Williams (1) and GyMOWFL (2)

Deed of Grant of Easement dated 10 May 2010 made between Executors of Dr Jones-Mortimer (1) and GyMOWFL (2)

Deed of Grant of Easement dated 31 August 2010 made between Denbighshire County Council (1) and GyMOWFL (2)

Deed of Grant of Easement dated 31 August 2010 made between Dekade Limited (1) and GyMOWFL (2)

Deed of Grant of Easement dated 26 April 2010 made between Bryn Jones (1) and GyMOWFL (2)

Deed of Grant (Access) dated 6 November 2009 made between Griffith Trevor Jones & Betty May Jones (1) and GyMOWFL (2)

Deed of Variation (Access) dated 16 January 2010 and made between Griffith Trevor Jones & Betty May Jones (1) and GyMOWFL (2)

Deed of Grant of Easement dated 6 November 2009 and made between Griffith Trevor Jones & Betty May Jones (1) and GyMOWFL (2)

Deed of Grant of Easement dated 6 November 2009 and made between Sir David Watkins Williams Wynn BT (1) and GyMOWFL (2)

Deed of Consent to Drainage Works and Variation of Water Rights dated 6 November 2009 made between Sir David Watkins Williams Wynn BT (1) Robert Bryn Davies and Mona Elizabeth Davies (2) and GyMOWFL (3);

Deed of Grant of Easement dated the date of completion of the Transaction and made between GyMOWFL and the Issuer.

The First Lease, the Second Lease (together the **Leases** and each a **Lease**) and Easements are together the **Onshore Property Interests**. The onshore substation is constructed on the land demised by the First Lease and the Second Lease.

## **Onshore Property Interests**

### ***Leases and Easements***

#### *Assignment*

On Completion under the SPA, the Leases will be assigned by way of a form TR1 transfer deed to be entered into between: (i) GyMOWFL and (ii) the Issuer. Under the terms of each Lease, consent of the landlord is not required where an assignment is made to an offshore transmission operator or a licence holder.

Each Easement is granted for the benefit of the Crown Estate Lease and the benefit of each Easement will vest in the Issuer on completion of the transfer of the Crown Estate Lease to the Issuer.

The landlord's consent (not to be unreasonably withheld or delayed) is required to charge each Lease.

#### *Term and Rent*

The term of each Lease will expire on 5 November 2108. Each Easement is granted for the benefit of the Crown Estate Lease and so will continue for so long as the Crown Estate Lease continues.

The annual rent under the First Lease is £500, with a rent review every 15 years; the rent is doubled at each rent review. The annual rent of the Second Lease is a peppercorn and there is no rent review. The tenant under each Lease will also be responsible for all outgoings in respect of the respective demises, but there is no service charge or insurance rent payable to the landlord under the Leases.

#### *Forfeiture and Termination of the Term*

Each Lease can be forfeited by the landlord for: (i) non-payment of rent; and (ii) material breach or repeated related breach of covenant by the tenant. There is no specific contractual mortgagee protection wording included in the Leases.

The tenant has the right to terminate each Lease at any time on not less than two months and not more than two years notice.

#### *Repair and Decommissioning Obligations*

Under each Lease the tenant must keep the premises in such a state of repair and condition as shall not cause damage to the landlord's neighbouring property. The tenant must commence and diligently proceed with making good any disrepair for which the tenant is liable within 3 months after the date of written notice from the landlord.

Under each Lease the tenant is required to remove all alterations and additions made during the term on yielding up the premises at the expiration or sooner determination of the term, leave the premises adequately secured and restore the premises to a condition suitable for agriculture, unless the landlord and the tenant agree otherwise in writing not less than three months prior to the end of the term of the Lease. Under no circumstances will the tenant be obliged to remove piles to a depth of more than one metre.

### **CABLE PROXIMITY AGREEMENT**

#### *Summary*

Dong Energy Burbo Extension (UK) Limited (**Dong Burbo**) are intending to construct a new substation (the **Dong Substation**) in the vicinity of the onshore substation, install a transmission cable (the **Dong Transmission Cable**) in relatively close proximity to the onshore transmission cable and construct a road crossing over the onshore transmission cable.

GyMOWFL has entered into a cable proximity and crossing agreement dated 9 May 2014 between (1) Dong Burbo and (2) GyMOWFL (the **Dong Proximity Agreement**). Under the terms of this agreement GyMOWFL consents in principle to Dong Burbo installing the Dong Transmission Cable in close proximity to the onshore transmission cable and to the installation of a road running over the onshore transmission cable. This "in principle" consent is given subject to Dong Burbo providing detailed specifications detailing the works and method statements for the works and GyMOWFL approving the same (such approval not to be unreasonably withheld or delayed). To the extent an outage to the onshore transmission cable is required as a result of the work to be undertaken by Dong Burbo, GyMOWFL shall not unreasonably withhold or delay its consent to the works, provided that Dong Burbo shall use all reasonable endeavours to avoid an outage, if reasonably possible, ensure that any outage coincides with any outage to the onshore transmission cable planned by GyMOWFL and GyMOWFL may challenge the need for an outage and it can be referred to an independent expert in the event of a dispute between the parties.

Dong Burbo indemnifies GyMOWFL for (i) loss or damage to the onshore transmission cable or the onshore substation arising from any work undertaken by or on behalf of Dong Burbo, (ii) any consequential loss resulting from interruption in the supply through the onshore transmission cable arising from any work undertaken by or on behalf of Dong Burbo, (iii) any loss incurred by GyMOWFL in respect of any third party arising out of the work undertaken by or on behalf of Dong Burbo and (iv) any loss incurred by GyMOWFL arising from any breach by Dong Burbo of its obligations under the Dong Proximity Agreement. The indemnity is capped at £10,000,000 per event.

The Dong Proximity Agreement also provides an approval framework for any future works to be undertaken by either GyMOWFL or Dong Burbo that may affect the other party's equipment. An indemnity is given by the party undertaking the works (again capped at £10,000,000 per event) but is limited so that the party being indemnified can only recover (i) loss resulting from any actual damage arising from the future work, (ii) losses incurred in respect of third parties resulting from the future

work and (iii) loss resulting from a breach of the obligations of the other party in respect of the future works.

The Dong Proximity Agreement provides that on transfer of the Dong Substation or the Leases the relevant assignee must enter into a deed of adherence to comply with the obligations of the relevant assignor. The SPA provides for a deed of adherence to be entered into on completion of the transfer of the Leases from GyMOWFL to the Issuer.

### ***Guarantee***

The obligations of Dong Burbo under the Dong Proximity Agreement are guaranteed by DONG Energy Wind Power Holding A/S.

## **DONG NEIGHBOURING AGREEMENTS**

Dong Burbo have also entered into a number of land agreements with Griffith Trevor Jones and Betty May Jones with regard to the use of neighbouring land for the construction of the Dong Substation and to access the Dong Substation along the same access road which is used for access to the onshore substation. As GyMOWFL has an interest in the road, it has agreed to enter into these documents to consent to the rights to be granted to Dong Burbo. GyMOWFL has secured a direct covenant from Dong Burbo to make good any damage Dong Burbo causes to the access road and contribute generally to the maintenance costs of the access road. GyMOWFL and Dong Burbo have also given reciprocal covenants not to block or otherwise prevent the other from using the access road. There are specific provisions requiring each party to give prior notice where an abnormal indivisible load requires access along the access road. The benefit and burden of these agreements will be transferred under the TR1 transfer deed that effects the transfers of the Leases on Completion.

## **OFFSHORE CABLE CROSSING AGREEMENTS**

The export cables forming part of the Transmission Assets were required to cross the Rhyl Flats power export cables, the EirGrid HVDC and fibre optic cable, and the Douglas gas and methanol/condensate pipelines. The arrangements for these crossings were dealt with pursuant to the Rhyl Flats Crossing Agreement, the EirGrid Crossing Agreement and the BHP Crossing Agreement respectively. The EirGrid Crossing Agreement was novated from EirGrid plc to EirGrid Interconnector Limited. The BHP Crossing Agreement was novated from BHP Billiton Petroleum Limited to ENI Liverpool Bay Operating Company Limited, and a supplemental agreement confirmed that those entities were acting on behalf of the owners. Albeit the crossings have now taken place, the Crossing Agreements contain provisions dealing with further work undertaken by either party in proximity to the crossings, including maintenance or remedial work or relaying of cables. Some of the Crossing Agreements also include provisions for the laying of future cables. The Crossing Agreements will be novated to the Issuer at Completion under the SPA, other than the part of the BHP Crossing Agreement dealing with the array cable crossing which will remain with GyMOWFL.

Pursuant to the terms of the novation agreements to be entered into for the Crossing Agreements, the Issuer assumes and GyMOWFL is released from any and all future obligations or liabilities owed to the counterparty under or in connection with the applicable Crossing Agreement arising after the effective date of the novation (which is the date of Completion under the SPA, the occurrence of which is required to be notified to the counterparty within a specified period). The novation agreements state that the novation does not transfer to the Issuer liability in respect of any act or default of GyMOWFL prior to the effective date or liability for any obligation accrued in relation to work carried out prior to the effective date. In the case of the BHP Crossing Agreement the novation agreement also states that the novation does not transfer to the Issuer liability for any act or default in relation to the array cables. (See also "*Sale and Purchase Agreement*" above in respect of

indemnities from the Issuer with respect to assumed liabilities and from the Vendors with respect to excluded liabilities.)

### ***Liability and Insurance***

Following the novation, the Issuer and the counterparties to those agreements will have agreed limits of liability in relation to the liabilities and indemnities arising in relation to the Crossing Agreements, subject to certain defined exceptions.

Pursuant to each of the Rhyl Flats Crossing Agreement and the Eirgrid Crossing Agreement, each party must maintain insurance (or hold equivalent self-insurance) to cover its potential liabilities arising out of or in connection with that Crossing Agreement during the term of that Crossing Agreement.

### ***Assignment***

The Issuer may charge the novated Crossing Agreements in favour of institutions providing financing to the Issuer in connection with the export cable.

### ***Termination and Term***

The Rhyl Flats Crossing Agreement will continue in force until either the relevant export cables of the Issuer or Rhyl Flats submarine power export cables are permanently removed from operational service. However, the Rhyl Flats Crossing Agreement provides that the rights, obligations and liabilities of the respective cable owners will apply to certain cable recovery operations after the date of termination until either the relevant export cables of the Issuer or the Rhyl Flats submarine power export cables have been permanently removed from the notification area (as defined in the Rhyl Flats Crossing Agreement) such that there are no crossing points or both the relevant export cables of the Issuer and the Rhyl Flats submarine export cables have been permanently removed from operational service. The novation agreement clarifies that in the case of the Issuer the decommissioning of the export cables of the Issuer pursuant to the decommissioning programme approved by the Secretary of State will constitute permanent removal from operational service such that there are no crossing points for this purpose.

The EirGrid Crossing Agreement will continue in force until either the relevant export cables of the Issuer or the EirGrid HVDC power and fibre optic cable are permanently removed from operational service. However, the EirGrid Crossing Agreement provides that the rights, obligations and liabilities of the respective cable owners will apply to certain cable recovery operations after the date of termination until either the relevant export cables of the Issuer or the EirGrid HVDC power and fibre optic cable have been permanently removed from the notification area (as defined in the EirGrid Crossing Agreement) or both have been permanently removed from operational service. The novation agreement clarifies that in the case of the Issuer the decommissioning of the export cables of the Issuer pursuant to the decommissioning programme approved by the Secretary of State will constitute permanent removal from operational service for this purpose.

The BHP Crossing Agreement will continue in force until the earlier of either the complete removal of the Douglas pipelines in the vicinity of the crossings (as defined in the BHP Crossing Agreement), or the complete removal of the crossings themselves and the relevant export cables of the Issuer in the vicinity of the crossings. The novation agreement clarifies that in the case of the Issuer the decommissioning of the export cables of the Issuer pursuant to the decommissioning programme approved by the Secretary of State will constitute complete removal for this purpose.



## **INTERFACE AGREEMENT**

Following Completion under the SPA and as a consequence of the division of assets and their respective utilisation, certain interface and co-operation issues will remain between the Issuer and GyMOWFL (on behalf of itself and the other Participants) throughout the life of the Gwynt-y-Môr Project.

The Interface Agreement governs the relationship between GyMOWFL and the Issuer in respect of the Generator Assets (which are certain assets of GyMOWFL essentially located on the Transmission Assets) and certain Transmission Assets and the accompanying rights for access and provision of facilities and services, along with arrangements for related information.

The Interface Agreement provides that in the event of any conflict between a party's obligations under the Interface Agreement and any applicable licence, statutory or code requirements, the latter will prevail.

### ***Term and Termination***

The Interface Agreement will become effective on Completion under the SPA. The Interface Agreement will remain in force until the earlier of: (i) the completion of the decommissioning of the Generator Assets and the Transmission Assets; and (ii) the date on which the Issuer no longer holds the OFTO Licence or is no longer receiving a positive base transmission revenue under the OFTO Licence, provided that if (i) or (ii) occur prior to completion of decommissioning of the Wind Farm then the Issuer shall, to the extent it is able and provided that it has not already assigned the Interface Agreement in accordance with its terms, use its reasonable endeavours to ensure its rights and obligations under the Interface Agreement are transferred to a successor entity, or where there is no such entity, permit GyMOWFL to access the Transmission Assets to the extent required for the purposes of decommissioning; this obligation is subject to GyMOWFL paying and reimbursing the costs and expenses incurred by the Issuer in order to comply with the obligation.

### ***Rights of the Issuer and GyMOWFL pursuant to the Interface Agreement***

Most of the rights in the Interface Agreement are reciprocal and GyMOWFL and the Issuer agree to co-operate in good faith when performing their respective obligations (which they undertake to do in accordance with good industry practice) under the Interface Agreement.

Certain Generator Assets have been installed on Transmission Assets and certain Transmission Assets have been installed on Generator Assets. The Interface Agreement gives effect to arrangements to reflect this, including the granting of appropriate access rights enabling each party to repair, maintain and operate their assets, which are required to be done in a manner to avoid any damage, disturbance, inconvenience and interference with the other party's assets.

The parties generally have reciprocal rights to request to relocate Generator Assets on Transmission Assets, and vice versa, with the consent (not to be unreasonably withheld) of the other party, to another location, provided this is done following the notification procedure set out in the Interface Agreement. The recipient of a relocation notice has one month to object and submit an alternative relocation proposal; should the parties fail to agree, the matter will be sent for expert determination.

Both parties agree to co-operate in good faith in relation to the interfaces which may be required in respect of decommissioning the Wind Farm.

Each party agrees to make (as applicable) specified facilities and services available to the other party at that other party's request without prejudicing the use of the facilities for its own purposes.

GyMOWFL and the Issuer agree that, other than in emergency situations, there shall be no interference with the other party's assets (including disconnection of connections, damaging assets, altering meters or obstructing access) without prior written consent of the other party.

Each party may replace (as applicable) Generator Assets / Transmission Assets provided it complies with certain conditions relating to keeping any replacements similar in size, location and purpose to the originals. The party seeking to effect the replacement shall obtain the consent of the other (not to be unreasonably withheld) before carrying out works which could reasonably be said to impact the ability to (as applicable) export or transmit power.

The Issuer may replace or relocate the offshore transmission cables if required to do so under the Crown Estate Lease or otherwise with the agreement of GyMOWFL (not to be unreasonably withheld).

The Interface Agreement also contains provisions in relation to Shared Permits as described above (see further the section on "*– Environmental and Planning Licensing and Consents*" above).

### ***Liability and Indemnity***

Other than in certain specified exceptions (including death or personal injury from negligence), each party's liability is limited to reasonably foreseeable direct loss resulting from physical damage or liability to third parties for loss arising from physical damage. Economic loss and indirect or consequential loss are expressly excluded except in relation to certain matters, including relocation of assets in accordance with the Interface Agreement, a failure to take reasonable care when undertaking emergency action, in instances of fraud or wilful default, and where otherwise prescribed by law or regulation.

As with the SPA, the Vendors are jointly and severally liable to the Issuer for the obligations and liabilities arising under or in connection with the Interface Agreement and the liability of each Vendor for any claim in respect of such obligations and liabilities shall be limited to its Vendor Participant Percentage of the liability cap (see below).

The Issuer agrees to indemnify GyMOWFL for loss incurred as a result of default of the Issuer in the exercise of any rights granted to it. Conversely GyMOWFL agrees to indemnify the Issuer for loss incurred as a result of GyMOWFL's default in relation to the exercise of any rights granted to it. Reciprocal indemnities are also given by each party on an equivalent basis in relation to defaults under the Interface Agreement which give rise to a breach of obligations owed to the Crown Estate.

Other than in connection with death or personal injury resulting from negligence, fraud, fraudulent misrepresentation or wilful default, liability under the Interface Agreement is capped.

GyMOWFL and the Issuer are required to procure third party liability insurance of specified amounts.

The rights and remedies provided by the Interface Agreement are expressed to be the exclusive rights and remedies of each party in exclusion of any right or remedy which may otherwise have been available by common law or statute.

### ***Assignment and Disposal***

The Issuer may assign or charge its rights under the Interface Agreement by way of security.

Other assignments by the Issuer require the consent of GyMOWFL (not to be unreasonably withheld) except that certain transfers are permitted if the OFTO Licence and various property agreements are

transferred to the same person and that person also enters into a deed of adherence to the Interface Agreement.

The Issuer is also required to procure that a deed of adherence to the Interface Agreement is entered into by the purchaser upon certain disposals by the Issuer of its assets.

Any charge or mortgage granted by the Issuer of its assets on which the Generator Assets are located has to be so charged or mortgaged subject to the terms of the Interface Agreement.

## **NGET INTERFACE AGREEMENT**

The Issuer will, on or prior to the Completion Date, enter into an agreement with NGET for interface arrangements in relation to assets of the Issuer located on NGET's land. This is based on the form provided for by the STC and includes arrangements for access and shared services.

If there ceases to be a transmission interface specification relating to the relevant interface assets (which is one of the documents required by the STC), each of NGET and the Issuer is required to disconnect itself from the other's transmission system and remove those assets from the other's land as soon as practicable and in any event within 12 months of the date that transmission interface specification ceases to exist or such longer period as may be agreed by the parties. (See also “- *Description of the OFTO Licence and the Regulatory Regime - System Operator–Transmission Owner Code (STC)*” above)

The Issuer may assign the benefit of the interface agreement by way of a charge or an assignment by way of security. Other assignments by the Issuer (except to an affiliate) require the consent of NGET (not to be unreasonably withheld).

## **PROFESSIONAL SERVICES AGREEMENT**

The Issuer will, on or prior to the Completion Date, enter into an agreement with Balfour Beatty OFTO Holdings Limited and Equitix Transmission 2 Limited (together, the Service Providers) under which the Service Providers will provide, among other things, personnel to provide services to the Issuer, such as company secretarial, account and financial management, record keeping, management of investor relations and insurance liaison services. The services also include the service of acting as the representative of the Issuer in relation to the O&M Agreement and other Project Documents, as required.

The liability of the Service Providers to the Issuer is capped and the Issuer agrees to indemnify the Service Providers in connection with the acts or omissions of the Issuer in relation to the Agreement except in certain circumstances such as the negligence or wilful misconduct of the Service Providers or their personnel.

If a Service Provider ceases to be a shareholder in Holdco it may withdraw from this agreement by delivering a notice countersigned by the other Service Providers and a new shareholder in Holdco may also accede to this agreement.

## DESCRIPTION OF THE ISSUER

### General information

Gwynt y Môr OFTO plc (the **Issuer**) was incorporated as a limited liability company on 29 November 2013 under the laws of England and Wales, under the name Alnery No. 3126 Limited (registration number 08796159). On 25 February 2014, it changed its name to Gwynt y Môr OFTO plc. On 5 December 2014, in accordance with its constitution, the members passed a resolution permitting it to become a public limited liability company. The registered office of the Issuer is 6th Floor, 350 Euston Road, London NW1 3AX with telephone number +44 (0)20 7121 3775.

All of the issued shares of the Issuer are held by Gwynt y Môr OFTO Holdings Limited (the **Holdco**).

### Share capital

The Issuer's issued and paid-up share capital is £50,999 divided into 50,999 ordinary shares in registered form with a par value of £1 each. Other than pursuant to the security granted by Holdco under the Security Agreement, there are currently no arrangements in place which may at a future date result in a change of control of the Issuer.

### Directors

The members of the Issuer's Board of Directors are detailed in the following table:

Name	Function	Business Address	Principal activities outside those for the Issuer
Stewart Orrell	Director	350 Euston Road London NW1 3AX	Director of Balfour Beatty Investments Limited (formerly Balfour Beatty Capital Limited), Director of BBI Holdings Australia Limited, Director of Greater Gabbard OFTO Holdings Limited, Director of Greater Gabbard OFTO Intermediate Limited, Director of Greater Gabbard OFTO PLC, Director of Gwynt Y Môr OFTO Holdings Limited, Gwynt Y Môr Intermediate Limited, Director of Gwynt Y Môr PLC, Director of Blackpool Airport Properties Limited, Director of Regional & City Airports (Blackpool) Holdings Limited, Director of Regional & City Airports (Blackpool) Limited, Director of Regional & City Airports (Exeter) Holdings Limited, Director of Squires Gate Airport Operations Limited, Director of Thanet OFTO Holdco Limited, Director of Thanet OFTO Intermediate Limited, Director of Thanet OFTO Limited, Director of Balfour Beatty Investments Australia Pty Limited, Director of Balfour Beatty Holdings Australia Pty Limited, Director of Harvest Power Custodians Pty Limited, Director of Harvest Power Holdings Pty Limited, Director of Harvest Power Pty Limited, Director of Living & Learning Holdings Custodians Pty Limited, Director of Living & Learning Finance Pty Limited, Director of Living & Learning Custodians Pty

<b>Name</b>	<b>Function</b>	<b>Business Address</b>	<b>Principal activities outside those for the Issuer Limited.</b>
Brian Roland Walker	Director	350 Euston Road London NW1 3AC	Director of Aberdeen Roads Holdings Limited, Director of Aberdeen Roads Limited, Director of Aberdeen Roads (Finance) Plc, Director Balfour Beatty Investment Limited (Formerly Balfour Beatty Capital Limited), Director of BBI Holdings Australia Limited, Director of Blackpool Airport Properties Limited, Director of Connect A50 Limited, Director of Connect M1-A1 Holdings Limited, Director of Connect M1-A1 Limited, Director of Connect M77/GSO Holdings Limited, Director of Connect M77/GSO Plc, Director of Connect Plus (M25) Holdings Limited, Director of Connect Plus (M25) Intermediate Limited, Director of Connect Plus (M25) Limited, Director of Connect Roads Limited, Director of Greater Gabbard OFTO Holdings Limited, Director of Greater Gabbard OFTO Intermediate Limited, Director of Greater Gabbard OFTO plc, Director of Gwynt y Môr OFTO Holdings Limited, Director of Gwynt y Môr OFTO Intermediate Limited, Director of Pevensey Coastal Defence Limited, Director of Power Asset Development Company Limited, Director of Regional & City Airports (Blackpool) Holding Limited, Director of Regional & City Airports (Blackpool) Limited, Director of Squires Gate Airport Operations Limited, Director of Thanet OFTO Holdco Limited, Director of Thanet OFTO Intermediate Limited, Director of Thanet OFTO Limited, Director of UBB Waste (Essex) Holdings Limited, Director of UBB Waste (Essex) Intermediate Limited, Director of UBB Waste (Essex) Limited, Director of UBB Waste (Gloucestershire) Intermediate Limited, Director of UBB Waste (Gloucestershire) Limited, Director of UBB Waste (Gloucestershire) Holdings Limited, Director of UK Power Networks Services Powerlink Limited, Director of Birmingham Bio Power Limited, Director of Tyseley Bio Power Limited.
Hugh Barnabas Crossley	Director	Welken House, 10-11 Charterhouse Square, London EC1M 6EH	Director of Equitix Finance Ltd, Director of Equitix Holdings Ltd, Director of Equitix Ltd, Director of Equitix Investment Management Ltd, Director of Equitix No. 1 Limited, Director of Equitix Capital Eurobond Limited, Director of Equitix Management Services Limited, Director of Equitix Healthcare Limited, Director of Equitix Education Limited, Director of Equitix Leisure Ltd, Director of Equitix Highways Ltd, Director of Equitix EPS GP Limited, Director of Equitix No.2 Limited, Director of 1 Ecclestone Square Limited, Director of Equitix

Name	Function	Business Address	Principal activities outside those for the Issuer
			Capital Eurobond 2 Limited, Director of Equitix Highways 2 Limited, Director of Equitix Healthcare 2 Limited, Director of Equitix Education 2 Limited, Director of Equitix EPS GP 3 Limited, Director of Equitix SW Hubco Limited, Director of Equitix No. 3 Ltd, Director of Equitix Transmission 2 Limited, Director of Equitix Housing 2 Limited, Director of Equitix Capital Eurobond 3 Limited, Director of Equitix Energy Efficiency No.1 Ltd. Director of Equitix Energy Efficiency EPS GP 1 Limited, Director of Equitix Energy Efficient EPS GP 1 Limited, Director of Equitix Housing 3 Limited, Director of Equitix Onshore Wind 3 Limited, Director of Equitix Infrastructure 3 Limited, Director of Equitix Concessions 3 Ltd, Director of Equitix Hayabusa 3 Limited, Director of Equitix Bluelight 3 Limited, Director of Equitix MA EPS GP 1 Limited, Director of Goodenough College, Director of Equitix MA 1 Capital Eurobond Limited, Director of Gwynt y Môr OFTO Holdings Limited and Director of Gwynt y Môr OFTO Intermediate Limited.
Rebecca Collins	Director	Welken House, 10-11 Charterhouse Square, London EC1M 6EH	Director of Greater Gabbard OFTO Holdings Limited, Director of Greater Gabbard OFTO Intermediate Limited, Director of Greater Gabbard OFTO plc, Director of Gwynt y Mor OFTO Intermediate Limited and Director of Gwynt y Môr OFTO Holdings Limited.

There are no potential conflicts of interest between each Directors' duties to the Issuer and his/her private interests or other duties.

## Business

The objects of the Issuer are unrestricted and, accordingly, it may undertake a range of activities including the purchase and ownership of the Transmission Assets in addition to raising funds by issuing negotiable instruments in the capital and money markets.

The Issuer undertakes in the Bond Trust Deed and the Common Terms Agreement that it will not pay or declare any dividends or other distributions nor will it have any subsidiaries while the Bonds are outstanding, save as permitted by the Bond Trust Deed and the Common Terms Agreement.

The Issuer also undertakes in the Bond Trust Deed and the Common Terms Agreement that it will not consolidate or merge with or into any other entity or (save as provided in the Bond Trust Deed, the Common Terms Agreement or the OFTO Licence) convey or transfer its properties and assets substantially as an entirety to any entity.

**Material contracts**

The material contracts entered into by the Issuer (other than in its ordinary course of business) which are relevant to its ability to meet its obligations in respect of the issue of the Bonds are the Transaction Documents and the Project Documents.

## DESCRIPTION OF HOLDCO

### General information

Gwynt y Môr OFTO Holdings Limited (**Holdco**) was incorporated as a limited liability company on 29 November 2013 under the laws of England and Wales, under the name Alnery No. 3128 Limited (registration number 08796189). On 25 February 2014, it changed its name to Gwynt y Môr OFTO Holdings Limited. The registered office of Holdco is 6th Floor, 350 Euston Road, London NW1 3AX with telephone number +44 (0)20 7121 3775.

As at the date of this Prospectus, 60 per cent. of the issued shares of Holdco are held by Balfour Beatty OFTO Holdings Limited and 40 per cent. of the issued shares of Holdco are held by Equitix Transmission 2 Limited.

It is currently intended that shortly after the Issue Date (such date, the **Transfer Date**), Balfour Beatty OFTO Holdings Limited will sell and transfer 40 per cent. of the issued shares of Holdco it currently holds to Equitix Transmission 2 Limited so that, as from the Transfer Date, 20 per cent. of the issued shares of Holdco will be held by Balfour Beatty OFTO Holdings Limited and 80 per cent. of the issued shares of Holdco will be held by Equitix Transmission 2 Limited.

### Share capital

Holdco's issued and paid-up share capital is £51,000 divided into 51,000 ordinary shares in registered form with a par value of £1 each.

### Directors

The members of Holdco's Board of Directors are detailed in the following table:

Name	Function	Business Address	Principal activities outside those for the Issuer
Stewart Orrell	Director	350 Euston Road London NW1 3AX	Director of Balfour Beatty Investments Limited (formerly Balfour Beatty Capital Limited), Director of BBI Holdings Australia Limited, Director of Greater Gabbard OFTO Holdings Limited, Director of Greater Gabbard OFTO Intermediate Limited, Director of Greater Gabbard OFTO PLC, Director of Gwynt Y Môr OFTO Holdings Limited, Director of Gwynt Y Môr Intermediate Limited, Director of Gwynt Y Môr PLC, Director of Blackpool Airport Properties Limited, Directors of Regional & City Airports (Blackpool) Holdings Limited, Director of Regional & City Airports (Blackpool) Limited, Director of Regional & City Airports (Exeter) Holdings Limited, Director of Squires Gate Airport Operations Limited, Director of Thanet OFTO Holdco Limited, Director of Thanet OFTO Intermediate Limited, Directors of Thanet OFTO Limited, Director of Balfour Beatty Investments Australia Pty Limited, Director of Balfour Beatty Holdings Australia Pty Limited, Director of Harvest Power Custodians Pty Limited, Director of Harvest Power Holdings Pty Limited, Director of Harvest Power



<b>Name</b>	<b>Function</b>	<b>Business Address</b>	<b>Principal activities outside those for the Issuer</b>
			Pty Limited, Director of Living & Learning Holdings Custodians Pty Limited, Director of Living & Learning Finance Pty Limited, Director of Living & Learning Custodians Pty Limited.
Brian Roland Walker	Director	350 Euston Road London NW1 3AC	Director of Aberdeen Roads Holdings Limited, Director of Aberdeen Roads Limited, Director of Aberdeen Roads (Finance) Plc, Director Balfour Beatty Investment Limited (Formerly Balfour Beatty Capital Limited), Director of BBI Holdings Australia Limited, Director of Blackpool Airport Properties Limited, Director of Connect A50 Limited, Director of Connect M1-A1 Holdings Limited, Director of Connect M1-A1 Limited, Director of Connect M77/GSO holdings Limited, Director of Connect M77/GSO Plc, Director of Connect Plus (M25) Holdings Limited, Director of Connect Plus (M25) Intermediate Limited, Director of Connect Plus (M25) Limited, Director of Connect Roads Limited, Director of Greater Gabbard OFTO Holdings Limited, Director of Greater Gabbard OFTO Intermediate Limited, Director of Greater Gabbard OFTO plc, Director of Gwynt y Môr OFTO Holdings Limited, Director of Gwynt y Môr OFTO Intermediate Limited, Director of Gwynt y Môr OFTO plc, Director of Pevensey Coastal Defence Limited, Director of Power Asset Development Company Limited, Director of Regional & City Airports (Blackpool) Holding Limited, Director of Regional & City Airports (Blackpool) Limited, Director of Squires Gate Airport Operations Limited, Director of Thanet OFTO Holdco Limited, Director of Thanet OFTO Intermediate Limited, Director of Thanet OFTO Limited, Director of UBB Waste (Essex) Holdings Limited, Director of UBB Waste (Essex) Intermediate Limited, Director of UBB Waste (Essex) Limited, Director of UBB Waste (Gloucestershire) Intermediate Limited, Director of UBB Waste (Gloucestershire) Limited, Director of UBB Waste (Gloucestershire) Holdings Limited, Director of UK Power Networks Services Powerlink Limited, Director of Birmingham Bio Power Limited, Director of Tyseley Bio Power Limited.
Hugh Barnabas Crossley	Director	Welken House, 10-11 Charterhouse Square, London EC1M 6EH	Director of Equitix Finance Ltd, Director of Equitix Holdings Ltd, Director of Equitix Ltd, Director of Equitix Investment Management Ltd, Director of Equitix No. 1 Limited, Director of Equitix Capital Eurobond Limited, Director of Equitix Management Services Limited, Director of Equitix Healthcare Limited, Director of Equitix Education Limited, Director of Equitix Leisure Ltd, Director of Equitix Highways Ltd, Director of Equitix EPS GP Limited, Director of

Name	Function	Business Address	Principal activities outside those for the Issuer
			Equitix No.2 Limited, Director of 1 Ecclestone Square Limited, Director of Equitix Capital Eurobond 2 Limited, Director of Equitix Highways 2 Limited, Director of Equitix Healthcare 2 Limited, Director of Equitix Education 2 Limited, Director of Equitix EPS GP 3 Limited, Director of Equitix SW Hubco Limited, Director of Equitix No. 3 Ltd, Director of Equitix Transmission 2 Limited, Director of Equitix Housing 2 Limited, Director of Equitix Capital Eurobond 3 Limited, Director of Equitix Energy Efficiency No.1 Ltd. Director of Equitix Energy Efficiency EPS GP 1 Limited, Director of Equitix Energy Efficient EPS GP 1 Limited, Director of Equitix Housing 3 Limited, Director of Equitix Onshore Wind 3 Limited, Director of Equitix Infrastructure 3 Limited, Director of Equitix Concessions 3 Ltd, Director of Equitix Hayabusa 3 Limited, Director of Equitix Bluelight 3 Limited, Director of Equitix MA EPS GP 1 Limited, Director of Goodenough College, Director of Equitix MA 1 Capital Eurobond Limited, Director of Gwynt y Môr OFTO plc and Director of Gwynt y Môr OFTO Intermediate Limited.
Rebecca Collins	Director	Welken House, 10-11 Charterhouse Square, London EC1M 6EH	Director of Greater Gabbard OFTO Holdings Limited, Director of Greater Gabbard OFTO Intermediate Limited, Director of Greater Gabbard OFTO plc, Director of Gwynt y Mor OFTO Intermediate Limited and Director of Gwynt y Mor OFTO plc.

There are no potential conflicts of interest between each Directors' duties to Holdco and his/her private interests or other duties.

## Business

The objects of Holdco are unrestricted and, accordingly, it may undertake a range of activities including the holding of shares in other companies.

The principal objects of Holdco include, among others, holding shares in other companies.

Holdco undertakes in the Common Terms Agreement that it will neither pay or declare any dividends or other distributions nor will it have any subsidiaries while the Bonds are outstanding, save as permitted by the Common Terms Agreement.

Holdco also undertakes in the Common Terms Agreement that it will not consolidate or merge with or into any other entity or (save as provided in the Common Terms Agreement) convey or transfer its properties and assets substantially as an entirety to any entity.

Holdco has no assets other than its paid-up share capital, shares held in the Issuer and IntermediateCo and its rights under the documentation to which it is a party in connection with the granting of the Guarantee.

**Material contracts**

The material contracts entered into by Holdco (other than in its ordinary course of business) which are relevant to its ability to meet its obligations in respect of its Guarantee are the Transaction Documents.

## DESCRIPTION OF INTERMEDIATECO

### General information

Gwynt y Môr OFTO Intermediate Limited (**IntermediateCo**) was incorporated as a limited liability company on 29 November 2013 under the laws of England and Wales, under the name Alnery No. 3127 Limited (registration number 08796181). On 25 February 2014, it changed its name to Gwynt y Môr OFTO Intermediate Limited. The registered office of IntermediateCo is 6th Floor, 350 Euston Road, London NW1 3AX with telephone number +44 (0)20 7121 3775.

All of the issued shares of IntermediateCo are held by Holdco.

### Share capital

IntermediateCo's issued and paid-up share capital is equal to £1 and is constituted by one ordinary share in registered form with a par value of £1. There are currently no arrangements in place which may at a future date result in a change of control of IntermediateCo.

### Directors

The members of IntermediateCo's Board of Directors are detailed in the following table:

<b>Name</b>	<b>Function</b>	<b>Business Address</b>	<b>Principal activities outside those for the Issuer</b>
Stewart Orrell	Director	350 Euston Road London NW1 3AX	Director of Balfour Beatty Investments Limited (formerly Balfour Beatty Capital limited), Director of BBI Holdings Australia Limited, Director of Greater Gabbard OFTO Holdings Limited, Director of Greater Gabbard OFTO Intermediate Limited, Director of Greater Gabbard OFTO PLC, Director of Gwynt Y Môr OFTO Holdings Limited, Gwynt Y Môr Intermediate Limited, Director of Gwynt Y Môr PLC, Director of Blackpool Airport Properties Limited, Director of Regional & City Airports (Blackpool) Holdings Limited, Director of Regional & City Airports (Blackpool) Limited, Director of Regional & City Airports (Exeter) Holdings Limited, Director of Squires Gate Airport Operations Limited, Director of Thanet OFTO Holdco Limited, Director of Thanet OFTO Intermediate Limited, Director of Thanet OFTO Limited, Director of Balfour Beatty Investments Australia Pty Limited, Director of Balfour Beatty Holdings Australia Pty Limited, Director of Harvest Power Custodians Pty Limited, Director of Harvest Power Holdings Pty Limited, Director of Harvest Power Pty Limited, Director of Living & Learning Holdings Custodians Pty Limited, Director of Living & Learning Finance Pty Limited, Director of Living & Learning Custodians Pty Limited.
Brian	Director	350 Euston Road	Director of Aberdeen Roads Holdings Limited,

<b>Name</b>	<b>Function</b>	<b>Business Address</b>	<b>Principal activities outside those for the Issuer</b>
Roland Walker		London NW1 3AC	Director of Aberdeen Roads Limited, Director of Aberdeen Roads (Finance) Plc, Director Balfour Beatty Investment Limited (Formerly Balfour Beatty Capital Limited), Director of BBI Holdings Australia Limited, Director of Blackpool Airport Properties Limited, Director of Connect A50 Limited, Director of Connect M1-A1 Holdings Limited, Director of Connect M1-A1 Limited, Director of Connect M77/GSO Holdings Limited, Director of Connect M77/GSO Plc, Director of Connect Plus (M25) Holdings Limited, Director of Connect Plus (M25) Intermediate Limited, Director of Connect Plus (M25) Limited, Director of Connect Roads Limited, Director of Greater Gabbard OFTO Holdings Limited, Director of Greater Gabbard OFTO Intermediate Limited, Director of Greater Gabbard OFTO plc, Director of Gwynt y Môr OFTO Holdings Limited, Director of Gwynt y Môr OFTO Intermediate Limited, Director of Gwynt y Môr OFTO plc, Director of Pevensey Coastal Defence Limited, Director of Power Asset Development Company Limited, Director of Regional & City Airports (Blackpool) Holding Limited, Director of Regional & City Airports (Blackpool) Limited, Director of Squires Gate Airport Operations Limited, Director of Thanet OFTO Holdco Limited, Director of Thanet OFTO Intermediate Limited, Director of Thanet OFTO Limited, Director of UBB Waste (Essex) Holdings Limited, Director of UBB Waste (Essex) Intermediate Limited, Director of UBB Waste (Essex) Limited, Director of UBB Waste (Gloucestershire) Intermediate Limited, Director of UBB Waste (Gloucestershire) Limited, Director of UBB Waste (Gloucestershire) Holdings Limited, Director of UK Power Networks Services Powerlink Limited, Director of Birmingham Bio Power Limited, Director of Tyseley Bio Power Limited.
Hugh Barnabas Crossley	Director	Welken House, 10-11 Charterhouse Square, London EC1M 6EH	Director of Equitix Finance Ltd, Director of Equitix Holdings Ltd, Director of Equitix Ltd, Director of Equitix Investment Management Ltd, Director of Equitix No. 1 Limited, Director of Equitix Capital Eurobond Limited, Director of Equitix Management Services Limited, Director of Equitix Healthcare Limited, Director of Equitix Education Limited, Director of Equitix Leisure Ltd, Director of Equitix Highways Ltd, Director of Equitix EPS GP Limited, Director of Equitix No.2 Limited, Director of 1 Ecclestone Square Limited, Director of Equitix Capital Eurobond 2 Limited, Director of Equitix Highways 2 Limited, Director of Equitix Healthcare 2 Limited, Director of Equitix Education 2 Limited,

Name	Function	Business Address	Principal activities outside those for the Issuer
			Director of Equitix EPS GP 3 Limited, Director of Equitix SW Hubco Limited, Director of Equitix No. 3 Ltd, Director of Equitix Transmission 2 Limited, Director of Equitix Housing 2 Limited, Director of Equitix Capital Eurobond 3 Limited, Director of Equitix Energy Efficiency No.1 Ltd. Director of Equitix Energy Efficiency EPS GP 1 Limited, Director of Equitix Energy Efficient EPS GP 1 Limited, Director of Equitix Housing 3 Limited, Director of Equitix Onshore Wind 3 Limited, Director of Equitix Infrastructure 3 Limited, Director of Equitix Concessions 3 Ltd, Director of Equitix Hayabusa 3 Limited, Director of Equitix Bluelight 3 Limited, Director of Equitix MA EPS GP 1 Limited, Director of Goodenough College, Director of Equitix MA 1 Capital Eurobond Limited, Director of Gwynt y Môr OFTO plc and Director of Gwynt y Môr OFTO Holdings Limited.
Rebecca Collins	Director	Welken House, 10-11 Charterhouse Square, London EC1M 6EH	Director of Greater Gabbard OFTO Holdings Limited, Director of Greater Gabbard OFTO Intermediate Limited, Director of Greater Gabbard OFTO plc, Director of Gwynt y Mor OFTO Gwynt y Môr OFTO Holdings Limited and Director of Gwynt y Mor OFTO plc.

There are no potential conflicts of interest between each Director's duties to IntermediateCo and his/her private interests or other duties

## Business

The objects of IntermediateCo are unrestricted and, accordingly, it may undertake a range of activities including raise funds by issuing negotiable instruments in the capital and money markets and hold shares in other companies.

The principal objects of IntermediateCo include, among others, the issuance of debentures, debt instruments and other debt securities which may be traded in domestic and international markets.

IntermediateCo undertakes in the Common Terms Agreement that it will neither pay nor declare any dividends or other distributions nor will it have any subsidiaries while the Bonds are outstanding, save as permitted by the Common Terms Agreement.

IntermediateCo also undertakes in the Common Terms Agreement that it will not consolidate or merge with or into any other entity or (save as provided in the Common Terms Agreement) convey or transfer its properties and assets substantially as an entirety to any entity.

IntermediateCo has no assets other than its paid-up share capital, its rights under the loans notes issued by the Issuer and subscribed by IntermediateCo and its rights under the documentation to which it is a party in connection with the granting of the Guarantee.

**Material contracts**

The material contracts entered into by IntermediateCo (other than in its ordinary course of business) which are relevant to its ability to meet its obligations in respect of its Guarantee are the Transaction Documents.

## DESCRIPTION OF THE PBCE PROVIDER

### Establishment and status

The European Investment Bank (or **EIB**) is an autonomous public institution established by the Treaty on the Functioning of the European Union, as amended and supplemented from time to time (the **Treaty**). The EIB's capital is subscribed by the member states (the **Member States** and each a **Member State**) of the European Union (the **EU**). The EIB is situated at 98-100, boulevard Konrad Adenauer, L-2950 Luxembourg, Grand Duchy of Luxembourg.

The EIB is separate from the EU institutions and it has its own governing bodies, sources of revenues and financial operations and is solely responsible for its indebtedness. The EIB is governed by the provisions of the Treaty, the Statute of the EIB, as amended, which is annexed as a protocol to the Treaty (the **Statute**), and the Protocol on the Privileges and Immunities of the European Union.

### Purpose

The EIB grants finance in the EU and outside the EU, in particular in the form of loans and guarantees for investments.

### Legal Status

The EIB has a legal personality and possesses in each Member State the most extensive legal capacity accorded to legal persons under the laws of each such Member State. It may acquire and transfer property and sue and be sued in its own name.

The Treaty provides that the Court of Justice of the European Union (the **Court of Justice**) has exclusive jurisdiction in certain cases involving the fulfilment by Member States of their obligations under the Statute and the lawfulness of measures adopted by the board of governors and the EIB's board of directors. Subject to the foregoing exclusive jurisdiction of the Court of Justice, any litigation between the EIB and its creditors or debtors, including claims based on guarantees made by Member States, may be determined by competent national courts. The property and assets of the EIB within the Member States are not, except by judicial decision and with the authorisation of the Court of Justice, subject to attachment or to seizure by way of execution.



## DESCRIPTION OF THE PBCE LETTER OF CREDIT

### General

Subject to the fulfilment of certain conditions precedent contained in the PBCE Letter of Credit and Reimbursement Deed and the CP Agreement, the PBCE Provider will issue the PBCE Letter of Credit on the Issue Date under which the PBCE Provider will guarantee certain payments by the Issuer in respect of the Bonds and the Hedging Agreements.

### PBCE Available Amount

The maximum amount that can be drawn under the PBCE Letter of Credit is (the **PBCE Available Amount**):

the PBCE Maximum Amount;

*less:*

any amounts (i) drawn under the PBCE Letter of Credit, or (ii) in respect of which a Notice of Demand has been issued under the PBCE Letter of Credit;

*and after adding back:*

any amounts drawn under the PBCE Letter of Credit which have been repaid or reimbursed, provided however, that all amounts drawn in order to fund a PBCE Rebalancing and subsequently repaid or reimbursed shall only be credited to the PBCE Available Amount for the purposes of a subsequent drawing to fund Scheduled Debt Service (see "*Utilisation of the PBCE Letter of Credit*" below), and shall not be available for any other purpose (and if, following a PBCE Rebalancing, there is an acceleration of the Bonds pursuant to Condition 9.2, the PBCE Letter of Credit shall not be available to fund any amount, including with respect to Debt Service).

For the avoidance of doubt, Capitalised Interest shall not be deducted when determining the PBCE Available Amount.

The **PBCE Maximum Amount** is (a) an amount equal to 15 per cent. of the Outstanding Principal Amount of the Original Bonds (as reduced, for the avoidance of doubt, by any redemption or amortisation), or (b) following the issuance by the Issuer of the Further Bonds, an amount equal to 15 per cent. of the Outstanding Principal Amount of the Bonds, as multiplied by a ratio representing (i) the Outstanding Principal Amount of the Original Bonds immediately prior to the issue of the Further Bonds to (ii) the overall Outstanding Principal Amount of the Bonds immediately following the issue of the Further Bonds.

### Utilisation of the PBCE Letter of Credit

Subject to the provision of certain certification and supporting documents to the PBCE Provider by the Issuer (or, in certain limited circumstances, the Security Trustee) (see "*Conditions to a Demand under the PBCE Letter of Credit*" below for a detailed description), the PBCE Letter of Credit may be drawn at any time during the Term, in one or more of the following circumstances (where **Term** is the period from, and including, the Issue Date to, but excluding, the earlier of (a) the later of the date on which all amounts due or owing by the Issuer in respect of the Bonds have been irrevocably and unconditionally discharged in full and the date on which all amounts due or owing by the Issuer in respect of the Hedging Agreements have been irrevocably and unconditionally discharged in full, (b)

the last day of the Revenue Period, or (c) 20 years after the Issue Date (or, if such day is not a Business Day, the immediately preceding Business Day));

#### *Scheduled Debt Service*

- (a) to meet payment of Scheduled Debt Service to the extent that there were insufficient funds standing to the credit of the Debt Service & PBCE Account, the Debt Service Reserve Account and, if applicable, the Emergency Reserve Account on the Scheduled Payment Date to pay those amounts in full. Notwithstanding an acceleration of the Bonds and termination of the Hedging Agreements following such acceleration, but prior to the occurrence of either of the events mentioned in paragraph (c)(i) or paragraph (c)(ii) (Accelerated Payments) below, provided that no PBCE Rebalancing has occurred, the PBCE Letter of Credit may still be drawn to fund Scheduled Debt Service as if such amounts remained due and payable in accordance with the original payment profile(s) set out in the terms and conditions of the Bonds or the Hedging Agreements prior to any such acceleration or termination, and any sums so drawn shall be applied to reduce the accelerated amount or Early Termination Amount (as defined in each Hedging Agreement) then due and payable in respect of the Bonds or the Hedging Agreements in accordance with the relevant Priority of Payments (as applicable);

#### *PBCE Rebalancing*

- (b) to meet payment of mandatory partial redemption amounts in respect of the Bonds under Condition 6.2.1 in the event that a PBCE Rebalancing Event has occurred (excluding for the avoidance of doubt, any make-whole amounts, costs or indemnities associated therewith). The PBCE Letter of Credit may only be drawn on one occasion during the Term as a result of a PBCE Rebalancing Event. The PBCE Rebalancing shall take place on the PBCE Rebalancing Date unless the Issuer has certified to the PBCE Provider and the Security Trustee on or prior to the date falling twelve (12) Business Days prior to a PBCE Rebalancing Date that a PBCE Rebalancing Cure has occurred; and/or

#### *Accelerated Payments*

- (c) to meet payments of amounts due in respect of interest and principal due upon acceleration of the Bonds under Condition 9.2 (excluding any make-whole amounts, costs or indemnities associated therewith) and payments of any close-out amounts due and payable on termination of the Hedging Agreements in accordance with the Post-enforcement Priority of Payments, provided that in each case either:
  - (i) the Receiver appointed by and/or professional advisers of the Security Trustee have determined that the enforcement and realisation process has been completed, including receipt by the Security Trustee of all sale proceeds in respect of the assets subject to the Security (if any); or
  - (ii) following an Event of Default which occurs solely as a result of any act, omission or state of affairs in existence which relates only to an Obligor other than the Issuer or a Major Project Party, as contemplated by paragraph "(v) Protected rights of the Issuer as holder of the Transmission Licence" of "*Common Terms Agreement – Events of Default – (v) Protected rights of the Issuer as holder of the Transmission Licence*" below, the Security Trustee, the Bond Trustee, the PBCE Provider and the Hedge Counterparties have entered into a settlement agreement or escrow arrangement which provides for the charge over the shares in the Issuer to be enforced on the same date on which the Bonds and the Hedging Agreements are accelerated or terminated

(as applicable, and in whole or in part as the case may be), and for the PBCE Letter of Credit to be drawn on such date,

and provided further that the PBCE Letter of Credit has not previously been drawn to fund a PBCE Rebalancing.

The Issuer shall promptly notify the PBCE Provider of any reduction in the Outstanding Principal Amount of the Bonds and any issue of the Further Bonds where the conditions set out in paragraph (d) of the definition of Permitted Financial Indebtedness have been satisfied, and the Outstanding Principal Amount immediately before and immediately after any such reduction and before and after any such issue of the further Bonds.

The PBCE Provider will arrange for, and the Security Trustee has agreed that it will only request the PBCE Provider to arrange for, all amounts drawn under the PBCE Letter of Credit to be paid to the Debt Service & PBCE Account.

### **Conditions to a Demand under the PBCE Letter of Credit**

The conditions to be met in order for the Security Trustee to make a demand on the PBCE Letter of Credit are dependent on the proposed purpose of utilisation of the PBCE Letter of Credit and are, in respect of:

(a) **Scheduled Debt Service:**

- (i) the aggregate amounts available in the Debt Service & PBCE Account, the Debt Service Reserve Account and, if applicable, the Emergency Reserve Account as at the date falling thirteen (13) Business Days prior to the relevant Scheduled Payment Date are less than that the amount of Scheduled Debt Service falling due for payment on the relevant Scheduled Payment Date (or which would have fallen due for payment but for the Bonds being declared due and payable under Condition 9.2 and the Hedging Agreements being terminated in accordance with their terms) (the amount of such shortfall being the "**Debt Service Shortfall**"); and
- (ii) no PBCE Rebalancing is required on the relevant Scheduled Payment Date; and
- (iii) where the Bonds have been declared due and payable under Condition 9.2 and the Hedging Agreements have been terminated in accordance with their terms, neither of the events mentioned in paragraph (c)(i) or paragraph (c)(ii) (Accelerated Payments) above have occurred nor has a PBCE Rebalancing occurred, or

(b) ***PBCE Rebalancing Event:***

- (i) a PBCE Rebalancing Event has occurred on the immediately preceding Scheduled Payment Date;
- (ii) the PBCE Letter of Credit has not previously been drawn in connection with a PBCE Rebalancing Event; and
- (iii) the Issuer has not certified to the PBCE Provider and the Security Trustee on or prior to the date falling twelve (12) Business Days prior to the relevant Scheduled Payment Date that a PBCE Rebalancing Cure has occurred; or

(c) ***Accelerated Payments:***

- (i) the PBCE Letter of Credit has not previously been drawn in connection with a PBCE Rebalancing Event; and
- (ii) either:
  - (A) each of:
    - I. the Bond Trustee has certified to the Security Trustee that the Bonds have been declared due and payable under Condition 9.2;
    - II. the Hedge Counterparties have certified to the Security Trustee that the Hedging Agreements have been terminated in accordance with their terms; and
    - III. the Security Trustee has confirmed to the Bond Trustee and Hedge Counterparties that the Receiver appointed by and/or any professional advisers of the Security Trustee has determined that the enforcement and realisation process has been completed, including receipt of all sale proceeds for the assets subject to Security (if any);
- (iii) or
  - (A) following an Event of Default which occurs solely as a result of any act, omission or state of affairs in existence which relates only to an Obligor other than the Issuer or a Major Project Party as contemplated by paragraph entitled "(w) Protected rights of the Issuer as holder of the Transmission Licence" below (see "*Description of the other Transaction Documents – Common Terms Agreement – Events of Default – Protected Right of the Issuer as holder of the Transmission Licence*"), the Security Trustee, the Bond Trustee, the PBCE Provider and the Hedge Counterparties have entered into a settlement agreement or escrow arrangement which provides for the charge over the shares in the Issuer to be enforced on the same date on which the Bonds and the Hedging Agreements are accelerated or terminated (as applicable, and in whole or in part as the case may be), and for the PBCE Letter of Credit to be drawn on such date;

and the proceeds of such realisation of security (in the case of paragraph (a) above) or the proceeds of realisation of the share charge and any other amounts available to the Obligors (in the case of paragraph (b) above), in each case which are available to be applied towards payments in respect of the Bonds and to the Hedge Counterparties in accordance with the relevant Priority of Payments, are less than the aggregate of the amount of principal and interest then remaining due and payable under the Bonds (excluding, for the avoidance of doubt, any make-whole amounts, costs or indemnities associated therewith) and the aggregate close-out amounts remaining due and payable to the Hedge Counterparties.

### **Security Trustee**

The Security Trustee has become a party to the PBCE Letter of Credit and Reimbursement Deed for the better preservation and enforcement of its rights under the deed, but shall not assume any obligations or liabilities to the parties thereunder. Any liberty or right which may be exercised, or any determination which may be made under the PBCE Letter of Credit and Reimbursement Deed or the PBCE Letter of Credit by the Security Trustee, may be exercised in the absolute discretion of the Security Trustee without any obligation to give reasons therefore, and the Security Trustee shall not be responsible for any liability or Loss occasioned for so acting save as expressly provided for by the

terms of the STID. The parties acknowledge that for the purposes of the PBCE Letter of Credit and Reimbursement Deed and the PBCE Letter of Credit, the Security Trustee shall be acting as security trustee for the Senior Creditors only.

### **Reimbursement**

The Issuer agrees that it will immediately reimburse the PBCE Provider for (i) a sum equal to the total of all amounts paid by the PBCE Provider under the PBCE Letter of Credit, and (ii) all charges, fees, costs and expenses of the PBCE Provider arising out of or in connection with the PBCE Letter of Credit and Reimbursement Deed, in accordance with the relevant Priority of Payments.

### **Modifications**

The PBCE Letter of Credit and Reimbursement Deed can only be amended, modified or terminated in writing, and signed by each party, (being each Obligor, the PBCE Provider and the Security Trustee).

### **Application of sums received**

If the PBCE Provider receives a payment from the Issuer that is insufficient to discharge all the amounts then due and payable by the Issuer under the PBCE Letter of Credit and Reimbursement Deed, the PBCE Provider shall apply that payment (see "*Reimbursement*" above for a detailed description):

- (a) *first*, in or towards payment pro rata of any unpaid fees, costs and expenses due under the PBCE Letter of Credit and Reimbursement Deed;
- (b) *second*, in or towards payment pro rata of any indemnities and accrued interest due but unpaid under the PBCE Letter of Credit and Reimbursement Deed;
- (c) *third*, in or towards the payment of any Capitalised Interest (as defined in clause 4.1.4 (Reimbursement of the PBCE Letter of Credit and Reimbursement Deed) due but unpaid under the PBCE Letter of Credit and Reimbursement Deed;
- (d) *fourth*, in or towards payment of any principal due but unpaid under the PBCE Letter of Credit and Reimbursement Deed (and where the PBCE Letter of Credit has been drawn on more than one occasion, towards repayment of such drawing(s) as the PBCE Provider may determine at its sole discretion); and
- (e) *fifth*, in or towards payment of any other sum due but unpaid under the PBCE Letter of Credit and Reimbursement Deed.

### **Representations**

In consideration of the PBCE Provider agreeing to issue the PBCE Letter of Credit, the Obligors make to the PBCE Provider the representations contained in the CTA on signing the PBCE Letter of Credit and Reimbursement Deed and on the Issue Date. See "*Description of the other Transaction Documents – Common Terms Agreement – Representations*" below for a detailed description.

### **Covenants**

In consideration of the PBCE Provider agreeing to issue the PBCE Letter of Credit on the terms and subject to the conditions of the PBCE Letter of Credit and Reimbursement Deed, each of the Obligors covenants with the PBCE Provider for the benefit of the PBCE Provider as follows:

- (a) at any time up to, and including, the Issue Date, it will notify the PBCE Provider of anything which has or may reasonably be expected to render or have rendered untrue or incorrect in any respect any of the representations given by the Obligors and which is material in the context of the issue and offering of the Bonds, the issue of the PBCE Letter of Credit or the ability of such Obligor to perform any of its obligations under the Finance Documents;
- (b) prior to the Security Trustee presenting a Notice of Demand to the PBCE Provider, the Issuer will have used all other financial resources available to it, in accordance with the relevant Priority of Payments, for the purposes of paying the amounts payable to the Bondholders and the Hedge Counterparties;
- (c) it will not employ or propose nor permit to be employed or proposed any practice, procedure or policy in the conduct of its business which would violate any anti-money laundering law or regulation applicable to it;
- (d) each Obligor shall take appropriate measures in respect of any member of its management bodies who has been convicted by a final and irrevocable court ruling of a Criminal Offence perpetrated in the course of the exercise of his/her professional duties, in order to ensure that such member is excluded from the activities of such Obligor;
- (e) each Obligor will ensure that its officers, directors, employees and/or agents acting on its behalf will not offer, give, insist on receive or solicit any illegal payment or advantage to influence the action of any person in connection with the Project;
- (f) each Obligor shall promptly disclose to the PBCE Provider any action, suit or proceeding, by or before, any court, governmental agency, authority, body or arbitrator involving it or, to the best of its knowledge, its Affiliates with respect to any Money Laundering Laws;
- (g) each Obligor shall inform the PBCE Provider promptly of:
  - (i) any fact which obliges it to prepay any financial indebtedness or any European Union funding; or
  - (ii) any investigations concerning the integrity of the members of its board of directors or other administrative body or managers; or
  - (iii) to the extent permitted by law, any material litigation, arbitration, administrative proceedings or investigation carried out by a court, administration or similar public authority which, to the best of its knowledge and belief, is current, imminent or pending against it or its controlling entities or members of its management bodies in connection with Criminal Offences related to the Project, and matters incidental thereto, including (without limitation) any PBCE Document; or
  - (iv) any measure taken by it pursuant to this paragraph (g);
- (h) each Obligor shall allow persons designated by the PBCE Provider, as well as persons designated by other institutions or bodies of the European Union (including the European Commission, the European Court of Auditors and the European Anti-Fraud Office):
  - (i) to visit the sites, installations and works comprising the Project;
  - (ii) to interview representatives of the Obligor, and not obstruct contacts with any other person involved in or affected by the Project; and

- (iii) to review the Obligor's books and records in relation to the Project and to be able to take copies of related documents to the extent permitted by the law.

Each Obligor shall provide the PBCE Provider as well as persons designated by other institutions or bodies of the European Union, or ensure that the PBCE Provider as well as persons designated by other institutions or bodies of the European Union are provided with, all necessary assistance for the purposes described in this paragraph;

- (i) each Obligor shall purchase equipment, secure services and order works for the Project: (i) in so far as they apply to it or to the Project, in accordance with European Union law in general and in particular with the relevant European Union Directives; and (ii) in so far as European Union Directives do not apply, by procurement procedures which, to the satisfaction of the PBCE Provider, respect the criteria of economy and efficiency;
- (j) each Obligor will ensure that all contracts under the Project to be procured after the date of signature of the PBCE Letter of Credit and Reimbursement Deed in accordance with European Union Directives on procurement provide for:
  - (i) the requirement that the relevant contractor promptly informs the PBCE Provider of a genuine allegation, complaint or information with regard to Criminal Offences related to the Project;
  - (ii) the requirement that the relevant contractor keeps books and records of all financial transactions and expenditures in connection with the Project; and
  - (iii) the PBCE Provider's right, in relation to an alleged Criminal Offence, to review the books and records of the relevant contractor in relation to the Project and to take copies of documents to the extent permitted by law;
- (k) the Obligors shall carry out the Project in accordance with the Permitted Business which, as at the Issue Date, shall include the Technical Description;
- (l) each Obligor will promptly inform the PBCE Provider if at any time it becomes aware of the illicit origin of any funds (including the product of money laundering or linked to the financing of terrorism) invested in the Project by the Obligors or any of their Affiliates; and
- (m) each Obligor shall:
  - (i) comply with all Environmental Laws in all material respects;
  - (ii) obtain, maintain and ensure compliance with all requisite Environmental Permits; and
  - (iii) implement procedures to monitor compliance with and prevent liability under any Environmental Law.

### **Conditions Precedent to the Issue of the PBCE Letter of Credit**

The issue of the PBCE Letter of Credit is subject to certain conditions precedent which include, *inter alia*: (i) compliance with the CP Agreement; (ii) no statute rule, regulation or order that would make the Project illegal or prevent the consummation of the Project; (iii) the PBCE Provider receiving confirmation that the Bonds (when issued) will be rated at least A3 by Moody's and the Bonds of the Issuer have received an appropriate shadow or public rating by Moody's which is at least Baa1; and (iv) no Event of Default or Potential Event of Default is subsisting on the Issue Date, or would result from the issuance of the Bonds.

**Governing law**

The PBCE Letter of Credit and the PBCE Letter of Credit and Reimbursement Deed are governed by English law.



## CONDITIONS OF THE BONDS

*The following is the text of the Conditions of the Bonds which (subject to modification) will be endorsed on each Bond in definitive form (if issued):*

The £339,215,000 2.778 per cent. Secured Bonds due February 2034 (the **Bonds**, which expression shall in these Conditions, unless the context otherwise requires, include any further bonds issued pursuant to Condition 15 (*Further Bonds*) and, forming a single series with the Bonds of Gwynt y Môr OFTO plc (the **Issuer**)) are constituted by a Bond Trust Deed dated on or about the Signing Date (the **Bond Trust Deed**) made between the Issuer and Deutsche Trustee Company Limited (the **Bond Trustee**, which expression shall include its successor(s)) as trustee for the holders of the Bonds (the **Bondholders**), the holders of the related principal receipts (the **Receiptholders** and **Receipts**, respectively) and the holders of the interest coupons appertaining to the Bonds (the **Couponholders** and the **Coupons**, respectively).

The Bonds have the benefit (to the extent applicable) of an agency agreement (as amended, supplemented and/or restated from time to time, the **Agency Agreement**) to be dated on or about the Signing Date (to which, among others, the Issuer, the Bond Trustee and the Principal Paying Agent are party). As used herein, the **Principal Paying Agent** means, in relation to the Bonds, Deutsche Bank AG, London Branch and any successor to such person in such capacity, and **Agent** shall mean the Principal Paying Agent.

In these Conditions, a **series** of Bonds will mean the Bonds and any other series of Bonds issued pursuant to Condition 15 (*Further Bonds*), and series shall be construed accordingly.

The expression **Bonds** shall, in these Conditions, unless the context otherwise requires, include any Further Bonds (as defined below) issued pursuant to Condition 15 (*Further Bonds*) and forming a single series with the Bonds.

The terms of the Bonds will be subject to, and have the benefit of, a common terms agreement (the **Common Terms Agreement**) dated 12 February 2015 between, *inter alia*, the Issuer, the Bond Trustee, the Hedge Counterparties and the PBCE Provider (as defined below).

The obligations of the Issuer under the Bonds will be secured in favour of Deutsche Trustee Company Limited as Security Trustee (the **Security Trustee**, which expression shall include its successors for the time being). The security granted to the Security Trustee (the **Security**) will comprise security granted pursuant to a security agreement entered into by the Issuer, IntermediateCo, Holdco and the Security Trustee (the **Security Agreement**).

Each of Gwynt y Môr OFTO Holdings Limited and Gwynt y Môr Intermediate Limited (together, the **Guarantors**) have, in the Security Agreement, irrevocably and unconditionally guaranteed the due and punctual payment of interest and principal and other amounts due by the Issuer under or in respect of the Bonds and the Bond Trust Deed as and when the same shall become due for payment. The security for the obligations of the Obligors under the Guarantee has been created in and pursuant to, and on the terms set out in, the Security Agreement.

In accordance with a security trust and intercreditor deed (the **STID**) entered into by, *inter alia*, the Issuer, the Bond Trustee, the Hedge Counterparties, the PBCE Provider (as defined below) and the Security Trustee, the Security will be held by the Security Trustee for itself and on behalf of the Bondholders, the Bond Trustee, the Hedge Counterparties, the PBCE Provider (as defined below), the Principal Paying Agent, Deutsche Bank AG, London Branch, (acting in its capacity as **Account Bank** and any other financial institution which accedes to the Account Bank Agreement as an Account Bank), each Additional Hedge Counterparty and each other Agent (together, the **Secured Creditors**).

The European Investment Bank (the **PBCE Provider**) has provided a letter of credit (the **PBCE Letter of Credit**) as a form of subordinated credit enhancement instrument for the Issuer in relation to the Bonds. HSBC Bank plc, Mitsubishi UFJ Securities International plc and Sumitomo Mitsui Banking Corporation (the **Hedge Counterparties**) have agreed to enter into certain revenue hedging arrangements with the Issuer pursuant to hedging agreements (the **Hedging Agreements**).

The Bond Trust Deed, the Bonds (including these Conditions), the Security Agreement, the Agency Agreement, the Common Terms Agreement, the STID, the conditions precedent agreement to be entered into between, among others, the Issuer, the Bond Trustee, the Security Trustee and the Security Trustee on the Signing Date (the **CP Agreement**), the master definitions agreement between, among others, the Issuer and the Bond Trustee to be dated the Signing Date (the **Master Definitions Agreement**), the Account Bank agreement between, among others, the Account Bank, the Issuer and the Security Trustee (the **Account Bank Agreement**), the Hedging Agreement and any related document (each, if not defined above, as defined below or in the Master Definitions Agreement) are, in relation to the Bonds, together referred to as the **Senior Finance Documents**.

Certain statements in these Conditions are summaries of the detailed provisions appearing on the face of the Bonds (which expression shall include the body thereof), the Bond Trust Deed and the other Senior Finance Documents. Copies of the Senior Finance Documents (other than the Subscription Agreement) are available for inspection by the Bondholders, the Receipholders and Couponholders during normal business hours at the specified offices of the Principal Paying Agent.

The Bondholders are entitled to the benefit of, are bound by and are deemed to have notice of, all the provisions of the Senior Finance Documents applicable to them.

All capitalised terms used herein and not otherwise defined herein shall have the meanings given to them in the Master Definitions Agreement.

## **1. FORM, DENOMINATION AND TITLE**

### **1.1 Form and Denomination**

The Bonds will be issued by the Issuer on 17 February 2015 (the **Issue Date**).

The Bonds are in bearer form, serially numbered (in the case of definitive Bonds), in the denominations of £100,000 and integral multiples of £1,000 in excess thereof up to and including £199,000, each with Coupons (in the case of definitive Bonds) and Receipts attached on issue.

The Bonds will initially be represented by one temporary global bond in bearer form, without coupons or talons attached (the **Temporary Global Bond**). The Temporary Global Bond will be deposited on the Issue Date with a common safekeeper for Euroclear Bank S.A./N.V., as operator of the Euroclear System (**Euroclear**) and Clearstream Banking, *société anonyme* (**Clearstream, Luxembourg**). The Temporary Global Bond will be exchangeable for interests in a corresponding permanent global bond (the **Permanent Global Bond**) in bearer form, without coupons or talons attached, from and including the date which is 40 days after the Issue Date, upon certification as to non-U.S. beneficial ownership. On the exchange of each Temporary Global Bond for the corresponding Permanent Global Bond, such Permanent Global Bond will remain deposited with the common safekeeper.

Interests in a Global Bond will be transferable in accordance with the rules and procedures for the time being of Clearstream, Luxembourg or Euroclear, as the case may be.

Save in certain limited circumstances detailed below, Bonds in definitive form will not be issued. If, while any of the Bonds are represented by a Global Bond: (a) either Clearstream, Luxembourg or Euroclear is closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or announces an intention permanently to cease business or does in fact do so and no other clearing system acceptable to the Bond Trustee is then in existence; or (b) as a result of any amendment to, or change in, the laws or regulations of the United Kingdom (or of any political subdivision thereof) or of any authority therein or thereof having power to tax or in the interpretation or administration of such laws or regulations which become effective on or after the Issue Date, the Issuer or the Principal Paying Agent is or will on the next Interest Payment Date (as defined below) be required to make any deduction or withholding from any payment in respect of such Bonds which would not be required were such Bonds in definitive form, then the Issuer will issue Bonds of the relevant tranches in definitive form (**Definitive Bonds**) in exchange for such Global Bond (free of charge to the persons entitled to them) within 30 days of the occurrence of the relevant event. These Conditions and the Senior Finance Documents will be amended in such manner as the Bond Trustee and Security Trustee require to take account of the issue of Definitive Bonds.

Definitive Bonds (which, if issued, will be in the denomination of £100,000 each and integral multiples of £1,000 up to £199,000 thereafter) will be serially numbered and will be issued in bearer form with (at the date of issue) interest coupons, principal coupons and, if necessary, talons attached.

**Bondholders** means each person (other than Clearstream, Luxembourg, Euroclear or the Issuer) who is for the time being shown in the records of Clearstream, Luxembourg or Euroclear as the holder of a particular Outstanding Principal Amount (as defined in Condition 6.9 (*Outstanding Principal Amount*)) of the Bonds (in which regard any certificate or other document issued by Clearstream, Luxembourg or Euroclear as to the Outstanding Principal Amount of the Bonds standing to the account of any person shall be conclusive and binding for all purposes), and such person shall be treated by the Issuer, the Bond Trustee, the Security Trustee and all other persons as the holder of such Outstanding Principal Amount of such Bonds for all purposes, other than for the purpose of payments in respect thereof, the right to which shall be vested, as against the Issuer, the Bond Trustee, the Security Trustee and all other persons, solely in the bearer of the relevant Global Bond in accordance with and subject to its terms and, for which purpose, **Bondholders** means the bearer of the relevant Global Bond, and related expressions shall be construed accordingly.

## 1.2 Title

Title to the Bonds, the Receipts and the Coupons will pass by delivery.

For so long as any of the Bonds is represented by a Global Bond held on behalf of Euroclear and/or Clearstream, Luxembourg, each person (other than Euroclear or Clearstream, Luxembourg) who is for the time being shown in the records of Euroclear or of Clearstream, Luxembourg as the holder of a particular nominal amount of such Bonds (in which regard any certificate or other document issued by Euroclear or Clearstream, Luxembourg as to the nominal amount of such Bonds standing to the account of any person shall be conclusive and binding for all purposes save in the case of manifest error) shall be treated by the Issuer, the Principal Paying Agent and the Bond Trustee as the holder of such nominal amount of such Bonds for all purposes other than with respect to the payment of principal or interest on such nominal amount of such Bonds, for which purpose the bearer of the relevant Global Bond shall be treated by the Issuer, the Principal Paying Agent and the Bond Trustee as the holder of such nominal amount of such Bonds in accordance with and subject to the terms of the relevant Global Bonds, and the expressions Bondholder and holder of Bonds and related

expressions shall be construed accordingly. In determining whether a particular person is entitled to a particular nominal amount of Bonds as aforesaid, the Bond Trustee may rely on such evidence and/or information and/or certification as it shall, at its absolute discretion, think fit and, if it does so rely, such evidence and/or information and/or certification shall, in the absence of manifest error, be conclusive and binding on all concerned.

Bonds which are represented by a Global Bond will be transferable only in accordance with the rules and procedures for the time being of Euroclear and Clearstream, Luxembourg, as the case may be.

### **1.3 Holder Absolute Owner**

The Issuer, the Principal Paying Agent and the Bond Trustee will (to the fullest extent permitted by applicable laws) deem and treat the bearer of any Bond, Receipt or Coupon as the absolute owner for all purposes (whether or not the Bond, Receipt or Coupon shall be overdue and notwithstanding any notice of ownership or writing on the Bond, Receipt or Coupon or any notice of previous loss or theft of the Bond, Receipt or Coupon or of any trust or interest therein) and shall not be required to obtain any proof thereof or as to the identity of such bearer.

### **1.4 Definitions**

Capitalised terms in these presents shall, except where the context otherwise requires or save where otherwise defined herein, bear meanings ascribed to them in the master definitions agreement entered into between, among others, the Issuer and the Bond Trustee and dated the date of the Bond Trust Deed (as the same may be amended or supplemented from time to time with the consent of the parties to this Trust Deed) (the “**Master Definitions Agreement**”) and these presents shall be construed in accordance with the rules of construction set out therein.

## **2. STATUS, SECURITY AND THE GUARANTEE**

### **2.1 Status**

The Bonds, the Receipts and the Coupons are direct, unconditional, unsubordinated and secured obligations of the Issuer and rank and will rank *pari passu*, without any preference among themselves.

The Bond Trust Deed contains provisions requiring the Bond Trustee to have regard to the interests of the Bondholders equally as regards all rights, powers, trusts, authorities, duties and discretions of the Bond Trustee (except where expressly provided otherwise).

### **2.2 Guarantee**

The payment of principal and interest in respect of the Bonds and all other moneys (including default interest) payable by the Issuer under or pursuant to the Bond Trust Deed has been unconditionally guaranteed by the Guarantors in the Security Agreement. The obligations of the Guarantors under the guarantee set out in clause 16 (Guarantee and Indemnity) of the Security Agreement (the “**Guarantee**”) are direct, unconditional, unsubordinated and unsecured obligations of the Guarantors and claims under the Guarantee rank at least *pari passu* with all other unsecured and unsubordinated obligations of the Guarantors, present and future, other than any obligations preferred by mandatory provisions of applicable law.

## **2.3 Security**

Subject to the provisions of the STID, the obligations of the Issuer under the Bonds and certain other obligations of the Issuer are secured by, *inter alia*, the Security Agreement. The Bondholders (together with the other Secured Creditors) will share in the benefit of the security constituted by the Security Agreement, upon and subject to the terms and conditions of the Security Agreement and the STID.

## **2.4 Application of proceeds and limited recourse**

Prior to the delivery of an Enforcement Notice, the Issuer is required to apply relevant funds as set out in Schedule 5 of the Common Terms Agreement. The STID requires that the net proceeds of enforcement with respect to the Security be applied in the order specified therein.

Such net proceeds may be less than the sums due to the Bondholders (after deduction of amounts ranking above such claims in the waterfall above).

None of the Bond Trustee, the Security Trustee, the Principal Paying Agent, the Account Bank or any of the persons who have agreed initially to subscribe for the Bonds has any obligation to any Bondholder to pay any amount owing by the Issuer in respect of any of the Bonds (except the Guarantors in respect of their Guarantee) or by the PBCE Provider under the PBCE Letter of Credit.

## **3. COVENANTS OF THE ISSUER**

The Issuer will at all times comply with the covenants given by it set out in the Common Terms Agreement, the Bond Trust Deed, the Security Agreement and the other Transaction Documents.

## **4. INTEREST**

### **4.1 Interest Rate and Interest Payment Dates**

The Bonds bear interest from and including 17 February 2015 at the rate of 2.778 per cent. per annum, payable semi-annually in arrear on 31 March and 30 September in each year until the Final Maturity Date (each an **Interest Payment Date**). The first payment amounting to £320.54 per £ 100,000 principal amount of Bonds shall be made on 31 March 2015.

### **4.2 Each Bond will cease to bear interest from and including its due date for redemption unless, upon due presentation, payment of the principal in respect of the Bond is improperly withheld or refused or unless default is otherwise made in respect of payment, in which event interest shall continue to accrue as provided in the Bond Trust Deed.**

### **4.3 Calculation of Broken Interest**

When interest is required to be calculated in respect of a period of less than a full period, it shall be calculated on the basis of (a) the actual number of days in the period from and including the date from which interest begins to accrue to but excluding the date on which it falls due, divided by (b) the actual number of days from and including (i) 31 March to (but excluding) 30 September or (ii) 30 September to (but excluding) 31 March in any year multiplied by two.

## **5. PAYMENTS**

### **5.1 Payments in respect of Bonds**

Payments of principal and interest in respect of each Bond will be made against presentation and surrender (or, in the case of part payment only, endorsement) of the Bond, except that payments of interest due on a Payment Date will be made against presentation and surrender (or, in the case of part payment only, endorsement) of the relevant Coupon, and payments of principal due on a Payment Date will be made against presentation of such Bond and the appropriate Receipt and surrender (or, in the case of part payment only, endorsement) of such receipt, in each case at the specified office outside the United States of the Principal Paying Agents.

Payments of principal and interest (if any) in respect of Bonds represented by any Global Bond in bearer form will (subject as provided below) be made in the manner specified above or otherwise in the manner specified in the relevant Global Bond against presentation or surrender, as the case may be, of such Global Bond at the specified office of the Principal Paying Agent. A record of each payment, distinguishing between any payment of principal and any payment of interest, will be made on such Global Bond either by the Principal Paying Agent or in the records of Euroclear and Clearstream, Luxembourg, as applicable.

### **5.2 Method of Payment**

Payments will be made by credit or transfer to a sterling account (or any other account to which sterling may be credited or transferred) specified by the payee or, at the option of the payee, by sterling cheque.

### **5.3 Unmatured Receipts and Coupons**

Each Bond should be presented for payment together with all relative unmaturing Receipts and Coupons, failing which the full amount of any relative missing unmaturing Receipt or Coupon (or, in the case of payment not being made in full, that proportion of the full amount of the missing unmaturing Receipt or Coupon which the amount so paid bears to the total amount due) will be deducted from the amount due for payment. Each amount so deducted will be paid in the manner mentioned above against presentation and surrender (or, in the case of part payment only, endorsement) of the relative missing Receipt or Coupon at any time before (i) in the case of Coupons, the expiry of five years from the Relevant Date in respect of such Coupons of that maturity, either all paid Coupons of that maturity or a list of the serial numbers of Coupons of that maturity still remaining unpaid and (ii) in the case of the Bonds or Receipts, the expiry of ten years from the Relevant Date in respect of payment of principal in respect of such Bonds or Receipts of that maturity, either all payments in respect of principal in relation to such Bonds or Receipts of that maturity or a list of the serial numbers of Bonds or Receipts of that maturity still remaining unpaid, but not thereafter.

### **5.4 Payments subject to Applicable Laws**

Payments in respect of principal and interest on the Bonds are subject in all cases to any fiscal or other laws and regulations applicable in the place of payment, but without prejudice to the provisions of Condition 7 (*Taxation*).

## 5.5 Payment only on a Presentation Date

A holder shall be entitled to present a Bond, Receipt or Coupon for payment only on a Presentation Date and shall not, except as provided in Condition 4 (*Interest*), be entitled to any further interest or other payment if a Presentation Date is after the due date.

**Presentation Date** means a day which (subject to Condition 8 (*Prescription*)):

- (a) is or falls after the relevant due date;
- (b) is a Business Day in the place of the specified office of the Principal Paying Agent at which the Bond or Coupon is presented for payment; and
- (c) in the case of payment by credit or transfer to a sterling account as referred to above, is a Business Day.

In this Condition, **Business Day** means, in relation to any place, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange and foreign currency deposits) in such place.

## 5.6 Initial Principal Paying Agent

The name of the Principal Paying Agent and its initial specified office are as follows:

Deutsche Bank AG, London Branch  
Winchester House  
1 Great Winchester Street  
London EC2N 2DB

The Issuer reserves the right, subject to the prior written approval of the Bond Trustee, at any time to vary or terminate the appointment of the Principal Paying Agent and to appoint additional or another Principal Paying Agent, provided that at all times the Issuer shall maintain a Principal Paying Agent. The Issuer undertakes that it will ensure that it maintains a paying agent in a Member State of the European Union that is not obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC or any law implementing or complying with, or introduced in order to conform to, such Directive. Notice of any termination or appointment and of any changes in specified offices will be given to the Bondholders promptly by the Issuer in accordance with Condition 12 (*Notices*).

## 5.7 General provisions applicable to payments

The holder of a Global Bond shall be the only person entitled to receive payments in respect of Bonds represented by such Global Bond and the Issuer or, as the case may be, either Guarantor will be discharged by payment to, or to the order of, the holder of such Global Bond in respect of each amount so paid. Each of the persons shown in the records of Euroclear or Clearstream, Luxembourg as the beneficial holder of a particular nominal amount of Bonds represented by such Global Bond must look solely to Euroclear or Clearstream, Luxembourg, as the case may be, for his share of each payment so made by the Issuer or, as the case may be, the relevant Guarantor to, or to the order of, the holder of such Global Bond.

## 6. REDEMPTION AND PURCHASE

### 6.1 Scheduled Redemption

Unless previously redeemed or purchased and cancelled as provided below, the Issuer will redeem the Bonds on each Payment Date in an aggregate amount equal to the principal payment set out below (each, an **Amortisation Amount**), such that on each Payment Date the outstanding principal amount of the Bonds then outstanding will be as set out next to that Payment Date (with the final Payment Date being the **Final Redemption Date**).

Payment Date	Interest Payment	Principal Payment	Outstanding Principal Amount
31-Mar-15	£1,087,314.54	£4,047,432.11	£335,167,567.89
30-Sep-15	£4,655,477.52	£5,185,737.93	£329,981,829.96
31-Mar-16	£4,583,447.62	£4,485,197.85	£325,496,632.11
30-Sep-16	£4,521,148.22	£4,956,020.28	£320,540,611.83
31-Mar-17	£4,452,309.10	£5,123,541.44	£315,417,070.39
30-Sep-17	£4,381,143.11	£5,373,776.62	£310,043,293.77
31-Mar-18	£4,306,501.35	£5,545,062.86	£304,498,230.91
30-Sep-18	£4,229,480.43	£5,718,080.19	£298,780,150.72
31-Mar-19	£4,150,056.29	£5,955,627.60	£292,824,523.12
30-Sep-19	£4,067,332.63	£6,367,775.94	£286,456,747.18
31-Mar-20	£3,978,884.22	£6,593,152.93	£279,863,594.25
30-Sep-20	£3,887,305.32	£6,922,390.39	£272,941,203.86
31-Mar-21	£3,791,153.32	£7,132,468.78	£265,808,735.08
30-Sep-21	£3,692,083.33	£7,382,777.38	£258,425,957.70
31-Mar-22	£3,589,536.55	£7,584,172.64	£250,841,785.06
30-Sep-22	£3,484,192.39	£7,743,578.00	£243,098,207.06
31-Mar-23	£3,376,634.10	£8,012,312.31	£235,085,894.75
30-Sep-23	£3,265,343.08	£8,439,129.85	£226,646,764.90
31-Mar-24	£3,148,123.56	£8,685,302.74	£217,961,462.16
30-Sep-24	£3,027,484.71	£8,987,307.81	£208,974,154.35
31-Mar-25	£2,902,651.00	£7,915,497.67	£201,058,656.68
30-Sep-25	£2,792,704.74	£8,105,873.77	£192,952,782.91
31-Mar-26	£2,680,114.15	£8,320,003.64	£184,632,779.27
30-Sep-26	£2,564,549.30	£8,473,231.22	£176,159,548.05
31-Mar-27	£2,446,856.12	£8,769,916.50	£167,389,631.55
30-Sep-27	£2,325,041.98	£9,246,843.61	£158,142,787.94
31-Mar-28	£2,196,603.32	£10,831,299.78	£147,311,488.16
30-Sep-28	£2,046,156.57	£11,214,100.42	£136,097,387.74
31-Mar-29	£1,890,392.72	£11,470,950.26	£124,626,437.48
30-Sep-29	£1,731,061.22	£11,654,658.37	£112,971,779.11
31-Mar-30	£1,569,178.01	£11,966,536.88	£101,005,242.23
30-Sep-30	£1,402,962.81	£12,009,963.85	£88,995,278.38
31-Mar-31	£1,236,144.42	£12,407,083.07	£76,588,195.31



30-Sep-31	£1,063,810.03	£11,621,686.86	£64,966,508.45
31-Mar-32	£902,384.80	£11,953,283.18	£53,013,225.27
30-Sep-32	£736,353.70	£13,225,099.04	£39,788,126.23
31-Mar-33	£552,657.07	£13,580,440.48	£26,207,685.75
30-Sep-33	£364,024.75	£14,848,592.64	£11,359,093.11
17-Feb-34	£121,367.54	£11,359,093.11	£0.00

## 6.2 Mandatory Redemptions for a PBCE Rebalancing Event and in respect of Insurance Proceeds or Acquisition Proceeds

- (a) If a PBCE Rebalancing Event has occurred and the Issuer (or, in limited circumstances, the Security Trustee) has provided all of the documentation required under clause 3.3.2 of the PBCE Letter of Credit and Reimbursement Deed or will so provide such documentation by the relevant Redemption Date, the Issuer, upon giving not more than 11 nor less than five days' notice to the Bond Trustee, the Principal Paying Agent and the Bondholders in accordance with Condition 12 (*Notices*), shall redeem the Bonds at the Outstanding Principal Amount in an amount equal to the PBCE Available Amount (less (if any) the amount to be drawn under the PBCE Letter of Credit to pay, Scheduled Debt Service on the same Payment Date (ignoring any such amount for the purpose of calculating the PBCE Available Amount referred to above)) on the Redemption Date in whole or in part together with any other amounts required to be paid pursuant to paragraph (b) below on the Redemption Date.
- (b) The date upon which redemption is to take place under paragraph (a) above (the **Redemption Date**) must be the Interest Payment Date on which (or, if not received on an Interest Payment Date, the Interest Payment Date immediately following the date on which) the amounts referred to in those paragraphs are received by the Issuer. Any redemption of the Bonds must be made together with the applicable accrued interest on the Bonds from (and including) the most recent Payment Date to (but excluding) the Redemption Date.
- (c) If the Issuer has received any Insurance Proceeds or Acquisition Proceeds not otherwise applied in accordance with paragraph 36 (Redemption upon receipt of Acquisition Proceeds and Insurance Proceeds) of Part 3 (General Covenants) of Schedule 2 (Obligor Covenants) to the Common Terms Agreement, then, in accordance with the terms of the Common Terms Agreement, on giving not more than 60 nor less than 30 days' notice to the relevant Bondholders in accordance with Condition 12 (*Notices*) and to the Bond Trustee, the Issuer shall redeem on the next Interest Payment date the whole or part of the Bonds (and in the case of such partial redemption, must be such that the Outstanding Principal Amount of the Bonds to be redeemed is not a fraction of a penny).
- (d) In the case of a partial redemption, the part of the Outstanding Principal Amount of the Bond redeemed pursuant to paragraph (a) or (c) above (excluding the Amortisation Amount (if any) due in respect of such Bond on the date of redemption pursuant to Condition 6.1 (*Scheduled Redemption*)) shall be applied to reduce the remaining Amortisation Amounts in respect of such Bond, on a pro rata basis; and the reduced Amortisation Amounts shall, if necessary, be rounded upwards or downwards to the nearest penny, at the discretion of the Issuer, but so that the sum of the reduced Amortisation Amounts, as so rounded, is equal to the Outstanding

Principal Amount of the relevant Bond following its redemption pursuant to paragraph (a) or (c) above, as applicable.

- (e) The Issuer shall specify in any such notice under this Condition 6.2, the Outstanding Principal Amount of the Bonds to be redeemed on the Redemption Date, together with the applicable accrued interest payable on the Redemption Date.

### 6.3 Optional redemption

On giving not more than 60 nor less than 30 days' notice to the relevant Bondholders in accordance with Condition 12 (*Notices*) and to the Bond Trustee and provided that: (i) on or prior to the Interest Payment Date on which such notice expires, no Enforcement Notice has been served; and (ii) the Issuer has, immediately prior to giving such notice, certified to the Bond Trustee that it will have the necessary funds to pay all principal, premium (if any) and interest due in respect of the Bonds on the relevant Interest Payment Date and to discharge all other amounts required to be paid by it on the relevant Interest Payment Date, the Issuer may redeem on any Interest Payment Date the whole (but not part) of the Bonds.

### 6.4 Adjusted redemption price

- (a) Any Bond redeemed pursuant to Conditions 6.2(c) and 6.3 above will be redeemed at an amount equal to the Outstanding Principal Amount of the relevant Bond (or, as the case may be, the relevant part of it) to be redeemed multiplied by the Redemption Percentage (as defined below) relevant to its class as set out below (rounding the resulting figure to the nearest penny, half a penny being rounded upwards) together with, in each case, accrued and unpaid interest on the Outstanding Principal Amount of the relevant Bond up to but excluding the date of redemption.
- (b) **Redemption Percentage** means, the greater of:
  - (i) 100 per cent.; and
  - (ii) that price (as reported in writing to the Issuer and the Bond Trustee by a financial adviser selected by the Issuer and approved in writing by the Bond Trustee, the **Independent Adviser**) expressed as a percentage (and rounded, if necessary, to the third decimal place (0.0005 being rounded upwards)) at which the Gross Redemption Yield on the Bonds on the Relevant Date (on the basis of redemption in accordance with Condition 6.1 (*Scheduled Redemption*)) is equal to the Gross Redemption Yield at 3.00 p.m. (London time) on that date of the Relevant Treasury Stock on the basis of the arithmetic mean (rounded, if necessary, as aforesaid) of the offered prices of the Relevant Treasury Stock quoted by the Reference Market Makers (on a dealing basis for settlement on the next following dealing day in London) at or about 3.00 p.m. (London time) on the Relevant Date and so that, for the purpose of this subparagraph (ii), **Reference Market Makers** means three brokers and/or London gilt-edged market makers selected by the Independent Adviser; **Relevant Date** means the date which is the third business day in London prior to the date of redemption pursuant to Conditions 6.2(c) or 6.3; **Gross Redemption Yield** means a yield calculated on the basis set out by the United Kingdom Debt Management Office in the paper "Formulae for Calculating Gilt Prices from Yields" page 5, Section One: Price/Yield Formulae "Conventional Gilts; Double-dated and Undated Gilts with Assumed (or Actual) Redemption on a Quasi-Coupon Date" (third edition published 16/03/2005); and **Relevant Treasury Stock** means such United

Kingdom government stock as the Independent Adviser, with the advice of three brokers and/or gilt-edged market makers or such other three persons operating in the gilt-edged market as the Independent Adviser may approve, shall determine to be a benchmark gilt whose modified duration most closely matches the modified duration of the relevant class of Bonds (as calculated by the Independent Adviser).

## **6.5 Optional redemption for taxation or other reasons**

If at any time the Issuer satisfies the Bond Trustee:

- (a) that the Issuer or the Guarantors would be unable for reasons outside of their control to procure payment by the Issuer and in making payment itself or themselves, in each case, would become obliged to deduct or withhold from any payment of interest or principal in respect of the Bonds (other than in respect of default interest), any amount for or on account of Taxes by reason of any change in or amendment to such laws or regulations or any change in the application or official interpretation of such laws or regulations (including a holding by a court of competent jurisdiction); or
- (b) by reason of a change in law (or the application or official interpretation thereof), which change becomes effective on or after the Issue Date that a Hedge Counterparty would be entitled to terminate a Hedging Agreement in accordance with its terms as a result of the Issuer or the Hedge Counterparty being required to make any withholding or deduction for or on account of any Taxes from payments in respect of an Hedging Agreement,

then the Issuer may, in order to avoid the relevant deductions, withholding or illegality but is not obliged to, use its reasonable endeavours to arrange the substitution of a company incorporated under the laws of another jurisdiction approved by the Bond Trustee as principal debtor under the Bonds upon satisfying the conditions for substitution of the Issuer as set out in Condition 13.4 (*Substitution*). If the Issuer elects not to seek to avoid the relevant deductions, or is unable to arrange a substitution as described above having used reasonable endeavours to do so would not prevent any withholding or deduction or illegality and, as a result, the relevant deduction or withholding or illegality is continuing then the Issuer may, upon giving not more than 15 nor less than five Business Days' prior written notice to the Bond Trustee, the Guarantors, the Secured Creditors and the Bondholders in accordance with Condition 12 (*Notices*), redeem all (but not some only) of the affected Bonds on any Interest Payment Date at their Outstanding Principal Amount plus accrued but unpaid interest thereon. Before giving any such notice of redemption, the Issuer (or the Guarantors, as the case may be) shall provide to the Bond Trustee a certificate signed by a director of the Issuer: (i) stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have been satisfied; and (ii) confirming that the Issuer will have sufficient funds on such Interest Payment Date to discharge all its liabilities in respect of the Bonds and any amounts under the Security Agreement, the STID and the CTA.

The Bond Trustee shall be entitled to accept and rely without further enquiry on any certificate referred to in this Condition 6.5 as sufficient evidence of the satisfaction of the conditions precedent set out above, in which event they shall be conclusive and binding on the Bondholders, the Receiptholders and the Couponholders.

## **6.6 Purchases**

The Issuer or any other Obligor may, at any time, purchase, or procure that these are purchased on its behalf, any Bonds (provided that all unmatured Receipts and Coupons (if any) appertaining thereto are attached or surrendered therewith). Any Bonds purchased or otherwise held by an Obligor together with all unmatured Receipts and Coupons attached thereto and surrendered therewith shall be delivered promptly for cancellation in accordance with Condition 6.7 (*Cancellations*).

## **6.7 Cancellations**

All Bonds which are redeemed or purchased by an Obligor will forthwith be cancelled, together with all relative unmatured Receipts and Coupons attached to the Bonds or surrendered with the Bonds, and accordingly may not be held, reissued or resold.

## **6.8 Notices Final**

Any such notice as is referred to in Condition 6.3 (*Optional redemption*) and Condition 6.5 (*Optional redemption for taxation or other reasons*) above shall be irrevocable and, upon the expiry of such notice, the Issuer shall be bound to redeem the relevant Bonds at the applicable amounts specified above.

## **6.9 Outstanding Principal Amount**

The **Outstanding Principal Amount** of a Bond on any date shall be its original principal amount less (i) the aggregate amount of all principal payments in accordance with Condition 6.1 (*Scheduled Redemption*) and (ii) the aggregate amount of all redemptions made in accordance with Condition 6.2(a) or (c) (*Mandatory Redemptions for a PBCE Rebalancing Event and in respect of Insurance Proceeds or Acquisition Proceeds*) or pursuant to Condition 6.3 (*Optional redemption*) above, made in respect of such Bond which have previously been paid in respect of such Bond since the Issue Date except if and to the extent that any such payment has been improperly withheld or refused.

If the Issuer does not at any time for any reason calculate any Outstanding Principal Amount in accordance with this Condition 6.9, the Bond Trustee may make such calculation (without any liability accruing to the Bond Trustee as a result) in accordance with this Condition 6.9 (based on information supplied to it by the Issuer) and each such calculation shall be deemed to have been made by the Issuer. In each case, the Bond Trustee may, at the expense of the Issuer, employ an expert to make such calculations and any such calculations shall be deemed to have been made by the Issuer.

## **7. TAXATION**

### **7.1 Payment without Withholding**

All payments in respect of the Bonds, Receipts or Coupons by or on behalf of the Issuer or any Guarantor shall be made free and clear of, and without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature (**Taxes**), unless the withholding or deduction of the Taxes is required by applicable law. In that event, the Issuer or, as the case may be, the Guarantors or the Principal Paying Agent shall make such payment after the withholding or deduction has been made and shall account to the relevant authorities for the amount required to be withheld or deducted. In addition the Issuer or (as the case may be), any Guarantor shall be obliged to make any additional payments to Bondholders in respect of such withholding or deduction as

would result in receipt by the Bondholders and the Couponholders and Receiptholders after such withholding or deduction of such amount as would have been received by them had no such withholding or deduction been required.

Payments by the Issuer in respect of the Bonds will be subject in all cases to any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the **Code**) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code (or any regulations thereunder or official interpretations thereof) or an intergovernmental agreement between the United States and another jurisdiction facilitating the implementation thereof (or any law implementing such an intergovernmental agreement).

## **7.2 Additional Amounts**

Any reference in these Conditions to any amounts of principal, premium or interest in respect of the Bonds shall be deemed also to refer to any additional amounts which may be payable under this Condition 7 or under any undertakings given in addition to, or in substitution for, this Condition 7 pursuant to the Bond Trust Deed.

## **8. PRESCRIPTION**

Bonds, Receipts and Coupons will become void unless presented for payment (i) in the case of Coupons, the expiry of five years from the Relevant Date in respect of such Coupons of that maturity either all paid Coupons of that maturity or a list of the serial numbers of Coupons of that maturity still remaining unpaid and (ii) in the case of the Bonds or Receipts, the expiry of ten years from the Relevant Date (as defined below) in respect of payment of principal in respect of such Bonds or Receipts of that maturity either all payments in respect of principal in relation to such Bonds or Receipts of that maturity or a list of the serial numbers of Bonds or Receipts of that maturity still remaining unpaid, in each case subject to the provisions of Condition 5 (*Payments*).

In this Condition 8, **Relevant Date**, in respect of a payment, is the date on which such payment first becomes due or (if the full amount of the moneys payable on that date has not been duly received by the Principal Paying Agent or the Bond Trustee on or prior to such date) the date on which, the full amount of such moneys having been received, notice to that effect is duly given to the relevant Bondholders in accordance with Condition 12 (*Notices*).

## **9. EVENTS OF DEFAULT**

The Events of Default (as defined in the Master Definitions Agreement) relating to the Bonds will be set out in Schedule 3 (Events of Default) to the Common Terms Agreement.

### **9.1 Event of Default**

If an Event of Default as set out in Schedule 3 (Events of Default) to the Common Terms Agreement occurs and is continuing, the Security Trustee and the Secured Creditors, including the Bondholders, may take action in relation to enforcement subject to, and in accordance with, the STID.

### **9.2 Consequences of the service of Enforcement Notices and taking of Enforcement Action**

Upon service of an Enforcement Notice as described in clause 13.3 (Enforcement Notice) of the STID, the whole of the Security becomes enforceable by the Security Trustee in accordance with the STID, subject only to clause 13.9 (PBCE Restrictions on Enforcement)

and 13.10 (Enforcement under paragraph 22 of schedule 3 of the Common Terms Agreement) of the STID and paragraph 22 of Schedule 3 of the Common Terms Agreement which restricts certain Enforcement Action against the Issuer until (i) in relation to a Default under paragraph 2.1.1 or 2.1.2 (Breach of Financial Covenant and other obligations) of schedule 3 (Events of Default) to the Common Terms Agreement at any time where the PBCE Available Amount is greater than zero, the prior written consent of the PBCE Provider is received, in the case of clause 13.9 (PBCE Restrictions on Enforcement) of the STID, or (ii) in the case of clause 13.10 (Enforcement under paragraph 22 of schedule 3 of the Common Terms Agreement), the Issuer ceases to hold the Transmission Licence (and in relation to which, clause 13 of the STID shall apply).

Upon the service of an Enforcement Notice pursuant to clause 13.3 (Enforcement Notice) of the STID, the Bond Trustee at its discretion may, and if so requested by holders of at least 25 per cent. in principal amount of the Bonds then outstanding or if so directed by an Extraordinary Resolution shall, subject in each case to it being indemnified and/or secured and/or pre-funded to its satisfaction and subject to clauses 13.9 (PBCE Restrictions on Enforcement) and 13.10 (Enforcement under paragraph 22 of schedule 3 of the Common Terms Agreement) of the STID and paragraph 22 of Schedule 3 of the Common Terms Agreement, give notice to the Issuer that the Bonds are, and they shall immediately become, due and repayable at their Outstanding Principal Amount plus accrued but unpaid interest.

## **10. ENFORCEMENT**

### **10.1 Enforcement by the Bond Trustee**

As more particularly provided in, and subject to, the Bond Trust Deed, the Common Terms Agreement and the STID, the Bond Trustee and the Security Trustee will, in certain circumstances and, in the case of the Security Trustee, at the direction of the Secured Creditors, be obliged to take action to exercise or enforce rights under the Finance Documents and/or in respect of the Bonds.

In accordance with the terms of the STID, the Bond Trustee shall be bound by the terms of Condition 9.2 (*Consequences of the service of Enforcement Notices and taking of Enforcement Action*) above. Subject as aforesaid, the Bond Trustee may at any time, at its discretion and without notice, take any such action or direct the Security Trustee to take any such action but shall not be bound as against the Bondholders, Receiptholders and the Couponholders to take any such action or direct the Security Trustee to take any such action unless: (a) it has been so directed in accordance with the STID and the Bond Trust Deed; and (b) it has been indemnified and/or secured and/or pre-funded to its satisfaction.

### **10.2 Limitation on Bond Trustee actions**

The Bond Trustee may refrain from taking any action in any jurisdiction if the taking of such action in that jurisdiction would, in its opinion based upon legal advice in the relevant jurisdiction, be contrary to any law of that jurisdiction. Furthermore, the Bond Trustee may also refrain from taking such action if it would otherwise render it liable to any person in that jurisdiction or if, in its opinion based upon such legal advice, it would not have the power to do the relevant thing in that jurisdiction by virtue of any applicable law in that jurisdiction or if it is determined by any court or other competent authority in that jurisdiction that it does not have such power.

### **10.3 Enforcement by the Bondholders, Receiptholders and Couponholders**

Subject always to the STID, no Bondholder, Receiptholder or Couponholder shall be entitled to: (a) take any steps or action against the Issuer to enforce the performance of any of the provisions of the Bond Trust Deed, the Bonds, the Receipts or the Coupons; or (b) take any other proceedings (including lodging an appeal in any proceedings) in respect of or concerning the Issuer, in each case unless the Bond Trustee or the Security Trustee, as the case may be, having become bound so to take any such action, steps or proceedings, fails so to do within a reasonable period and the failure shall be continuing.

## **11. REPLACEMENT OF BONDS, RECEIPTS AND COUPONS**

Should any Bond, Receipt or Coupon be lost, stolen, mutilated, defaced or destroyed, it may be replaced at the specified office of the Principal Paying Agent upon payment by the claimant of the expenses incurred in connection with the replacement and on such terms as to evidence and indemnity as the Issuer may reasonably require. Mutilated or defaced Bonds, Receipts or Coupons must be surrendered before replacements will be issued.

## **12. NOTICES**

Any notice shall be deemed to have been duly given to the relevant Bondholders if (i) sent to Euroclear Bank S.A./N.V. or Clearstream, Luxembourg or any replacements or successor clearing systems (together, the **Clearing Systems**) for communication by them to the holders of the Bonds and shall be deemed to be given on the date on which it was so sent and (so long as the relevant Bonds are admitted to the Official List of the Irish Stock Exchange and to trading on its regulated market) any notice shall also be published in accordance with the relevant listing rules and regulations; and (ii) unless paragraph 10.2 of Schedule 2 to the Common Terms Agreement applies (in relation to Bondholders who have registered their interests in the Issuer and the Project by subscribing to an email notification system (such parties the **Registered Parties**) to the Designated Website), when published on the Designated Website. The **Designated Website** is available at <http://bondholders.gymofto.co.uk>.

In addition, for so long as the Bonds are admitted to trading and listed as described above, the Issuer shall give one copy of each notice in accordance with this Condition 12 to the Irish Stock Exchange in accordance with the relevant listing rules and regulations.

The Bond Trustee shall be at liberty to sanction some other method of giving notice to the Bondholders if, in its opinion, such other method is reasonable having regard to market practice then prevailing and to the requirements of the stock exchange on which the relevant Bonds are then admitted to trading and provided that notice of such other method is given to the Bondholders in such manner as the Bond Trustee shall require.

## **13. MEETINGS OF BONDHOLDERS, MODIFICATION, WAIVER, AUTHORISATION AND DETERMINATION**

### **13.1 Meetings of Bondholders**

- (a) The Bond Trust Deed contains provisions for sending notices and convening meetings of Bondholders to consider any matter affecting their interests, including the sanctioning by Extraordinary Resolution of a modification of any of these Conditions or any provisions of the Bond Trust Deed or the other Transaction Documents. Such a meeting may be convened by the Issuer or the Bond Trustee and shall be convened

by the Issuer if requested by Bondholders holding not less than 10 per cent. in the Outstanding Principal Amount of the Bonds for the time being outstanding.

- (b) The quorum for any meeting convened to consider an Extraordinary Resolution shall be one or more Eligible Persons holding or representing not less than 50 per cent. in Outstanding Principal Amount of the Bonds for the time being outstanding, or at any adjourned meeting one or more persons being or representing Bondholders whatever the nominal amount of the Bonds held or represented, unless the business of such meeting includes consideration of proposals concerning *inter alia* the:
  - (i) reduction or cancellation of the amount payable or, where applicable, modification, except where such modification is in the opinion of the Bond Trustee bound to result in an increase, of the method of calculating the amount payable or modification of the date of payment or, where applicable, of the method of calculating the date of payment in respect of any principal or interest in respect of the Bonds;
  - (ii) alteration of the currency in which payments under the Bonds are to be made;
  - (iii) alteration of the majority required to pass an Extraordinary Resolution;
  - (iv) sanctioning of any such scheme or proposal or substitution as is described in paragraphs 20.9 and 20.10 of Schedule 4 to the Bond Trust Deed; and
  - (v) alteration of this proviso or the proviso to paragraph 10 of Schedule 4 to the Bond Trust Deed,

each, a **Basic Terms Modification**, all as more particularly defined in the Bond Trust Deed in which case the necessary quorum shall be one or more Eligible Persons holding or representing not less than 75 per cent., or at any adjourned meeting not less than 25 per cent., in the Outstanding Principal Amount of the Bonds for the time being outstanding.

- (c) Any Extraordinary Resolution duly passed shall be binding on Bondholders (whether or not they were present at the meeting at which such resolution was passed) and on all Couponholders.
- (d) The Bond Trust Deed provides that a resolution in writing signed by or on behalf of the holders of not less than 75 per cent. in Outstanding Principal Amount of the Bonds outstanding shall for all purposes be as valid and effective as an Extraordinary Resolution passed at a meeting of Bondholders duly convened and held. Such a resolution in writing may be contained in one document or several documents in the same form, each signed by or on behalf of one or more Bondholders.
- (e) **Eligible Persons** means any one of the following persons who shall be entitled to attend and vote at a meeting (i) a bearer of any Voting Certificate (as defined in the Bond Trust Deed) and (ii) a proxy specified in any Block Voting Instruction (as defined in the Bond Trust Deed).

### 13.2 Modification, Waiver, Authorisation and Determination

- (a) The Bond Trustee may agree, without the consent or sanction of the Bondholders or Couponholders at any time and from time to time concur with the Issuer or any other person or direct the Security Trustee to concur with the Issuer or any other person in



making any modification, to: (i) the Bond Trust Deed or any other Finance Document it may be proper to make, provided that the Bond Trustee is of the opinion that such modification will not be materially prejudicial to the interests of the Bondholders or (ii) to the Bond Trust Deed or any other Finance Document if in the opinion of the Bond Trustee such modification is of a formal, minor or technical nature or to correct a manifest error (save to the extent that such modification relates to a Basic Terms Modification), and any waiver or authorisation of any breach or proposed breach, of any of the provisions of the Bond Trust Deed, the Conditions or any other Finance Document that is in the opinion of the Bond Trustee not materially prejudicial to the interests of the Bondholders. Any such modification, authorisation, determination or waiver shall be binding on the Bondholders and the Couponholders and, if the Bond Trustee so requires, such modification shall be notified to the Bondholders as soon as practicable.

- (b) The Bond Trustee shall, without the consent or sanction of any of the Bondholders and/or Couponholders of any class and (subject as provided below) any other Secured Creditor concur with the Issuer, and/or direct the Security Trustee to concur with the Issuer, in making any modification to the Bonds and/or Coupons, the Conditions, the Bond Trust Deed and/or the other Bond Documents or giving its consent to any event, matter or thing that is requested by the Issuer in writing in order to comply with any criteria of the Rating Agencies which may be published after the Issue Date and which modification(s) or consent(s) the Issuer certifies to the Bond Trustee and/or the Security Trustee (as applicable) in writing are required to avoid a downgrade, withdrawal or suspension of the then current ratings assigned by a Rating Agency to the Bonds provided that the Bond Trustee shall not concur with the Issuer in making any such modification or giving any such consent or direct the Security Trustee to concur with the Issuer in making such modification unless and until the Issuer has obtained the consent in writing of each other party to any relevant Bond Document to which such modification is applicable and provided further that if such document is a Finance Document to which the STID applies, the provision of the STID relating to modifications thereto shall apply and further provided that the Bond Trustee shall not be obliged to agree to any modification which, in the sole opinion of the Bond Trustee would have the effect of: (i) exposing the Bond Trustee to any liability against which it has not been indemnified and/or secured and/or pre-funded to its satisfaction; or (ii) adding to or increasing the obligations, liabilities or duties, or decreasing the protections, of the Bond Trustee in respect of the Bonds, in the Finance Documents and/or the Conditions of the Bonds.
- (c) Subject to paragraph (d) below, the Bond Trustee shall, without the consent of any of the Bondholders and/or Couponholders or any other Secured Creditor, concur with the Issuer, and/or direct the Security Trustee to concur with the Issuer, in making any modifications (subject to certain provisos) to the Finance Documents and/or the Conditions of the Bonds that are requested by the Issuer in order to enable the Issuer to comply with any requirements which apply to it under Regulation (EU) 648/2012 (the **European Market Infrastructures Regulation** or **EMIR**), subject to receipt by the Bond Trustee of a certificate of the Issuer certifying to the Bond Trustee and the Security Trustee that: (i) the requested amendments are to be made solely for the purpose of enabling the Issuer to satisfy its requirements under EMIR; (ii) the requested amendments do not effect a Basic Terms Modification and (iii) each of the Rating Agencies has been notified of the proposed amendments and has not made the Issuer aware that such amendments will result in a downgrade, withdrawal or suspension of the then current ratings assigned by a Rating Agency to the Bonds.

- (d) The Bond Trustee and the Security Trustee shall not be obliged to agree to any modification which, in the sole opinion of the Bond Trustee or the Security Trustee, as applicable, would have the effect of (i) exposing the Bond Trustee or the Security Trustee, as applicable, to any liability against which it has not been indemnified and/or secured and/or pre-funded to its satisfaction or (ii) increasing the obligations or duties, or decreasing the protections, of the Bond Trustee or the Security Trustee, as applicable, in the Finance Documents and/or the Conditions of the Bonds.

### **13.3 Bond Trustee to have Regard to Interests of Bondholders as a Class**

In connection with the exercise of its functions (including but not limited to those referred to in this Condition 13.3), the Bond Trustee shall have regard to the interests of the Bondholders and Couponholders as a class and shall not have regard to the consequences of such exercise for individual Bondholders or Couponholders and, in particular but without limitation, shall not have regard to the consequences of any such exercise for individual Bondholders or Couponholders (whatever their number) resulting from their being for any purpose domiciled or resident in, otherwise connected with, or subject to the jurisdiction of, any particular territory or any political subdivision thereof and the Bond Trustee shall not be entitled to require, nor shall any Bondholder or Couponholder be entitled to claim, from the Issuer any indemnification or payment in respect of any tax consequence of any such exercise upon individual Bondholders or Couponholders except to the extent already provided for in Condition 7 (*Taxation*) and/or any undertaking or covenant given in addition to, or in substitution for, Condition 7 (*Taxation*) pursuant to the Bond Trust Deed.

### **13.4 Substitution**

The Bond Trust Deed contains provisions permitting the Bond Trustee to agree, subject to such amendment of the Bond Trust Deed and such other conditions as the Bond Trustee may require and subject to the conditions and qualifications contained in the Bond Trust Deed, but without the consent of the Bondholders or the Couponholders, to the substitution of another company in place of the Issuer, or in place of any previous substituted company, as principal debtor under the Bond Trust Deed and the Bonds provided that such substitution would not in the opinion of the Bond Trustee be materially prejudicial to the interests of the Bondholders. In the case of such a substitution, the Bond Trustee may agree, without the consent of the Bondholders or the Couponholders, to a change of the law governing the Bonds, the Coupons and/or the Bond Trust Deed provided that such change would not in the opinion of the Bond Trustee be materially prejudicial to the interests of the Bondholders.

### **13.5 STID Matters**

The Bond Trustee shall not be bound to take, or to give any direction to the Security Trustee to take, any actions, proceedings and/or other steps in relation to the STID unless:

- (a) (in relation to all voting or direction matters (except those involving Entrenched Rights where any Bondholder and/or Couponholder is an Affected Secured Creditor) pursuant to the STID) directed to do so in accordance with the provisions set out in the Bond Trust Deed;
- (b) (in relation to matters pertaining to Entrenched Rights (where any Bondholder and/or Couponholder is an Affected Secured Creditor) pursuant to the STID) directed to do so in accordance with the provisions set out in the Bond Trust Deed; and
- (c) only if it shall be indemnified and/or secured to its satisfaction against all General Liabilities to which it may render itself liable or which it may incur by so doing and,

for this purpose, the Bond Trustee may demand, prior to taking any such action, that there be paid to it in advance such sums as it considers (without prejudice to any further demand) shall be sufficient so to indemnify it.

The Bond Trustee shall be entitled to assume that any instruction, consent or certificate received by it from the Security Trustee, which purports to have been given pursuant to the STID, has been given in accordance with its terms and shall not incur or be responsible for any General Liability in making such assumption. The Bond Trustee shall be entitled to assume that any such instructions, consents or certificates are authentic and have been properly given in accordance with the terms of the STID. If the Security Trustee, in issuing or giving any such instruction, consent or certificate breaches any rights or restrictions set out in the Bond Trust Deed, the STID or any other Transaction Document, this shall not invalidate such instruction, consent or certificate unless the Security Trustee notifies the Bond Trustee in writing before the Bond Trustee commences to act on such instruction, consent or certificate that such instruction, consent or certificate is invalid and should not be acted on. If the Bond Trustee is so notified after it has commenced to act on such instruction, consent or certificate, the validity of any action taken shall not be affected but the Bond Trustee shall take no further action in accordance with such instruction, consent or certificate, except to the extent that it has become legally obliged to do so.

## **14. BOND TRUSTEE AND SECURITY TRUSTEE**

### **14.1 Indemnification and protection of the Bond Trustee and the Security Trustee**

The Bond Trust Deed contains provisions for the indemnification of the Bond Trustee and for its relief from responsibility, including provisions relieving it from taking action unless indemnified and/or secured and/or pre-funded to its satisfaction. The Bond Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit. Additionally, the STID contains provisions for the indemnification of the Security Trustee and for its relief from responsibility, including provisions relieving it from taking action unless indemnified and/or secured and/or pre-funded to its satisfaction. The Security Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit.

### **14.2 Bond Trustee contracting with the Issuer**

The Bond Trust Deed also contains provisions pursuant to which the Bond Trustee is entitled to, *inter alia*: (a) enter into business transactions with the Issuer and act as trustee for the holders of any other securities issued, or relating to, the Issuer; (b) exercise and enforce its rights, comply with its obligations and perform its duties under or in relation to any such transactions or, as the case may be, any such trusteeship without regard to the interests of, or consequences for, the Bondholders, Receiptholders or Couponholders; and (c) retain and not be liable to account for any profit made or any other amount or benefit received thereby or in connection therewith.

### **14.3 Security Trustee contracting with the Issuer**

The STID also contains provisions pursuant to which the Security Trustee is entitled to, *inter alia*: (a) enter into business transactions with the Issuer and act as security trustee for the holders of any other securities issued, or relating to, the Issuer; (b) exercise and enforce its rights, comply with its obligations and perform its duties under or in relation to any such transactions or, as the case may be, any such trusteeship without regard to the interests of, or consequences for, the Bondholders, Receiptholders or Couponholders; and (c) retain and not

be liable to account for any profit made or any other amount or benefit received thereby or in connection therewith.

#### **14.4 Reliance by the Bond Trustee**

The Bond Trustee may rely without liability to Bondholders or Couponholders on a report, confirmation or certificate or any advice of any accountants, financial advisers, financial institution or any other expert, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto entered into by the Bond Trustee or in any other manner) by reference to a monetary cap, methodology or otherwise. The Bond Trustee may accept and shall be entitled to rely on any such report, confirmation or certificate or advice in which event such report, confirmation or certificate or advice shall be binding on the Issuer, the Bond Trustee, the Bondholders and the Couponholders.

### **15. FURTHER BONDS**

#### **15.1 Further Bonds**

The Issuer will have the right, without the consent of the Bondholders but subject always to the provisions of these Conditions of the Bonds and the Bond Trust Deed, to raise further funds from time to time and on any date by the creation and issue of further Bonds (**Further Bonds**) in bearer form, carrying the same terms and conditions in all respects as the Bonds (save as to the issue date, the first Interest Payment Date, and the amortisation schedule), and so that the same shall be consolidated and form a single series and rank *pari passu* with the Bonds.

Unless otherwise approved by the Bondholders, the issue of Further Bonds will be subject to the following conditions precedent being fulfilled:

- (a) the requirements of the definition of "Permitted Financial Indebtedness" are met in accordance with the terms of the CTA;
- (b) any Further Bonds are assigned the same ratings as are then applicable to the Bonds with which they are to be consolidated and form a single class;
- (c) the current ratings of the Bonds then outstanding are not downgraded, withdrawn or qualified as a result of such issue of Further Bonds (as confirmed by the Rating Agencies (in writing in the case of S&P) or, in the case of any Rating Agency other than S&P, only where any of the Rating Agencies is unwilling to provide such confirmation for any reason other than related to the rating itself, as certified by the Issuer that it has notified the relevant Rating Agency of the proposed issue of Further Bonds and after having made all reasonable enquiries with the relevant Rating Agency or otherwise and providing evidence to the Bond Trustee to support such certification); and
- (d) application will be made, in respect of the Further Bonds, for such notes to be admitted to the Official List of the Irish Stock Exchange and to be traded on its regulated market or, if the Bonds then issued are no longer admitted to trading on that exchange, such exchange, if any, on which the Bonds then issued are then admitted to trading.

## **15.2 Supplemental trust deeds and security**

Any such Further Bonds will be constituted by a further deed or deeds supplemental to the Bond Trust Deed and have the benefit of the security constituted by the Security Agreement. Any of the Finance Documents may be amended, and further Finance Documents may be entered into, in connection with the issue of such Further Bonds and the claims of the parties to any amended Finance Document or any further Finance Document may rank ahead of, *pari passu* with, or behind, any tranche or tranches of the Bonds, but subject always to the provisions of the Conditions of the Bonds and the Bond Trust Deed.

## **16. GOVERNING LAW AND SUBMISSION TO JURISDICTION**

### **16.1 Governing Law**

The Bond Trust Deed, the Security Agreement, the Bonds, the Coupons and the other Finance Documents and any non-contractual obligations arising out of or in connection with them shall be governed by, and shall be construed in accordance with, English law.

### **16.2 Jurisdiction of English Courts**

The Issuer has, in the Bond Trust Deed, irrevocably agreed for the benefit of the Bond Trustee, the Bondholders and the Couponholders that the courts of England are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Bond Trust Deed, the Security Agreement, the Bonds, the Coupons and the other Finance Documents (including a dispute relating to any non-contractual obligations arising out of or in connection with the Bond Trust Deed, the Security Agreement, the Bonds, the Coupons and the other Finance Documents) and accordingly has submitted to the exclusive jurisdiction of the English courts.

The Issuer has, in the Bond Trust Deed, waived any objection to the courts of England on the grounds that they are an inconvenient or inappropriate forum. The Bond Trustee, the Bondholders and the Couponholders may take any suit, action or proceeding arising out of or in connection with the Bond Trust Deed, the Bonds or the Coupons respectively (including any suit, action or proceedings relating to any non-contractual obligations arising out of or in connection with the Bond Trust Deed, the Bonds or the Coupons) (together referred to as **Proceedings**) against the Issuer in any other court of competent jurisdiction and concurrent Proceedings in any number of jurisdictions.

## **17. RIGHTS OF THIRD PARTIES**

No rights are conferred on any person under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Bond, but this does not affect any right or remedy of any person which exists or is available apart from that Act.

## FORM OF THE BONDS

The Bonds will be in bearer form, with or without interest Coupons attached. Bonds will be issued outside the United States in reliance on Regulation S under the Securities Act (**Regulation S**).

### General

The Bonds will be initially issued in the form of a temporary global bond (the **Temporary Global Bond**) which will be exchangeable for a permanent global bond (the **Permanent Global Bond** and, together with the Temporary Global Bond, the **Global Bonds**) which, in either case, will be delivered on or prior to the Issue Date to a common safekeeper (the **Common Safekeeper**) for Euroclear Bank S.A./N.V. (**Euroclear**) and Clearstream Banking, *société anonyme* (**Clearstream, Luxembourg**).

While any Bond is represented by the Temporary Global Bond, payments of principal, interest (if any) and any other amount payable in respect of the Bonds due prior to the Exchange Date (as defined below) will be made only to the extent that certification (in a form to be provided) to the effect that the beneficial owners of interests in the Temporary Global Bond are not U.S. Persons or persons who have purchased for resale to any U.S. Person, as required by U.S. Treasury regulations, has been received by Euroclear and/or Clearstream, Luxembourg and Euroclear and/or Clearstream, Luxembourg, as applicable, has given a like certification (based on the certifications it has received) to the Principal Paying Agent.

On and after the date (the **Exchange Date**) which is 40 days after the Temporary Global Bond is issued, interests in such Temporary Global Bond will be exchangeable (free of charge) upon a request as described therein for interests in a Permanent Global Bond against certification of beneficial ownership as described above unless such certification has already been given. The holder of a Temporary Global Bond will not be entitled to collect any payment of interest, principal or other amount due on or after the Exchange Date unless, upon due certification, exchange of the Temporary Global Bond for an interest in a Permanent Global Bond is improperly withheld or refused.

The Conditions specify that the Permanent Global Bonds will be exchangeable (free of charge), in whole but not in part, for definitive Bonds with, where applicable, receipts, interest coupons and talons attached upon either: (a) not less than 60 days' written notice given at any time from Euroclear and/or Clearstream, Luxembourg (acting on the instructions of any holder of an interest in such Permanent Global Bond) to the Principal Paying Agent as described therein; or (b) only upon the occurrence of an Exchange Event. For these purposes, **Exchange Event** means: (i) that the Issuer has been notified that both Euroclear and Clearstream, Luxembourg have been closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or have announced an intention permanently to cease business or have in fact done so and no successor clearing system is available; or (ii) if the Issuer would suffer a disadvantage as a result of any amendment to, or change in, the laws or regulations of the United Kingdom (or of any political subdivision thereof) or of any authority therein or thereof having power to tax or in the interpretation or administration of such laws or regulations which becomes effective on or after the Issue Date. The Issuer will promptly give notice to Bondholders in accordance with Condition 12 (*Notices*) if an Exchange Event occurs. In the event of the occurrence of an event described in paragraph (i) of the definition of Exchange Event above, Euroclear and/or Clearstream, Luxembourg or the common safekeeper for Euroclear and Clearstream, Luxembourg, as the case may be, on their behalf (acting on the instructions of any holder of an interest in such Permanent Global Bond) may give notice to the Issuer and (in the case of ii) the Issuer may give notice to the Bond Trustee and the Bondholders of its intention to exchange the Permanent Global Bond for definitive Bonds on or after the Exchange Date.

Payments of principal, interest (if any) or any other amounts on a Permanent Global Bond will be made through Euroclear and/or Clearstream, Luxembourg without any requirement for certification.

Each payment so made will discharge the Issuer's obligations in respect thereof. Any failure to make the entries in the records of the relevant Clearing System shall not affect such discharge.

### **United States restrictions**

The following legend will appear on all permanent and definitive Bonds which have an original maturity of more than one year and on all receipts and interest coupons relating to such Bonds:

"ANY UNITED STATES PERSON WHO HOLDS THIS OBLIGATION WILL BE SUBJECT TO LIMITATIONS UNDER THE UNITED STATES INCOME TAX LAWS, INCLUDING THE LIMITATIONS PROVIDED IN SECTIONS 165(j) AND 1287(a) OF THE INTERNAL REVENUE CODE."

The sections referred to provide that United States holders, with certain exceptions, will not be entitled to deduct any loss on Bonds, receipts or interest coupons and will not be entitled to capital gains treatment of any gain on any sale, disposition, redemption or payment of principal in respect of such Bonds, receipts or interest coupons.

Bonds which are represented by a Global Bond will only be transferable in accordance with the rules and procedures for the time being of Euroclear or Clearstream, Luxembourg, as the case may be.

### **Further Bonds**

Pursuant to the Agency Agreement, the Principal Paying Agent shall arrange that, where Further Bonds are issued which is intended to form a single class with the Bonds, such Bonds shall be assigned a common code and ISIN which are different from the common code and ISIN assigned to Bonds until at least the Exchange Date.

### **General**

Any reference herein to Euroclear and/or Clearstream, Luxembourg shall, whenever the context so permits, be deemed to include a reference to any additional or alternative Clearing System as may be approved by the Issuer, the Principal Paying Agent and the Bond Trustee.

No Bondholder shall be entitled to proceed directly against the Issuer unless the Bond Trustee or the Security Trustee, as the case may be, having become bound so to proceed, fails so to do within a reasonable period and the failure shall be continuing.

### **Provisions relating to the Global Bonds**

The Global Bonds will contain provisions that apply to the Bonds which they represent, some of which modify the effect of the Conditions of the Bonds as set out in this Prospectus. The following is a summary of certain of those provisions:

- *Meetings:* The holder of a Global Bond shall be treated as being two persons for the purposes of any quorum requirements of a meeting of Bondholders and, at any such meeting, the holder of a Global Bond shall be treated as having one vote in respect of each £1 (or such other amounts as the Bond Trustee may at its absolute discretion stipulate) in Outstanding Principal Amount of the Bonds represented by such person.
- *Cancellation:* Cancellation of any Bond represented by a Global Bond that is required by the Conditions to be cancelled (other than upon its redemption) will be effected by a reduction in the principal amount of the relevant Global Bond.

- *Notices:* So long as any Bonds are represented by a Global Bond and such Global Bond is held on behalf of Euroclear, Clearstream, Luxembourg or any other relevant Clearing System, notices to the Bondholders may be given, subject always to the Conditions of the Bonds and the relevant listing requirements, by delivery of the relevant notice to Euroclear, Clearstream, Luxembourg or any other relevant Clearing System for communication by it to entitled Bondholders in substitution for publication as provided in the Conditions. Such notices shall be deemed to have been received by the Bondholders on the date of delivery to such Clearing Systems.

### **New Global Notes and Eurosystem Eligibility**

The Bonds are intended to be held in a manner which would allow Eurosystem eligibility and will be deposited with one of the ICSDs as common safekeeper. However, the deposit of the Bonds with one of the ICSDs as common safekeeper upon issuance or otherwise does not necessarily mean that the Bonds will be recognised as eligible collateral for Eurosystem monetary policy and intraday credit operations by the Eurosystem at issuance or at any time during their life. Such recognition will depend upon the European Central Bank being satisfied that Eurosystem eligibility criteria have been met.

### **Issuer-ICSDs Agreement**

Prior to the issuance of the Bonds, the Issuer will enter into an Issuer-ICSDs Agreement with Euroclear Bank S.A./N.V. and Clearstream Banking SA (the **ICSDs**) in respect of the Bonds. The Issuer-ICSDs Agreement provides that the ICSDs will, in respect of any the Bonds (while in New Global Note form), maintain their respective portion of the issue outstanding amount through their records. The Issuer-ICSDs Agreement will be governed by English law.



## **BOOK-ENTRY CLEARANCE PROCEDURE**

The information set out below is subject to any change in or reinterpretation of the rules, regulations and procedures of Euroclear or Clearstream, Luxembourg (together, the **Clearing Systems**) currently in effect. Investors wishing to use the facilities of any of the Clearing Systems are advised to confirm the continued applicability of the rules, regulations and procedures of the relevant Clearing System. None of the Issuer, the Bond Trustee nor any other party to the Agency Agreement will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, beneficial ownership interests in the Bonds held through the facilities of any Clearing System or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests.

### **Euroclear and Clearstream, Luxembourg**

Euroclear and Clearstream, Luxembourg each holds securities for its customers and facilitates the clearance and settlement of securities transactions by electronic book-entry transfer between their respective accountholders. Euroclear and Clearstream, Luxembourg provide various services including safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Euroclear and Clearstream, Luxembourg also deal with domestic securities markets in several countries through established depository and custodial relationships. Euroclear and Clearstream, Luxembourg have established an electronic bridge between their two systems across which their respective participants may settle trades with each other.

Euroclear and Clearstream, Luxembourg customers are worldwide financial institutions, including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations. Indirect access to Euroclear and Clearstream, Luxembourg is available to other institutions which clear through or maintain a custodial relationship with an accountholder of either system. Investors may hold their interests in Global Bonds directly through Euroclear or Clearstream, Luxembourg as direct participants or indirectly as indirect participants.

## DESCRIPTION OF THE GUARANTEE AND THE SECURITY

### Security Agreement

Pursuant to the Security Agreement between the Obligors and the Security Trustee, the obligations set forth thereunder become effective on the Issue Date.

Under the Security Agreement, Holdco and IntermediateCo (the **Guarantors**) will provide an irrevocable, unconditional and joint and several guarantee in respect of the obligations of each other Obligor under the Finance Documents (the **Guarantee**). If an Obligor fails to pay any amount of the Secured Liabilities, each Guarantor agrees to make payments under the Guarantee on demand in respect of such original payment as if it was the principal obligor. Additionally, each of the Issuer, Holdco and IntermediateCo will grant a security interest over all of their assets (subject to such security not being prohibited by the terms of (i) any Transaction Authorisation; (ii) the Crown Estate Lease or (iii) any applicable law or regulation).

The security constituted by the Security Agreement is expressed to include, among other things (but subject to the restrictions above):

- (a) a mortgage over all estates or interests in any freehold or leasehold property;
- (b) a fixed charge over:
  - (i) all estates or interests in any freehold or leasehold property not subject to a mortgage at paragraph (a) above and over all future estates or interests in any freehold or leasehold property (in each case, including fixtures, fittings and fixed plant and machinery);
  - (ii) the shares in the Issuer and IntermediateCo including all dividends, interest and other moneys payable in respect thereof and all other rights related thereto granted by Holdco;
  - (iii) all other shares and investments (including Cash Equivalent Investments) owned by any Obligor;
  - (iv) all moneys standing to the credit of the Obligors' bank accounts;
  - (v) all present and future book debts of the Obligors;
  - (vi) all intellectual property owned by the Obligors;
  - (vii) any beneficial interest, claim or entitlement the Obligors have in or to any assets of any pension fund;
  - (viii) uncalled capital and goodwill of the Obligors; and
  - (ix) the benefit of any authorisation (statutory or otherwise) held in connection with the business or the use of any of the assets of the Obligors (and the right to receive compensation thereunder);
- (c) an assignment of: (i) the Obligors' rights under the Project Documents, Adviser Reports, Engagement Letters and Agency Agreement; and (ii) all benefits in respect of the insurances of its Obligors; and

(d) a first floating charge of the whole of the undertaking of the Obligor.

The Security Trustee holds the benefit of the Security Agreement on trust for the Secured Creditors in accordance with and subject to the terms of the STID.

The Security Agreement and any non-contractual obligations arising out of or in connection with it will be governed by English law.

## DESCRIPTION OF THE OTHER TRANSACTION DOCUMENTS

### Common Terms Agreement

#### *General*

Each of the Obligors, the Bond Trustee, the Security Trustee, the PBCE Provider, the Principal Paying Agent, the Account Bank and the Initial Hedge Counterparties will enter into the common terms agreement (the **CTA**) on or about the Issue Date. The CTA sets out the representations, covenants (positive, negative and financial), and Events of Default which apply to each Authorised Credit Facility.

The CTA will contain certain indemnities of the Obligors to the Finance Parties in respect of losses caused, *inter alia*, by Events of Default.

A summary of the representations, covenants and Events of Default included in the CTA is set out below.

#### *Representations*

On the date of the CTA and Issue Date, each Obligor will make a number of representations in respect of itself to each Finance Party. These representations include (subject, in some cases, to agreed exceptions and qualifications as to materiality and reservations of law) representations as to:

- (a) its due incorporation, power and authority to own and operate its assets and carry out the Project;
- (b) its power to enter into, perform and deliver the Transaction Documents and the transactions contemplated by those Transaction Documents;
- (c) all necessary action to authorise its entry into, performance of and delivery of the Transaction Documents and the transactions contemplated by those Transaction Documents having been obtained;
- (d) all relevant consents, authorisations, licences and approvals for entry into and exercise of its rights under the Transaction Documents having been obtained;
- (e) its obligations under the Transaction Documents being legal, valid, binding and enforceable;
- (f) that any unsecured and unsubordinated claims against any Obligor under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors mandatorily preferred by law;
- (g) its entry into and performance under the Transaction Documents not conflicting with any document or agreement which is binding upon it, its constitutional documents or any applicable law or regulation which could reasonably be determined to have a Material Adverse Effect;
- (h) having good title to its assets, or valid leases or licences of and all appropriate authorisations necessary to carry on its business;
- (i) the absence of Events of Default, Insolvency Events and other similar events and circumstances;

- (j) group structure;
- (k) absence of litigation, arbitration, administrative proceedings or other proceedings;
- (l) matters relating to environmental compliance and claims;
- (m) matters relating to insurances;
- (n) the accuracy of certain information including financial statements, the Model and this Prospectus;
- (o) that the assumptions used to calculate the financial ratios were made in good faith and after due and careful consideration;
- (p) the absence of any breach of any law or regulation or licence in any material respect;
- (q) matters relating to taxation;
- (r) no representation or warranty (as qualified by the Disclosure Letter) given by any party to the Acquisition Documents being untrue or misleading, to the best of its knowledge;
- (s) matters relating to holding companies;
- (t) the granting of valid security over any share or loan capital of an Obligor that is subject to such security;
- (u) the Transaction Documents being in full force and effect;
- (v) the absence of any breach of the Project Documents;
- (w) matters relating to its centre of main interest;
- (x) matters relating to the ranking of any security;
- (y) the absence of any outstanding Financial Indebtedness other than Permitted Financial Indebtedness;
- (z) the absence of any Security Interest over the assets of an Obligor other than Permitted Security;
- (aa) matters relating to the nature of the Security created pursuant to the Security Agreement;
- (bb) matters relating to the application for listing of this Prospectus;
- (cc) the absence of any funds invested in the Project from an illicit origin; and
- (dd) matters relating to ownership of the Transmission Assets and assets that are subject to security.

In addition, on the date the Issuer issues any further Bonds in accordance with Condition 15 (*Further Bonds*) each Obligor will repeat certain of such representations.

On each Payment Date each Obligor shall make certain repeating representations (the **Repeating Representations**).

## ***Covenants***

The CTA contains certain covenants from each of the Obligors. A summary of the covenants is set out below.

### ***Information Covenants***

#### **Financial Statements**

- (a) The Issuer must: (x) supply to the Security Trustee, the PBCE Provider, the Hedge Counterparties, the Rating Agencies and the Bond Trustee in sufficient copies for all the Secured Creditors (other than the Bondholders) and (y) publish on the Designated Website:
  - (i) the Annual Financial Statements within 180 days after the end of each Financial Year;
  - (ii) the Semi-Annual Financial Statements within 90 days after the end of such financial half-year; and
  - (iii) the regulatory accounts of the Issuer produced in accordance with Standard Condition B1 (Regulatory Accounts) of the Transmission Licence for each Financial Year, on or before the date on which those accounts are published in accordance with paragraph 10 of Standard Condition B1 (Regulatory Accounts) of the Transmission Licence.

#### **Form of Financial Statements**

- (a) The Issuer must ensure that:
  - (i) each set of Financial Statements supplied by it is prepared in accordance with the Accounting Standards and includes a cashflow statement, a profit and loss statement and a balance sheet, and gives a true and fair view of it or, in the case of any unaudited Financial Statements, fairly presents its financial condition (consolidated or otherwise) as at the date to which those Financial Statements were drawn up and of the results of its operations during such period; and
  - (ii) it notifies the Security Trustee for onward transmission to the other Secured Creditors by the following means: (x) in respect of the Bondholders, by email to the Principal Paying Agent (that is in form and content accepted by Euroclear and/or Clearstream, Luxembourg) for distribution to the Bondholders via Euroclear and/or Clearstream, Luxembourg; and (y) in respect of each other Secured Creditor, by email, of any material change to the basis on which any Financial Statements are prepared.

#### **Financial Model**

- (a) The Issuer shall prepare an updated Model in respect of each Calculation Date which, other than in the circumstances described in paragraph (h) below shall not be subject to the approval of the Security Trustee or any other Secured Creditor, and shall deliver a copy of the updated Model to the PBCE Provider and each Hedge Counterparty by such Calculation Date. The updated Model shall include a projected consolidated profit and loss, balance sheet and cashflow statement for the Security Group, projected Operating Costs including Monitored Operating Costs, the Key Assumptions, the Economic Assumptions, the capital expenditure, projections for the Projected DSCR, the Historic DSCR and the Debt Life Cover Ratio and a forecast to the end of the Revenue Period.

- (b) If, in respect of any Model prepared for any Calculation Date, the Issuer proposes to change:
- (i) the Key Assumptions in the Model for the immediately following Calculation Date;
  - (ii) the Monitored Operating Costs set out in the Model, in any respect of any Calculation Period occurring prior to the Final Maturity Date on the immediately following Calculation Date, in an amount that would:
    - (A) be:
      - I. below 80 per cent.; or
      - II. in excess of 120 per cent.,
 of those costs set out for the corresponding Calculation Period in the Model; or
    - (B) exceed 200 per cent. of those costs set out for the corresponding Calculation Period in the Base Case Model,
 the Issuer shall provide:
    - (A) in respect of subparagraph (i) above, a copy of those amended Key Assumptions to the Technical Adviser; and
    - (B) in respect of subparagraph (ii) above, a summary of those Monitored Operating Costs to the Technical Adviser and (to the extent that such Monitored Operating Costs relate (in whole or in part) to Insurances) the Insurance Adviser,
 in each case, not more than 65 Business Days, and not less than 60 Business Days, before that Calculation Date.
- (c) The Issuer shall, not later than 12 Business Days before that Calculation Date, deliver to the Security Trustee, and publish on the Designated Website, a certificate signed by an Authorised Signatory of the Issuer summarising the changes made to the Model and confirming that the changes have been approved by the Technical Adviser, the Insurance Adviser, the Independent Expert and/or the Secured Creditors in accordance with this paragraph (c) and the Model has been updated accordingly.
- (d) If, in respect of any Model prepared for any Calculation Date:
- (i) the Key Assumptions are the same as those set out in the Model; and
  - (ii) the Issuer does not propose to change the Monitored Operating Costs set out in the Model, in any respect of any Calculation Period occurring before the Final Maturity Date, in an amount that would:
    - (A) be:
      - I. below 80 per cent.; or
      - II. in excess of 120 per cent.,

of those costs set out for the corresponding Calculation Period in the Model;  
or

- (B) exceed 200 per cent. of those costs set out for the corresponding Calculation Period in the Base Case Model,
- (iii) the Issuer shall, not later than 12 Business Days before that Calculation Date, deliver to the Security Trustee, and publish on the Designated Website, a certificate signed by an Authorised Signatory of the Issuer confirming the statements set out in subparagraphs (i) and (ii) above.
- (e) Within ten Business Days following receipt of a notice pursuant to paragraph (b) above the Technical Adviser and/or the Insurance Adviser (as applicable) shall confirm whether it believes that the proposed changes to the Key Assumptions or the proposed change in Monitored Operating Costs (as applicable) are, in its opinion, reasonable and in accordance with Prudent Operating Practice and a copy of that confirmation (if given) will be provided to the Security Trustee and published on the Designated Website by the Issuer.
- (f) If the Technical Adviser and/or the Insurance Adviser does not provide the confirmation contemplated by paragraph (e) above within the time period set out in that paragraph, details of the proposed changes to the Key Assumptions and/or proposed change in the Monitored Operating Costs will be promptly (and in any event, within five Business Days) provided by the Issuer to an Independent Expert who shall be nominated by the Issuer after having consulted with the PBCE Provider and the Technical Adviser and/or Insurance Adviser (as appropriate) with regards to the suitability of such Independent Expert and for the avoidance of doubt, the PBCE Provider shall owe no duty to any other party and shall incur no General Liability in connection with or arising out of such consultation.
- (g) The Independent Expert will be instructed to confirm in writing within ten Business Days following the date of its instruction whether it believes that the proposed changes to the Key Assumptions and/or the proposed change in Monitored Operating Costs (as applicable) are, in its opinion, reasonable, and in accordance with Prudent Operating Practice and a copy of that confirmation (if given) will be delivered to the Security Trustee and published on the Designated Website by the Issuer.
- (h) If an Independent Expert instructed under paragraph (f) above does not give the confirmation contemplated by paragraph (g) above by the deadline set out in that paragraph (g) the Issuer shall promptly deliver to the Security Trustee (in a form and content accepted by Euroclear and/or Clearstream, Luxembourg):
  - (i) a non-dynamic output sheet from the Model showing the effects of the proposed amendments to the Key Assumptions and/or the proposed changes to Monitored Operating Costs (as applicable);
  - (ii) the details of the proposed amendments to the relevant Key Assumptions and/or the change in the Monitored Operating Costs together with a summary explanation of why those changes are required; and
  - (iii) the conclusions provided (if any) by the Technical Adviser, the Insurance Adviser and Independent Expert (as applicable),



for onward transmission to the other Secured Creditors by the following means:

(A) in respect of the Bondholders, by email to the Principal Paying Agent (that is in form and content accepted by Euroclear and/or Clearstream, Luxembourg) for distributions to the Bondholders via Euroclear and/or Clearstream, Luxembourg; and

(B) in respect of each other Secured Creditor, by email,

to enable the Secured Creditors to instruct the Security Trustee to approve or reject the proposed amendments to the Key Assumptions and/or the proposed changes to Monitored Operating Costs (as applicable) in accordance with the STID Decision Making Protocol.

(i) Until:

(i) the Technical Adviser and/or the Insurance Adviser in accordance with paragraph (e) above; or failing which

(ii) the appointed Independent Expert in accordance with paragraph (g) above; or failing which

(iii) the Security Trustee in accordance with paragraph (h) above,

has provided its approval of the proposed amendments to the Key Assumptions and/or the proposed change to the Monitored Operating Costs in the manner contemplated by the relevant paragraph listed above, the then current Model (unamended to take account of the proposed amendments to the Key Assumptions or the proposed changes to Monitored Operating Costs (as applicable)) will continue to be the Model for the purposes of the Finance Documents.

(j) Any determination or approval by:

(i) the Technical Adviser and/or the Insurance Adviser in accordance with paragraph (e) above;

(ii) the appointed Independent Expert in accordance with paragraph (g) above; or

(iii) the Security Trustee in accordance with paragraph (h) above,

will be final and binding on the Issuer and the Model shall be deemed to be updated in accordance with any such determination or approval.

(k) The Issuer shall ensure that each of the Economic Assumptions in each Model prepared in respect of a Calculation Date are updated by reference to the relevant source set out in the CTA prior to any submission of that Model.

(l) Subject to paragraph (m) below, if, in any Calculation Period, the Issuer intends to incur any Monitored Operating Costs which are in excess of:

(i) 120 per cent. of those costs set out for the corresponding Calculation Period in the then current Model; or

(ii) 200 per cent. of those costs set out for the corresponding Calculation Period in the Base Case Model,

then, prior to incurring such Monitored Operating Costs, the Issuer shall submit a summary of those Monitored Operating Costs to the Technical Adviser and/or the Insurance Adviser (as applicable) for review and the process described in paragraphs (e) to (j) above shall apply *mutatis mutandis*.

- (m) If, in any Calculation Period, the Issuer intends to incur:
  - (i) any Monitored Operating Costs which are in excess of:
    - (A) 120 per cent. of those costs set out for the corresponding Calculation Period in the then current Model; or
    - (B) 200 per cent. of those costs set out for the corresponding Calculation Period in the Base Case Model; or
  - (ii) any Emergency Capital Expenditure,

then, prior to incurring such Monitored Operating Costs or Emergency Capital Expenditure (as applicable), the Issuer shall submit a summary of those Monitored Operating Costs or that Emergency Capital Expenditure (as applicable) to the Technical Adviser and/or the Insurance Adviser (as applicable) for review and the process described in paragraphs (e) to (j) above shall apply *mutatis mutandis*.

- (n) Where an Emergency has occurred or is continuing and the Issuer has not complied with the provisions of paragraph (m) above prior to incurring Monitored Operating Costs or Emergency Capital Expenditure to remedy such Emergency the Issuer shall, as soon as it is possible to do so, obtain a confirmation from the Technical Adviser either:
  - (i) that the Monitored Operating Costs were, or the Emergency Capital Expenditure (as applicable) was, incurred reasonably and in accordance with Prudent Operating Practice and, in respect of Emergency Capital Expenditure only, has been spent in accordance with the Business Plan; or
  - (ii) the amount of Monitored Operating Costs or Emergency Capital Expenditure (as applicable) that, in its opinion, would have been reasonable and in accordance with Prudent Operating Practice to incur (having due regard to the Business Plan) and that the Issuer has reserved an amount equal to the amount required to be reserved in the Emergency Reserve Account under paragraph (b) of the definition of Required ERA Balance.
- (o) The Issuer shall pay all the costs and expenses of the Technical Adviser, Insurance Adviser and any Independent Expert appointed.
- (p) The Issuer shall make no changes to the underlying logic or formulae of the Model or the basis on which calculations are made without a satisfactory Model audit by an international firm of model auditors on a basis consistent with the approach adopted at the Issue Date and showing that the proposed changes are consistent with the provisions of the Transaction Documents.
- (q) The Issuer must, as soon as reasonably practicable, notify the Security Trustee of any change to the Model which results in a deviation in the result of the calculation of any financial ratio and publish that changed ratio (and provide an explanation of the change to the calculation of the financial ratio) on the Designated Website.

- (r) (i) In respect of the calculation of any financial ratio, if the change notified under paragraph (q) above results in or could reasonably be expected to:
  - (A) result in a deviation of equal to or greater than 3 per cent. from the result of the calculation of such financial ratio if such change had not occurred, the Issuer may; or
  - (B) result in a deviation of equal to or greater than 5 per cent. from the result of the calculation of such financial ratio if such change had not occurred, the Issuer must,

in each case, subject as provided below, appoint an international firm of auditors (acting as expert and not as an arbitrator) nominated (on the application of the Issuer) by the President for the time being of the Institute of Chartered Accountants of England and Wales (the costs of that nomination and of the auditors being payable by the Obligors) to determine the amendments required to be made to the calculation of the Ratios to place the Security Trustee and the Secured Creditors in no worse and, as far as practicable, no better position to that in which they would have been if the change notified in paragraph (q) above had not happened and the determination of any such auditors shall be final and binding upon the parties to the CTA.
- (ii) Prior to the Issuer appointing auditors as described above, the Issuer and the Security Trustee shall, where instructed to do so in accordance with the relevant provisions of the STID (and subject as provided in the STID), enter into discussions for a period of not more than 60 days with a view to agreeing any amendments required to be made to the Lock-Up Ratio Levels to place the Security Group and the Secured Creditors in no worse and, as far as practicable, no better position to that in which they would have been if the change notified under paragraph (q) above had not happened.
- (iii) Any agreement between the Issuer and the Security Trustee in respect of such calculation described in paragraph (q) above will be subject to receipt by the Security Trustee of a direction given in accordance with the provisions of the STID and will be binding on all the Parties.
- (s) The Issuer shall ensure that each (x) Model, (y) Investor Report and (z) operating report to be delivered:
  - (i) is prepared in good faith and after reasonable due diligence;
  - (ii) accurately documents historical data and includes the Issuer's best estimate of projected receipts, availability and expenditure;
  - (iii) is true and accurate in all material respects and does not omit anything which would make it misleading in a material respect;
  - (iv) complies with the Finance Documents and takes into account obligations and rights under the Transaction Documents; and
  - (v) in the case of the Model, calculates tax payments on the basis of legislation and practice in force at the time of the preparation of the Model.
- (t) The Issuer shall promptly notify the Security Trustee of, and publish on the Designated Website, any error in the Model which would affect any financial calculation.

## Reports

- (u) The Issuer must supply by email to the Security Trustee, the PBCE Provider, the Hedge Counterparties, the Rating Agencies and the Bond Trustee:
  - (i) on a quarterly basis, an operating report detailing the availability of the Transmission Assets; and
  - (ii) any Operating Communications for each half-year showing performance against the Model, in a form acceptable to the Security Trustee.

## Notification of Default

- (v) Unless the Security Trustee has already been so notified by another Obligor, each Obligor (or the Issuer on its behalf) must notify the Security Trustee, for onward transmission to the other Secured Creditors, of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

## Investor Reports

- (w) The Issuer (on behalf of each Obligor) must on or before each Calculation Date falling on and after 31 March 2015: (x) supply to the Security Trustee, the PBCE Provider, the Hedge Counterparties, the Rating Agencies and the Bond Trustee by email; and (y) publish on the Designated Website <http://bondholders.gymofto.co.uk>, an Investor Report.

## Annual Presentation

- (x) The Issuer must hold each year an investor update conference call presentation, with an opportunity for questions, made by the Issuer to the Secured Creditors and the Bondholders.

## Obligor Information

- (y) So far as not prohibited by any applicable law, regulations or order, each Obligor must supply to the Security Trustee for onward transmission to the other Secured Creditors (in a form and content accepted by Euroclear and/or Clearstream, Luxembourg):
  - (i) as soon as reasonably practicable after becoming aware of the same, details of any communication, enquiry, investigation or proceeding with, from or involving any regulator or other governmental authority where such communication relates to a matter which has or could reasonably be expected to have a Material Adverse Effect or where such enquiry, investigation or proceeding, if adversely determined, would have or could reasonably be expected to have a Material Adverse Effect;
  - (ii) promptly upon becoming aware of it, any proposal to suspend or abandon the Project;
  - (iii) promptly upon becoming aware of them, details of any historic or current event which adversely affects, or any future event that is reasonably likely to adversely affect the availability of the Transmission Assets;
  - (iv) promptly upon becoming aware of them, details of any claim made under any Insurance where the claim is for a sum in excess of £1,000,000 (before deductibles) or where the amount of the claim when aggregated with all other amounts claimed under any Insurance during the previous six months exceeds £2,000,000;

- (v) promptly upon becoming aware of them, details of any breach, non-compliance, default, termination, step-in, suspension, dispute or material claim made against it or by it under a Project Document or affecting the Project together with details of any action it proposes to take in relation to the same and, within five Business Days of receipt, copies of any notice or provisional notice thereto;
- (vi) as soon as reasonably practicable, a copy of any proposed amendment made to, or replacement of, a Project Document or to the articles of association or other constitutional documents of any Obligor;
- (vii) as soon as reasonably practicable after receipt, copies of any reports or information received by an Obligor in relation to a material change to the Decommissioning Plan;
- (viii) within 15 days of demand, such material information (including hedging information) about the business and financial condition of the Issuer which can be requested by the Security Trustee on the instructions of Senior Creditors (acting reasonably) holding at least 20 per cent. by value of the Senior Voting Debt, provided that, at any time when no Event of Default has occurred and is subsisting, a maximum of one such request for information may be made, in any Calculation Period;
- (ix) within 15 days of demand, such material information (including hedging information) about the business and financial condition of the Issuer which can be requested by the Security Trustee on the instructions of the PBCE Provider (acting reasonably), provided that, at any time when no Event of Default has occurred and is subsisting, a maximum of one such request for information may be made, in any Calculation Period;
- (x) details of any Insolvency Proceedings in relation to it;
- (xi) as soon as practicable after becoming aware of the same details of any steps which have been taken (or any proposal to take steps) to challenge, revoke or cancel any Authorisation where such challenge, revocation or cancellation has or is reasonably likely to have a Material Adverse Effect;
- (xii) in respect of each Project Document, copies of all communications (including, without limitation, notices relating to, contract extension and force majeure) served on it by or received from counterparties to such Project Documents or any third party within five Business Days of the Obligor receiving such notice where such communication or the details described in such communication has or is reasonably likely to have a Material Adverse Effect;
- (xiii) as soon as reasonably practicable all relevant available information in relation to a direction under condition E21 (Issuer of Last Resort) of the Transmission Licence received by the Issuer, or which is threatened, proposed, discussed or otherwise intimated as possible or likely in discussions or correspondence between the Issuer and the Authority, (an **E21 Direction**), the Issuer must share any written or other communication with the Authority relating to a potential or actual E21 Direction including, without limitation, any information received from the Authority during such consultation and any plans being made to operate and maintain assets in accordance with the E21 Direction;
- (xiv) at any time after the Completion Date, as soon as reasonably practicable copies of any material agreements or contracts that the Issuer has entered into;

- (xv) as soon as practicable details of any changes in law regulation which might reasonably be expected to have a Material Adverse Effect;
- (xvi) promptly upon being aware details of any occurrence or circumstance (including any third party claim or liability) which might reasonably be expected to have a Material Adverse Effect;
- (xvii) as soon as reasonably practicable upon receipt a copy of any notice that any Authorisation not yet required but which will be required will not be obtained or effected at the time it is required, where such failure to be obtained or effected would have or would reasonably be expected to have a Material Adverse Effect; and
- (xviii) within 15 Business Days of the appointment of a replacement Technical Adviser, notice of such replacement.
- (xix) as soon as reasonably practicable upon receipt, written confirmation from the Technical Adviser that the remedial works associated with the offshore field joints and onshore transition joints have been undertaken and have passed their technical tests;
- (xx) as soon as reasonably practicable, written confirmation from the OFTO that, so far as the OFTO is aware (having consulted the Technical Adviser), there is no evidence to suggest that further enduring technical risks remain due to the un-earthed fibre optic cable sheath and/or fibre optic cable hot-spots on export cable SSEC3, together with a copy of any relevant reports delivered to the OFTO by the Technical Adviser on which that certification has been based;
- (xxi) as soon as reasonably practicable upon receipt, written confirmation from the Technical Adviser that the Snagging Items have been undertaken and has passed their technical tests; and
- (xxii) as soon as reasonably practicable upon receipt, written confirmation from the Technical Adviser that the STC compliance testing has been completed successfully.

#### Remedial Plan

- (z) If on any date during the Revenue Period the Issuer is unable to satisfy any of the Restricted Payment Conditions set out in paragraphs (h) to (k) (inclusive) of the definition of that term (or would be unable to satisfy any of those Restricted Payment Conditions if they were to be tested on that date) the Issuer shall, within 10 Business Days of the occurrence of such event, provide to the Security Trustee and post on the Designated Website for the Secured Creditors a remedial plan (a **Remedial Plan**) setting out the remedial action proposed to be taken by the Issuer including, without limitation, relevant milestones and a timetable for the implementation of such action.

#### Use of Websites

- (aa) The Issuer shall maintain an open access investor website (available at <http://bondholders.gymofto.co.uk>, the **Designated Website**) on which certain information that is required to be delivered to the Secured Creditors shall be published. The Issuer may designate a third party to operate and manage the Designated Website on its behalf.
- (bb) The Issuer shall:

- (i) ensure that the Designated Website allows any third party to register its interest in the Issuer and the Project by subscribing to an email notification system (each a **Registered Party**) to be notified of:
  - (A) of any developments to the Project; and
  - (B) that information has either been provided to the Security Trustee or been posted by it on the Designated Website; and
- (ii) upon each occasion that it provides information to the Security Trustee or it posts information on the Designated Website, notify each Registered Party by email of such event.
- (cc) The Issuer must promptly upon becoming aware of its occurrence notify the Security Trustee and the Bond Trustee if:
  - (i) the Designated Website cannot be accessed for a period of five Business Days; or
  - (ii) the Designated Website or any information on the website is infected by any electronic virus or similar software for a period of five Business Days,

If the circumstances in sub-paragraphs (i) or (ii) above occur, each relevant Obligor must supply all information required to be delivered under the CTA (in a form and content accepted by Euroclear and/or Clearstream, Luxembourg) to the Security Trustee and the Principal Paying Agent as may be requested by any Finance Party for onward transmission to the other Secured Creditors by the following means (A) in respect of the Bondholders, by email to the Principal Paying Agent (that is in form and content accepted by Euroclear and/or Clearstream, Luxembourg) for distribution to the Bondholders via Euroclear and/or Clearstream, Luxembourg and (B) in respect of each other Secured Creditor, by email.

- (dd) The Issuer shall ensure that if one of the circumstances described in subparagraph (cc)(i) or (ii) above occurs in relation to the Designated Website and is continuing for a period of 10 Business Days or more it shall until such event ceases to subsist, set up, operate and manage a replacement open access investor website for information to be published on in accordance with the Finance Documents.
- (ee) Nothing shall oblige any Obligor to publish any information on the Designated Website (or otherwise provide any information in paper form as contemplated by paragraph (cc) above if to do so would contravene any applicable law, regulation or order.

#### "Know Your Customer" Checks

- (ff) The Issuer must comply with any "know your customer" requirements of any Authorised Credit Provider.

#### Origin of Funds

- (gg) Each Obligor must promptly inform the PBCE Provider if at any time it becomes aware that any funds invested (directly or indirectly) in the Project by any Shareholder or any Shareholder Affiliate are of illicit origin, including products of money laundering or linked to the financing of terrorism.

#### Delivery of documents to Secured Parties

- (hh) If an Obligor is required to deliver a document to any Secured Creditor (other than the Security Trustee) under the terms of the Finance Documents, it shall, at the same time that it supplies that document to the Security Trustee, expressly request the Security Trustee to deliver such documents to the relevant Secured Creditor(s).

### *General Covenants*

Pursuant to the CTA, the Obligors will give covenants that are customary for a financing of the type (with customary carve-outs, thresholds and caveats) including in relation to compliance with laws, conduct of business and maintenance of licences and authorisations. In particular, the Obligors will give the following covenants:

#### Authorisations

- (a) to obtain, comply with in all material respects and do all that is necessary to maintain in full force and effect, any Authorisation required under any law or regulation of a Relevant Jurisdiction to enable it to perform its obligations under the Transaction Documents and to carry on its business, and to ensure the legality, validity and enforceability or admissibility in evidence of any Transaction Document;

#### Compliance with laws and regulation

- (a) to comply with the Transmission Licence in all material respects;
- (b) to comply with all laws and regulations (other than the Transmission Licence) to which it may be subject if failure to comply has or is reasonably likely to have a Material Adverse Effect;

#### Environmental Compliance

- (c) to comply with all Environmental Law in all material respects and obtain and ensure compliance with all requisite Environmental Permits and implement procedures to monitor compliance with and prevent liability under any Environmental Law;

#### Environmental Claims

- (d) to inform promptly the Security Trustee of any Environmental Claim against any Obligor and any circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against it;

#### Taxation

- (e) to pay all Taxes within the time period allowed without incurring penalties unless: (i) the payment is being contested in good faith; (ii) adequate reserves are being maintained for those Taxes and all costs required to contest the claim have been disclosed in its latest financial statements delivered to the Security Trustee; and (iii) such payment can be lawfully withheld;
- (f) not to change its residence for Tax purposes;
- (g) not to surrender or dispose of any group Tax relief: (i) to any third party; or (ii) to any member of the Security Group, without the prior consent of the Security Trustee in accordance with the STID (unless, in relation to subparagraph (ii) only, the disposal is for full value in cash and the proceeds of such surrender or disposal are deposited into the Insurance Account);



### Merger

- (h) not to enter into any amalgamation, demerger, merger, consolidation or corporate reconstruction other than a Permitted Transaction or a Permitted Disposal;

### Change of Business

- (i) only to carry on Permitted Business;
- (j) not to acquire or subscribe for shares or other ownership interests in or securities of any company, acquire any business or undertaking or incorporate any company other than by way of a Permitted Acquisition or Permitted Transaction;

### Joint Ventures

- (k) not to enter into, invest in or acquire any interest in any Joint Venture other than any acquisition of (or agreement to acquire) a Joint Venture or loan made to or guarantee given in respect of the obligations of a Joint Venture if such transaction is a Permitted Acquisition, Permitted Disposal or a Permitted Loan;

### Holdings Companies

- (l) Holdco and IntermediateCo shall not trade, carry on any business, own any assets or incur any liabilities except for:
  - (i) the provision of administrative services to other members of the Security Group of a type customarily provided by a holding company to its subsidiaries;
  - (ii) in respect of Holdco only, the ownership of IntermediateCo and the Issuer;
  - (iii) credit balances in bank accounts, cash and Cash Equivalent Investments but only if those credit balances, cash and cash equivalent investments are subject to any Security Document;
  - (iv) any assets and liabilities and performing obligations under the Transaction Documents, to which it is a party and professional fees and administration costs in connection therewith and otherwise in the ordinary course of business as a holding company;
  - (v) incurring liability to pay Tax and paying the Tax;
  - (vi) Permitted Loans or making Restricted Payments; or
  - (vii) Permitted Payments and all activities reasonably incidental thereto;

### Preservation of assets

- (m) to maintain its assets (including, without limitation, any Intellectual Property Right) necessary for the Permitted Business);

### Pari Passu ranking

- (n) to ensure that at all times any unsecured and unsubordinated claims of a Secured Creditor against it under the Finance Documents rank at least *pari passu* with the claims of its other

unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies;

#### Acquisition Documents

- (o) to pay promptly all amounts payable to each Vendor under the Acquisition Documents as and when they become due (except to the extent that any such amounts are being contested in good faith by an Obligor and where adequate reserves are set aside for any such payment) and take all reasonable and practical steps to preserve and enforce its rights (or the rights of any other Obligor) and pursue any claims and remedies arising under any Acquisition Documents;

#### Negative Pledge

- (p) not to create or permit to subsist any Security Interest over any of its assets other than Permitted Security;
- (q) not to:
  - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor;
  - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
  - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
  - (iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset, other than a Permitted Disposal, Permitted Transaction or Permitted Financial Indebtedness;

#### Disposals

- (r) not to enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset, unless it is a Permitted Disposal or a Permitted Transaction;

#### Arm's Length Basis

- (s) not to enter into any transaction with any person otherwise than on arm's length terms and for fair market value unless such transaction is:
  - (i) loans between Obligors and any Investor Funding Loans permitted under paragraph (t) below and provided that, in respect of any such loan provided after the Completion Date (except where that loan is made for the purpose of providing an Equity Cure Amount to the Issuer), any interest payable by the Obligors under that loan is fully deductible for the purpose of computing such Obligor's liability to pay United Kingdom corporation tax;
  - (ii) fees, costs and expenses payable to Secured Creditors under the Transaction Documents in the amounts set out in the Transaction Documents; and

- (iii) a transaction expressly permitted by the Transaction Documents or any Permitted Payment;

#### Loans or Credit

- (t) not to be a creditor in respect of any Financial Indebtedness other than where such Financial Indebtedness is a Permitted Loan or Permitted Transaction;

#### No Guarantees or Indemnities

- (u) not to incur or allow to remain outstanding any guarantee in respect of any obligation of any person other than a Permitted Guarantee or Permitted Transaction;

#### Restricted Payments

- (v) not to make a Restricted Payment unless the Restricted Payment Condition is satisfied, other than where such Restricted Payment is a Permitted Payment or a Permitted Transaction;

#### Financial Indebtedness

- (w) not to incur or allow to remain outstanding any Financial Indebtedness other than Permitted Financial Indebtedness or a Permitted Transaction;

#### Share Capital

- (x) not to issue any shares except pursuant to a Permitted Share Issue or a Permitted Transaction;

#### Insurance

- (y) to maintain insurances with reputable independent insurance companies or underwriters on and in relation to its business and assets with reputable underwriters or insurance companies against the risks and to the extent such insurances are required pursuant to the Project Documents and to the extent as is commercially prudent in accordance with Good Industry Practice;
- (z) to assign all its present and future: (i) rights under and in respect of the Insurances to be maintained; and (ii) rights, benefits and interest in the proceeds payable in respect of the Insurances (other than claims money payable any liability insurance direct to a third party in or towards discharge of a liability of that Obligor to such third party) to the Security Trustee on behalf of the Secured Creditors;
- (aa) to, in accordance with Good Industry Practice, apply the proceeds relating to any loss or damage to the Transmission Assets or to any property or assets of the Obligor to reinstate, replace, restore or repair the Transmission Assets, property or assets in respect of which such proceeds or compensation were paid;

#### Access

- (bb) if an Event of Default is continuing or the Security Trustee suspects a Default is continuing, to the extent it is able to do so under existing contractual arrangements and applicable law, to permit the Security Trustee and/or accountant or other professional advisers and contractors of the Security Trustee free access at all reasonable times and on reasonable notice at the risk and cost of the Obligor to (a) the premises, assets, books, accounts and (b) records of each Obligor and to meet and discuss matters with senior management of the Security Group;

### Amendments to Finance Documents

- (cc) not to amend, vary, novate, supplement, supersede, waive or terminate any term of a Finance Document, except in accordance with the provisions of the STID and its own terms;

### Amendments to constitutional documents or other documents

- (dd) without the prior written consent of the Security Trustee not to change its memorandum or articles of association or other constitutional documents in a way which would be materially adverse to the interests of the Secured Creditors as a whole or otherwise prejudice the Security Interests created by the Security Documents;

### Project Documents

- (ee) to exercise and enforce its rights and comply with its obligations under each Project Document to which it is a party in a proper and timely manner;
- (ff) not to amend (including, without limitation, in relation to the market rate methodology statement provided to the Authority under amended standard condition E12-A2), waive, assign, transfer, terminate, suspend or abandon the Transmission Licence in any material respect unless it is required to do so by the Authority pursuant to the Transmission Licence, or by law or regulation;
- (gg) not to assign, transfer, terminate, suspend or abandon the O&M Agreement or the O&M Guarantee except as otherwise expressly permitted by the Finance Documents;
- (hh) not to amend or waive:
  - (i) the O&M Agreement or the O&M Guarantee in any material respect unless:
    - (A) that amendment or waiver is required by the Authority, law or regulation; or
    - (B) the Technical Adviser has provided written confirmation to the Issuer and the Security Trustee that the amendment or waiver (i) does not breach the terms of the Transaction Authorisations, (ii) constitutes Good Industry Practice and (iii) will not substantially or adversely alter the risk profile of that contract (including without limitation the liabilities and liability caps thereunder) from the perspective of the Secured Creditors taken as a whole; or
  - (ii) all or any part of a Project Document (other than the Transmission Licence, the O&M Agreement or the O&M Guarantee) where to do so has or would reasonably be expected to have a Material Adverse Effect unless that amendment or waiver is required by the Authority, law or regulation;
- (ii) not to assign, transfer, terminate, abandon or suspend performance of any Project Document (other than the Transmission Licence) without the prior written consent of the Security Trustee (acting in accordance with the STID) except as otherwise permitted by the provisions of the CTA;
- (jj) not to enter into any material agreements, arrangements or documents (other than the Transaction Documents) without the prior written consent of the Security Trustee (acting in accordance with the STID);

### Treasury Transactions

- (kk) not to enter into any Treasury Transaction, other than the hedging transactions documented by the Hedging Agreements, which:
- (i) for each Calculation Period, hedge the inflation rate risk in relation to the revenues of the Issuer from its operations:
    - (A) up to but not in excess of 84.54 per cent. of the Real Transmission Revenue actually received (or, in respect of any future Calculation Period, receivable) after deducting Operating Costs (excluding Tax) incurred (or, in respect of any future Calculation Period, to be incurred) in that Calculation Period (but excluding any Operating Costs incurred due to the occurrence of an Outage in that Calculation Period), provided that for the purposes of this subparagraph, any Operating Costs incurred shall be adjusted so as to exclude inflation in the period from the Initial Issue Date to the relevant Calculation Date, using the revenue indexation adjustment contemplated by  $RIT_t$  (as defined in paragraph 4 (Formula for Allowed Transmission Owner Revenue (OFTO)) of Amended Standard Condition E12 - J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) of the Transmission Licence), and in calculating any future Operating Costs, no adjustment shall be made for indexation; or
    - (B) in an amount not less than 53.50 per cent. of the Real Transmission Revenue (excluding  $AI_1$  in the calculation of PA (as such terms are defined in paragraph 2 of Amended Standard Condition E12-J4 (Restriction of Transmission Revenue: Annual Revenue Adjustments) of the Transmission Licence) when used in the calculation of OFTO (as defined in paragraph 4 (Formula for Allowed Transmission Owner Revenue (OFTO)) of Amended Standard Condition E12-J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) of the Transmission Licence) received (or, in respect of any future Calculation Period, receivable) of the Issuer in that Calculation Period;
  - (ii) are subject to and governed by a Hedging Agreement which provides for "two way payments" on termination of a Hedging Agreement;
  - (iii) to the extent entered into after the Signing Date, are on the same terms or on terms which are substantially no worse (other than in relation to economic terms) for an Obligor than the Treasury Transactions and related Hedging Agreements entered into on the Signing Date and in substantially the same form as the Treasury Transactions and related Hedging Agreements entered into on the Signing Date or otherwise be on terms and in a form and substance satisfactory to the Security Trustee (acting in accordance with the STID);
  - (iv) must comply with the relevant hedging provisions of the STID; and
  - (v) the rights of the Obligor under or in relation to Treasury Transaction and the related Hedging Agreement must be assigned to the Security Trustee by way of security or otherwise secured in favour of the Security Trustee, and in a manner acceptable to, the Security Trustee (acting in accordance with the STID);
- (ll) on or around the Signing Date to enter into Treasury Transactions which in aggregate hedge the inflation rate risk in relation to the revenues of the Issuer from its operations in an amount which is at least equal to the revenue required for Debt Service;

(mm) to maintain at all times Treasury Transactions that hedge the inflation rate risk within the levels set out in subparagraph (kk)(i) above. If the Treasury Transactions that hedge the inflation rate risk are:

- (i) greater than those set out in subparagraph (kk)(i)(A) above the Issuer shall as soon as reasonably practicable terminate the Treasury Transactions (or part thereof) pro rata between the Hedge Counterparties to ensure that they are no greater than those set out in subparagraph (a)(i)(A) above; or
- (ii) lower than those set out in subparagraph (kk)(i)(B) above the Issuer shall as soon as reasonably practicable enter into additional Treasury Transactions to ensure that they are no lower than those set out in subparagraph (kk)(i)(B) above;

(nn) are with a Hedge Counterparty:

- (i) whose short-term unsecured and unsubordinated debt obligations are assigned a rating by the Rating Agencies which is no less than A-1 by S&P, F-1 by Fitch or P-1 by Moody's or any equivalent short-term rating by another Rating Agency; and whose long-term unsecured and unsubordinated debt obligations are assigned a rating by the Rating Agencies which is no less than A- by S&P, A- by Fitch or A3 by Moody's or any equivalent long-term rating by another Rating Agency; or
- (ii) whose long-term unsecured and unsubordinated debt obligations are assigned a rating by the Rating Agencies which is no less than the then current rating of the Issuer,

as at the date on which that Hedging Agreement is entered into provided that a transfer by novation of a Hedge Counterparty's interest in a Hedging Agreement in accordance with clause 5.13(g)(i) (Terms of Hedging Agreement) of the STID shall be deemed to be in compliance with this paragraph (nn); or

- (iii) where a parent guarantee is provided by an institution that meets the criteria set out in subparagraph (i) above;

(oo) subject to paragraph (pp) below, no Obligor shall be deemed to be in breach of paragraph (kk)(i) above (and will not be required to take any action in accordance with paragraph (mm) above) unless:

- (i) on any Calculation Date it is forecast to fail to comply with subparagraph (A) or subparagraph (B) of paragraph (kk)(i) for the following four consecutive Calculation Periods following that date according to the then current Model; or
- (ii) on any Calculation Date
  - (A) it has failed to comply with the provisions of either sub-paragraph (A) or sub-paragraph (B) of that paragraph (kk)(i) in one or more of the Calculation Periods preceding that Calculation Date; or
  - (B) it (or any other Obligor) is forecast to fail to comply with the sub-paragraph (A) or sub-paragraph (B) of that paragraph (kk)(i) in one or more of the following consecutive Calculation Periods,

such that the aggregate total number of consecutive breaches (both immediately preceding and following that Calculation Date) of the relevant limits referred to in (kk)(i) by it (or any other Obligor) is equal to or more than four; or

- (iii) it has failed to comply with the provisions of either sub-paragraph (A) of sub-paragraph (B) of that paragraph (kk)(i) in four or more Calculation Periods (whether or not consecutive);
- (pp) In respect of:
  - (i) sub-paragraphs (oo)(i) and (ii) above, the relevant Obligor shall be required to reduce or increase (as the case may be) the notional amount of the relevant Treasury Transactions in respect of the fourth consecutive Calculation Period for which a breach of limits set out in paragraph (kk)(i) above is forecast, and in respect of any subsequent Calculation Period for which a breach is forecast; and
  - (ii) sub-paragraph (oo)(iii) above, the relevant Obligor shall be required to reduce or increase (as the case may be) the notional amount of the relevant Treasury Transactions in respect of each Calculation Period following the Calculation Period on which the provisions of either sub-paragraph (A) or sub-paragraph (B) of paragraph (kk)(i) have been breached for the fourth time.

#### Provision of professional services

- (qq) to (and each Obligor (other than the Issuer) shall ensure that the Issuer will) ensure that, at all times, arrangements are in place to provide financial management and company secretarial services substantially of the type contemplated by the Professional Services Agreement as at the Signing Date to the Issuer to assist the Issuer in the performance of its obligations under the Transmission Licence and the Finance Documents (the **Required PSA Arrangements**);
- (rr) the Required PSA Arrangements shall at all times include an obligation upon the Issuer to appoint a member of the board of directors to act as the Owner's Representative to oversee the performance by the O&M Contractor of its obligations under the O&M Agreement;
- (ss) any Owner's Representative appointed pursuant to paragraph (rr) above has all necessary technical and operational skill to perform the duties of the General Manager (as such term is defined in the O&M Agreement);

#### Further Assurance

- (tt) to do promptly all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Trustee may specify (and in such form as the Security Trustee may require in favour of the Security Trustee or any of its nominees):
  - (i) to perfect the Security Interests created or intended to be created under or evidenced by the Security Documents (which may include the execution of a mortgage, charge, assignment or other Security Interest over all or any of the assets which are, or are intended to be, the subject to any Security Document) or for the exercise of any rights, powers and remedies of the Security Trustee or the Secured Creditors provided by or pursuant to the Finance Documents or by law;
  - (ii) to confer on the Security Trustee or confer on the Secured Creditors a Security Interest over any property and assets of that Obligor (as applicable) located in any jurisdiction equivalent or similar to the Security Interest intended to be conferred by or pursuant to any Security Document;

- (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of any Security Document; and/or
- (iv) to take, in a timely manner, all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection and maintenance of any Security Interest conferred or intended to be conferred on the Security Trustee or the Secured Creditors by or pursuant to the Finance Documents.

#### Credit Rating

- (uu) to use reasonable endeavours to maintain a long-term credit rating from at least one Rating Agency for the Bonds issued by the Issuer and to co-operate with the Rating Agencies in connection with any reasonable request for information in respect of the maintenance of a rating and with any review of its business which may be undertaken by one or more of the Rating Agencies after the Issue Date;

#### Accounting Reference Date

- (vv) not to change its accounting reference date;

#### Cash Management

- (ww) to comply with the cash management provisions (see "*Obligor Cash Management*" below for more details);

#### Auditors

- (xx) to retain any independent public accountants as its auditors and to inform the Security Trustee of any change to its auditors;

#### Project Accounts

- (yy) except with the prior consent of the Security Trustee, not to open or maintain any account or enter into a banking relationship with any branch of any bank or other financial institutions providing similar services, other than the holding of the Accounts with the Account Bank.

#### Operating Costs

- (zz) unless approved in accordance with, or permitted under, the CTA, not to incur or pay any cost or expense where that cost or payment:
  - (i) exceeds 120 per cent. of the Operating Costs for the corresponding Calculation Period as set out in the then current Model; or
  - (ii) exceeds 200 per cent. of the Operating Costs for the corresponding Calculation Period as set out in the Base Case Model;

#### Redemption upon receipt of Acquisition Proceeds and Insurance Proceeds

- (aaa) within 30 days of receipt by the Issuer of any Acquisition Proceeds, to apply those Acquisition Proceeds in the following order:
  - (i) *first*, to repay amounts outstanding under the PBCE Letter of Credit which have not been repaid or reimbursed pursuant to clause 4 (Reimbursement and Fees) of the



PBCE Letter of Credit and Reimbursement Deed in accordance with paragraph 4.2.1(d) (Insurance Account) of schedule 5 (Cash Management) to the Common Terms Agreement; and

- (ii) *second*, either to:
  - (A) voluntarily redeem the Bonds in accordance with Condition 6.2(c) (Mandatory Redemptions for a PBCE Rebalancing Event and in respect of Insurance Proceeds or Acquisition Proceeds) on the next Interest Payment Date; or
  - (B) purchase Bonds in the secondary market for immediate cancellation;
- (bbb) as soon as reasonably possible following receipt by the Issuer of any Insurance Proceeds, to apply the Insurance Proceeds in the following order:
  - (i) *first*, to the extent that amounts have been withdrawn from the Debt Service Reserve Account and/or the Emergency Reserve Account, to transfer to the Debt Service Reserve Account and/or the Emergency Reserve Account (as applicable) an amount equal to the amount withdrawn for those purposes from such account;
  - (ii) *second*, to repay amounts outstanding under the PBCE Letter of Credit which have not been repaid or reimbursed pursuant to the PBCE Letter of Credit and Reimbursement Deed; and
  - (iii) *third*, either to:
    - (A) voluntarily redeem the Bonds in accordance with Condition 6.2(c) (Mandatory Redemptions for a PBCE Rebalancing Event and in respect of Insurance Proceeds or Acquisition Proceeds) of the Bond Trust Deed on the next Interest Payment Date; or
    - (B) purchase Bonds in the secondary market for immediate cancellation;
- (ccc) where Excluded Acquisition Proceeds and Excluded Insurance Proceeds include amounts which are intended to be used for a specific purpose within a specified period (as set out in the relevant definition of Excluded Acquisition Proceeds or Excluded Insurance Proceeds), to ensure that those amounts are used for that purpose and, if requested to do so by the Security Trustee (acting on instruction), to promptly deliver a certificate to the Security Trustee at the time of such application and at the end of such period confirming the amount (if any) which has been so applied within the requisite time periods provided for in the relevant definition;

Mandatory Redemption upon PBCE Rebalancing

- (ddd) subject to paragraph (eee) below, upon the occurrence of a PBCE Rebalancing Event, to mandatorily redeem the Bonds at their Outstanding Principal Amount in accordance with Condition 6.2 (*Mandatory redemption*) on the immediately following Interest Payment Date in an amount equal to the amount to be drawn under the PBCE Letter of Credit for that PBCE Rebalancing Event;
- (eee) the provisions of paragraph (ddd) above will not apply in respect of a PBCE Excess Draw Rebalancing Event if a PBCE Rebalancing Cure has occurred on or before the PBCE Rebalancing Cure Date;

### Transmission Licence and STC

- (fff) not to exercise any of the following rights or discretions under the Transmission Licence in a manner which has or would be reasonably likely to have a Material Adverse Effect:
- (i) (without prejudice to the Issuer's obligations to inform the Authority of an income adjustment that has led to a cost saving under paragraph 14 (Formula for the Income Adjusting Event Revenue Adjustment (IAT<sub>i</sub>) of amended standard condition E12-J3) make any representation or submission to the Authority on the calculation of the pass-through revenue adjustment term under amended standard conditions E12-J2 to E12-J9;
  - (ii) waive any rights under or agree to any change to any ultimate controller undertakings provided to it pursuant to standard condition E9;
  - (iii) exercise any rights in relation to any proposed changes to the STC and/or CUSC; or
  - (iv) give notice to the Authority of any challenge to any order under section 27 of the Electricity Act 1989;

### Registration of transfer of Shares

- (ggg) not to register at any time the transfer of any of its shares without the prior written consent of the Security Trustee;

### Technical Adviser and Insurance Adviser

- (hhh) the Security Trustee shall (on instruction of the Secured Creditors in accordance with the STID), at any time any such Secured Creditor reasonably believes that the Technical Adviser and/or Insurance Adviser is not performing its role to the standard it is required to observe under the Finance Documents, give notice of such matter to the Issuer. Following such notice, to respond promptly confirming either:
- (i) the steps that it is taking to ensure that the Technical Adviser and/or Insurance Adviser meets the standard of performance reasonably expected of it by the Secured Creditors; or
  - (ii) the steps that it shall take to replace the Technical Adviser and/or Insurance Adviser with a person demonstrably capable of performing such role and which is of international repute and with equivalent experience in transactions and projects of a similar nature to the Project;

### Adviser Reports

- (iii) (on or after the Signing Date) not to request that any provider of an Adviser Report extend its reliance to any additional party without the prior written consent of the Security Trustee (acting in accordance with the STID);
- (jjj) not to make, without the prior written consent of the Security Trustee (acting in accordance with the STID), any claims against any provider of an Adviser Report;

### Bond specific covenants

- (kkk) to give or procure to be given to the Bond Trustee such opinions (including without limitation the procurement of all such certificates called for by the Bond Trustee pursuant to the Bond Trust Deed), certificates, information and evidence as it shall require and in such form as it shall require for the purpose of the discharge or exercise of the duties, trusts, powers, authorities and discretions vested in it under any Finance Document or by operation of law;
- (lll) cause to be prepared and certified by its Auditors in respect of each financial accounting period accounts in such form as will comply with all relevant legal and accounting requirements and all requirements for the time being of the Central Bank of Ireland and/or the Irish Stock Exchange;
- (mmm) to keep at all times proper books of account and allow the Bond Trustee and any person appointed by the Bond Trustee to whom it shall have no reasonable objection free access to such books of account at all reasonable times during normal business hours;
- (nnn) to maintain at all times a Principal Paying Agent in accordance with the Conditions;
- (ooo) to procure the Principal Paying Agent to notify promptly the Bond Trustee in the event that the Principal Paying Agent does not, by the time specified in the Agency Agreement for any payment to it in respect of the Bonds or any of the relative Coupons or Receipts, receive unconditionally, pursuant to and in accordance with the Agency Agreement, payment of the full amount in the requisite currency of the moneys payable on such due date of the Bonds, Coupons or Receipts as the case may be;
- (ppp) in the event of the unconditional payment to the Principal Paying Agent or the Bond Trustee of any sum due in respect of the Bonds or any of the relative Coupons or Receipts being made after the time specified in the Agency Agreement for such payment, to promptly give or procure to be given notice to the relevant Bondholders in accordance with the Conditions that such payment has been made;
- (qqq) to use its best endeavours to maintain the listing of the Bonds on the official list of the Irish Stock Exchange and the admission of the Bonds to trading on the Irish Stock Exchange or, if it is unable to do so having used its best endeavours or if the Bond Trustee considers that the maintenance of such listing and/or admission to trading is unduly onerous and the Bond Trustee is of the opinion that to do so would not be materially prejudicial to the interests of the Bondholders, use its best endeavours to obtain and maintain a quotation or listing of the Bonds on such other stock exchange or exchanges or securities market or markets as the Issuer may (with the prior written approval of the Bond Trustee) decide and shall also upon obtaining a quotation or listing of the Bonds on such other stock exchange or exchanges or securities market or markets enter into a trust deed supplemental to the Bond Trust Deed to effect such consequential amendments to the Finance Documents as the Bond Trustee may require or as shall be requisite to comply with the requirements of any such stock exchange or securities market;
- (rrr) to give notice to the Bondholders in accordance with the Conditions of any appointment, resignation or removal of any Principal Paying Agent in accordance with the terms of the Agency Agreement or any change of the Principal Paying Agent's specified office (except as provided by the Agency Agreement or the Conditions) at least 30 days prior to such event taking effect; provided always that so long as any of the Bonds, Coupons or Receipts remain outstanding in the case of the termination of the appointment of the Principal Paying Agent no such termination shall take effect until a new Principal Paying Agent (or as the case may be) has been appointed in accordance with the terms of the Agency Agreement;

- (sss) to send to the Bond Trustee, not less than 14 days prior to the date on which any such notice is to be given, the form of every notice to be given to the Bondholders in accordance with the Conditions and obtain the prior written approval of the Bond Trustee and to promptly give to the Bond Trustee two copies of the final form of every notice to be given to the Bondholders in accordance with the Conditions (such approval, unless so expressed, not to constitute approval for the purposes of Section 21 of the FSMA of a communication within the meaning of Section 21 of the FSMA);
- (ttt) to comply with and perform all its obligations under the Agency Agreement and each other Finance Document and to exercise all rights that are available to it under those documents to procure that the Principal Paying Agent, Euroclear, Clearstream, Luxembourg, and each party to any of the other Finance Documents comply with and perform all their respective obligations thereunder and not make any amendment or modification to such agreement or any other Bond Document without the prior written approval of the Bond Trustee and use all reasonable endeavours to make such amendments to such agreement or any other Bond Document as the Bond Trustee may require;
- (uuu) to promptly deliver to the Bond Trustee when requested in writing by the Bond Trustee, a certificate in writing signed by a director of the Issuer setting out the total number and aggregate principal amount of Bonds which are at the date of such certificate held by, for the benefit of, or on behalf of, the Issuer, any Holding Company of the Issuer or any other Subsidiary of such Holding Company, in order to enable the Bond Trustee to ascertain the principal amount of Bonds for the time being outstanding;
- (vvv) to procure that the Principal Paying Agent makes available for inspection by Bondholders at its specified office copies of the Bond Trust Deed and the other Finance Documents and the then latest audited Annual Financial Statements of the Issuer;
- (www) to give notice to the Bond Trustee of the proposed redemption of the Bonds at least five Business Days prior to the giving of any notice of redemption in respect of such Bonds in accordance with the Conditions; and
- (xxx) to use at all times all reasonable endeavours to procure that Euroclear and Clearstream, Luxembourg (as the case may be) issue(s) any record, certificate or other document requested by the Bond Trustee as contemplated by the Bond Trust Deed as soon as possible after such request.

#### *Events of Default*

The CTA will contain the following events of default which will constitute the **Events of Default** under each Finance Document other than any Hedging Agreement, each one being an **Event of Default**:

##### (a) *Non-payment*

Non-payment by an Obligor on the due date of any amount payable by it under the Finance Documents in the manner required under such documents save, prior to the Senior Discharge Date, for amounts payable by the Issuer pursuant to the PBCE Letter of Credit and Reimbursement Deed, unless (a) its failure to pay is caused by an administrative or technical error and such payment is made within three Business Days of the due date or (b) (only to the extent that an Obligor has insufficient funds to meet such obligation having regard to the priority of payments such amount is an amount referred to in paragraph (m) of the Pre-Enforcement Priority of Payment (see "*Cashflows – Pre-Enforcement Priority of Payment*" below).

(b) *Breach of Financial Covenant and other obligations*

Either (when taking into account the undrawn balance of the PBCE Letter of Credit at the relevant Calculation Date):

- (i) the Projected DSCR;
- (ii) the Historic DSCR; and/or
- (iii) the Debt Life Cover Ratio,

in each case in respect of the Relevant Period, as at the relevant Calculation Date as stated in the Investor Report provided to the Security Trustee, is not equal to or greater than the applicable the Default Ratio Level and provided that an Event of Default under subparagraph (i), (ii) or (iii) above may be cured by exercise of any Equity Cure Right.

For the purpose of this paragraph (b) only, the amount of Net Cashflow will take into account the undrawn balance of the PBCE Letter of Credit as at the start of the Relevant Period applicable to the relevant Calculation Date when calculating each of the Projected DSCR, the Historic DSCR and the Debt Life Cover Ratio.

Any Obligor does not comply with any provisions of paragraphs (h), (p), (q), (r), (t), (u), (v), (w), (x), (ee) to (jj) (inclusive) and (fff) above (see "*Common Terms Agreement – General Covenants*").

(c) *Breach of other obligations*

Any Obligor does not comply with any provision of the Finance Documents (other than those referred to in paragraphs (a) and (b) above and/or prior to the Senior Discharge Date, those provisions set out in the PBCE Letter of Credit and Reimbursement Deed) provided that no such Event of Default shall occur if the failure to comply is capable of remedy within 15 Business Days of the earlier of (i) the Security Trustee giving notice to the Issuer and (ii) the Issuer becoming aware of the failure to comply.

(d) *Misrepresentation*

Any representation or statement made or deemed to be made by an Obligor in Finance Documents or in any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any respect when made or deemed to be made other than if the failure or event or circumstance giving rise to the breach is capable of remedy and is remedied within 15 Business Days of the earlier of (i) the Security Trustee giving notice to the Issuer and (ii) the Issuer becoming aware of the event or circumstance.

(e) *Cross-default*

- (i) Any of the following occurs in respect of an Obligor:
  - (A) non-payment of amounts payable after the expiry of any originally applicable grace period in respect of any of its Financial Indebtedness (other than in respect of the Secured Debt or the Subordinated Intragroup Liabilities) in excess of £50,000 (Indexed); or

- (B) as a result of an Event of Default (howsoever described) an amount of its Financial Indebtedness (other than in respect of the Secured Debt or the Subordinated Intragroup Liabilities) in excess of £50,000 (Indexed):
    - I. is declared due and payable prior to its specified maturity; or
    - II. is cancelled or suspended by a creditor; or
    - III. is capable of being declared by a creditor to be prematurely due and payable prior to its specified maturity.
  - (ii) Any circumstance or event described in subparagraph (i) above exists or occurs in respect of any Major Project Party to the extent that such circumstance or event would have a Material Adverse Effect.
- (f) *Insolvency*
  - (i) Any Obligor is unable or admits inability to pay its debts as they fall due or is deemed to or declared to be unable (other than pursuant to section 123(i)(a) of the Insolvency Act 1986) to pay its debts under applicable law, suspends or threatens to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors generally with a view to rescheduling any of its indebtedness other than under any Subordinated Intragroup Liabilities or any loan or guarantee between any Obligors.
  - (ii) Any circumstance or event described in subparagraph (i) above exists or occurs in respect of any Major Project Party to the extent that such circumstance or event would reasonably be expected to have a Material Adverse Effect.
  - (iii) A moratorium is declared in respect of any indebtedness of any Obligor. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.
  - (iv) There shall be no event of default under paragraphs (i) or (ii) above, where the relevant indebtedness arises under any Subordinated Intragroup Liabilities or any loan or guarantee between any Obligors.
- (g) *Insolvency Proceedings*
  - (i) Any corporate action, legal proceedings or other procedure or step is taken in relation to:
    - (A) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Obligor; or
    - (B) a composition, compromise, assignment or arrangement with creditors generally of any Obligor (as part of a general composition, compromise, assignment or arrangement affecting such Obligor's creditors generally) other than a composition, compromise, assignment or arrangement with respect to any Subordinated Intragroup Liabilities or any loan or guarantee between any Obligors; or

(C) the appointment of a liquidator, receiver, administrator, compulsory manager, energy administrator or other similar officer in respect of any Obligor or any of its assets; or

(D) enforcement of any Security Interest over any assets of any Obligor,

or any analogous procedure or step is taken in any jurisdiction, other than: (1) any winding-up petition which is: (x) being contested in good faith and with due diligence by any Obligor; or (y) frivolous or vexatious and is discharged, stayed or dismissed within 20 Business Days of commencement or, if earlier, the date on which it is advertised; or (2) any step or procedure contemplated by paragraph (b) of the definition of Permitted Transaction.

(ii) Any procedure or step (or analogous procedure or step in any jurisdiction) described in subparagraph (i) above is taken in respect of any Major Project Party to the extent that such procedure or step would reasonably be expected to have a Material Adverse Effect.

(h) *Creditors' process*

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Obligor having an aggregate value of £1,000,000 and is not discharged within 30 days.

(i) *STID*

(i) Any party to the STID (other than a Finance Party or an Obligor) fails to comply with the provisions of, or does not perform its obligations under, the STID; or (ii) a representation or warranty given by that party in the STID is incorrect in any material respect, and, if the non-compliance or circumstance giving rise to the misrepresentation is capable of remedy, it is not remedied within 15 Business Days of the earlier of (A) the Security Trustee giving notice to that party or (B) that party becoming aware of the non-compliance or misrepresentation.

(j) *Cessation of business*

Any Major Project Party or an Obligor suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business and in the case of a Major Project Party such suspension or cessation has or would reasonably be expected to have a Material Adverse Effect.

(k) *Unlawfulness and invalidity*

(i) It is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents or any Security Interest created or expressed to be created or evidenced by the Security Documents ceases to be effective or any subordination created under the STID is or becomes unlawful.

(ii) Any obligation or obligations of any Obligor under any Finance Documents or any other Obligor under the STID are not (subject to the Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Secured Creditors under the Finance Documents.

- (iii) Any Finance Document ceases to be in full force and effect or any Security Interest or any subordination created under the STID ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Finance Party) to be ineffective.
- (l) *Repudiation and Rescission of agreements*
  - (i) An Obligor either rescinds or purports to rescind or repudiates or purports to repudiate a Transaction Document or evidences an intention to rescind or repudiate a Transaction Document.
  - (ii) Any Major Project Party or any other counterparty (excluding the Obligors) to a Project Document rescinds or purports to rescind or repudiates or purports to repudiate a Project Document in whole or in part where to do so has or would reasonably be expected to have a Material Adverse Effect.
  - (iii) Any party to the STID (other than a Finance Party or an Obligor) rescinds or purports to rescind or repudiates or purports to repudiate that document or instrument in whole or in part where to do so has or is likely to have a material adverse effect on the interests of the Secured Creditors as a whole.
- (m) *Transmission Licence and STC*
  - (i) The Issuer has received notice that the Transmission Licence will be revoked or terminated and an energy transfer scheme has not been approved by the Secretary of State under schedule 21 of the Energy Act 2004 on or before the date falling two years prior to the expiration of such notice.
  - (ii) The Transmission Licence is terminated or revoked except in circumstances in which it is replaced immediately by a further licence or licences granted to the Issuer on equivalent terms which permit the Issuer to carry on the Permitted Business as it was carried out on the first day of the Revenue Period taking into account any changes in the regulatory environment since that date.
  - (iii) A breach of the Transmission Licence which has or is reasonably likely to have a Material Adverse Effect.
  - (iv) The Issuer ceases to be a party to the STC.
  - (v) It is or becomes unlawful for any party to perform any of its material obligations under any Transaction Authorisation or any Transaction Authorisation ceases to be effective.
  - (vi) Any obligation or obligations of any party under any Transaction Authorisation (or in the case of the STC, of any obligations owed by the Issuer to NGET or by NGET to the Issuer) are not or cease to be legal, valid, binding or enforceable subject to the Reservations.
- (n) *Project Documents other than any Transaction Authorisation*
  - (i) Subject to subparagraphs (ii), (iii), (iv) and (v) below:
    - (A) it is or becomes unlawful for any party to perform any of its material obligations under the Project Documents (other than any Transaction



Authorisation) or any Project Document (other than any Transaction Authorisation) ceases to be effective;

- (B) any obligation or obligations of any party under any Project Document (other than any Transaction Authorisation) are not or cease to be legal, valid, binding or enforceable subject to the Reservations; or
  - (C) any Project Document (other than the Transmission Licence) is terminated in accordance with its terms and (if that termination right has been asserted by the counterparty to such Project Document) the Issuer:
    - I. has not challenged such termination within the prescribed period; and/or
    - II. has exhausted all rights of challenging such termination in accordance with the terms of the relevant Project Document.
- (ii) Subparagraph (i) above shall not apply if, in respect of any such Project Document other than any Transaction Authorisation, the O&M Agreement or the O&M Guarantee, such event does not have or would not reasonably be expected to have a Material Adverse Effect.
- (iii) If an Event of Default arises solely as a result of an event or circumstance affecting the O&M Contractor or the O&M Guarantor, whether directly as a result of the operation of one of the provisions of the Events of Default provisions of the CTA or indirectly as a result of the operation of paragraph (e) of the definition of "Material Adverse Effect", and such Event of Default can be remedied by replacing the O&M Contractor or the O&M Guarantor (as applicable) then such Event of Default shall not be deemed to have occurred (although a Potential Event of Default will subsist) if the following provisions of this subparagraph are complied with (provided that (y) such Event of Default shall be deemed to have occurred if any of these provisions are not complied with and (z) this subparagraph (iii) is without prejudice to the occurrence and subsistence of any other Event of Default and in each such case the Secured Creditors shall be entitled to exercise all the rights and remedies in relation to Events of Default under and in accordance with the Finance Documents as are available to them):
- (A) the Issuer certifies to the Security Trustee (with a copy to the Secured Creditors (other than the Bondholders)) within ten Business Days following the occurrence of such event that it is taking steps to enter into a replacement agreement and/or guarantee (as applicable):
    - I. if the unlawfulness, invalidity, unenforceability or termination is for any reason other than: (1) pursuant to the provisions relating to termination by the Operator of the O&M Agreement (or any equivalent provision under the O&M Guarantee or any replacement or supplemental contract entered into after the Signing Date to provide operation and maintenance arrangements); or (2) at the sole election of the Issuer (except if termination is being effected in accordance with the provisions relating to termination by the Operator of the O&M Agreement (or any equivalent provision under the O&M Guarantee or any replacement or supplemental contract entered into after the Signing Date to provide operation and

maintenance arrangements)), on terms which are reasonably available in the commercial market at such time; or

- II. if the termination is (1) pursuant to the provisions relating to termination by the Operator of the O&M Agreement (or any equivalent provision under the O&M Guarantee or any replacement or supplemental contract entered into after the Signing Date to provide operation and maintenance arrangements); or (2) at the sole election of the Issuer (other than in accordance with provisions relating to termination by the Owner of the O&M Agreement (or any equivalent provision under the O&M Guarantee or any replacement or supplemental contract entered into after the Signing Date to provide operation and maintenance arrangements)), on substantially the same terms as the contract that is being terminated provided that such terms do not substantially or adversely alter the risk profile (including without limitation the liabilities and liability caps thereunder) of the operation and maintenance arrangements (as applicable) as compared to those under the contract that is being terminated as at the date on which that contract was entered into; and
  - III. with a counterparty or counterparties which are of adequate legal, technical and financial standing to provide such services; and
- (B) the Issuer provides to the Security Trustee (with a copy to the Secured Creditors (other than the Bondholders)), within 10 Business Days following the certification given by the Issuer pursuant to paragraph (A) above, written confirmation from the Technical Adviser:
- I. that the arrangements proposed to be put in place by the Issuer for the provision of those services are in compliance with the terms of the Transmission Licence and Good Industry Practice;
  - II. that such arrangements do not adversely alter the risk profile of the contract (including without limitation the liability caps thereunder) and given the experience, reputation, financial status and track record of the balance sheet of the proposed replacement contractor and/or guarantor, they are reasonable and in accordance with Good Industry Practice; and
  - III. it is satisfied, having consulted with the PBCE Provider with regard to the suitability of the replacement contractor and/or guarantor, that such person is of adequate legal, technical and financial standing to provide such services, or, in the case of the guarantor, financial standing,

and, in each case, such replacement agreement and/or guarantee has been entered into within 45 Business Days (or such longer period as may be agreed between the Issuer and the Security Trustee (in accordance with the STID)) following the occurrence of the relevant unlawfulness, invalidity, unenforceability or termination.

- (iv) Notwithstanding subparagraph (iii) above, an Event of Default will occur if the Issuer has, in accordance with subparagraph (iii) above, certified that it is entering into, or intends to enter into, a replacement agreement and/or guarantee (and such

certification has not been withdrawn) but is not taking appropriate steps to pursue that designated course of action.

- (v) If an event under subparagraph (e)(ii) (*Cross-default*), subparagraph (f)(ii) (*Insolvency*), paragraph (g)(ii) (*Insolvency Proceedings*) or paragraph (j) (*Cessation of business*) above (where in each case each reference to a Major Project Party shall be read as a reference to the PSA Counterparty) or under subparagraph (i) above has occurred and is continuing in respect of any counterparty to the Professional Services Agreement (or any replacement or supplemental contract entered into after the Signing Date to provide the Required PSA Arrangements) (a **PSA Counterparty**), the Issuer shall:

(A) certify to the Security Trustee within 10 Business Days following the occurrence of such event that it is taking steps to put in place alternative arrangements for the provision of the Required PSA Arrangements with one or more counterparties which are of adequate legal, technical and financial standing to provide such services; and

(B) provide to the Security Trustee, within 10 Business Days following the certification given by the Issuer pursuant to subparagraph (v)(A) above, written confirmation from the Technical Adviser:

I. that the arrangements proposed to be put in place by the Issuer for the provision of those services are in compliance with the terms of the Transmission Licence and Good Industry Practice;

II. that such arrangements do not adversely alter the risk profile of the Project as regards the provision of such Required PSA Arrangements and that such arrangements are reasonable and in accordance with Good Industry Practice; and

III. it is satisfied that the replacement PSA Counterparty is of adequate legal, technical and financial standing to provide such services,

and, in each case, such replacement PSA Counterparty must be appointed within 45 Business Days (or such longer period as may be agreed between the Issuer and the Security Trustee (in accordance with the STID)) following the occurrence of the relevant event under paragraph (e)(ii) (*Cross-default*), paragraph (f)(ii) (*Insolvency*), paragraph (g)(ii) (*Insolvency Proceedings*) or paragraph (h) (*Creditors' process*) above in respect of the outgoing PSA Counterparty.

- (vi) Notwithstanding subparagraph (v) above, an Event of Default will occur under this paragraph (n) if the Issuer has, in accordance with subparagraph (iii) above, certified that it is appointing, or intends to appoint one or more replacement PSA Counterparties (and such certification has not been withdrawn) but is not taking appropriate steps to pursue that designated course of action.

(o) *Nationalisation*

The ability of any Obligor to conduct its business as carried on at the Completion Date is limited or curtailed to a material extent by any expropriation, confiscation, compulsory acquisition, requisition or nationalisation by or on behalf of any Government Entity in

relation to any of that Obligor's assets or all or a material part of the Obligors' rights under any Transaction Document is forfeited, suspended by or on behalf of any Government Entity.

(p) *Failure to comply with judgment*

Any Obligor fails to comply with any judgment of any court which is not being appealed by the relevant Obligor and such failure has or would reasonably be likely to have a Material Adverse Effect.

(q) *Material proceedings*

(i) Any litigation, arbitration, administrative, governmental, regulatory or other investigations, proceedings or disputes are commenced or threatened in writing against an Obligor or a Major Project Party or (in each case) any of its assets or in respect of any Transaction Document or transactions contemplated by those documents which have or would reasonably be likely to have a Material Adverse Effect.

(ii) Any execution proceedings are enforced in relation to any assets of any Obligor where such enforcement has or would reasonably be expected to have a Material Adverse Effect.

(r) *Change of Control*

(i) At any time on or after the Issue Date, the Issuer or IntermediateCo ceases to be a wholly-owned Subsidiary of Holdco.

(ii) At any time on and from the Signing Date to the date falling 12 months after the Signing Date, the Investors or any Investor Affiliate (individually or jointly and in any proportions as between themselves) cease to (A) have the power to cast or control the casting of 100 per cent. of the votes that may be cast at a general meeting; (B) have the power to appoint or remove all or the majority of the directors of any Obligor; (C) have the power to give directions with respect to the operating and financial policies of any Obligor; (D) hold beneficially (directly or indirectly) 100 per cent. of the issued share capital of any Obligor; or (E) hold beneficially (directly or indirectly) 100 per cent. of the aggregate principal amount of each Investor Funding Loan.

(iii) Any Investor or Holdco transfers any of its rights or obligations in respect of the shares of Holdco or any investor, IntermediateCo or the Issuer transfers any of its rights or obligations under an Investor Funding Loan, (in each case) in breach of the provisions of the Transmission Licence.

(s) *Remedial Plans*

Any Remedial Plan is not implemented in accordance with its terms within the timetable set out in that Remedial Plan.

(t) *NETSO*

If the licence of the national electricity transmission system operator (the **NETSO**) is revoked and:

(i) a replacement licence is not granted to that entity;

- (ii) a successor or replacement entity with similar rights, obligations and financial strength is not appointed; or
- (iii) alternative arrangements to ensure the performance of the revenue payment obligations of the NETSO are not put in place,

in each case, within 12 months following such revocation.

(u) *Equity Cure*

- (i) If an Investor Report to be delivered to the Security Trustee for any period shows that there would be a breach in respect of a Financial Ratio Event of Default or a PBCE DLCR Rebalancing Event would occur, the Investors may provide or procure the provision of Additional Equity in an amount at least sufficient for the amount necessary to cure the relevant breach (the **Equity Cure Amount**) by applying that Equity Cure Amount in:
  - (A) making market purchases of Bonds for a purchase price not exceeding the aggregate of (x) par and (y) any premium which would be payable were the Issuer to redeem such Bonds at such time (provided that such Bonds are then cancelled in accordance with their terms);
  - (B) prepayment of Bonds; and
  - (C) payment of any related Repayment Costs,
 (each an **Equity Cure Right**).
- (ii) The exercise of the Equity Cure Right shall be subject to any limitations thereon in any Authorised Credit Facility and cannot be exercised more than three times or in respect of two consecutive Calculation Dates.
- (iii) Any Equity Cure Amount must be provided on or prior to the date falling 20 Business Days after the delivery of the relevant Investor Report.
- (iv) On application of the Equity Cure Amount, the financial ratio that was the subject of the breach of the Financial Ratio Event of Default will be recalculated on a pro forma basis:
  - (A) if the Financial Ratio Event of Default is a breach of the Historic DSCR, as if the Equity Cure Amount had been applied at the commencement of the applicable historic Relevant Period, such that the Debt Service shall be deemed as at the relevant Calculation Date to have been reduced by the amount of Debt Service which is attributable to the Senior Debt which has been prepaid and/or purchased;
  - (B) if the Financial Ratio Event of Default is a breach of the Projected DSCR, as if the Equity Cure Amount had been applied on the Calculation Date in respect of such Relevant Period in accordance with subparagraph (i) above, such that the Debt Service shall be deemed as at the relevant Calculation Date to have been reduced by the amount of Debt Service which is attributable to the Senior Debt which has been prepaid and/or purchased; and/or

- (C) if the Financial Ratio Event of Default is a breach of the Debt Life Cover Ratio or PBCE DLCR Rebalancing Event would occur, as if the Equity Cure Amount had been applied on the Calculation Date in respect of such Relevant Period in accordance with subparagraph (i) above, such that the Senior Debt outstanding shall be deemed as at the relevant Calculation Date to have been reduced by the amount of Senior Debt which has been prepaid and/or purchased.
- (v) If after the applicable financial ratio that was the subject of the breach of the Financial Ratio Event of Default or PBCE DLCR Rebalancing Event is recalculated, the breach has been prevented or cured, that financial ratio shall be deemed to have been satisfied on the date of the relevant Investor Report as though no breach had ever occurred and any related Financial Ratio Event of Default or PBCE DLCR Rebalancing Event shall be deemed not to occur or have occurred, as applicable.
- (v) *Protected rights of the Issuer as holder of the Transmission Licence*
  - (i) Notwithstanding any other provision of any Finance Document but to the extent required by paragraph 1(d) of condition E10 of the Transmission Licence only, if an Event of Default occurs solely as a result of any act, omission or state of affairs in existence which relates only to an Obligor other than the Issuer or any Major Project Party the power to take any Enforcement Action shall be deemed not to have arisen as against the Issuer for so long as the Issuer is the holder of the Transmission Licence as regards all sums owed by the Issuer under the Finance Documents until the Issuer ceases to hold the Transmission Licence.
  - (ii) The provisions of subparagraph (i) above shall not operate so as to limit the rights of any Secured Creditor to take any Enforcement Action:
    - (A) in any other circumstances;
    - (B) in the circumstances set out in subparagraph (i) above (including, without limitation, under paragraph (c) of the definition of Enforcement Action),

against any Obligor (other than the Issuer) in accordance with the provisions of the Finance Documents or of the Security Trustee to exercise all or any of its rights and remedies against any Obligor (other than the Issuer) on or following the occurrence of such an Event of Default nor shall the provisions of subparagraph (i) above qualify the obligation of the Security Trustee to exercise such powers, rights and remedies against any Obligor (other than the Issuer) if so instructed by the Secured Creditors in accordance with the STID.

### ***Obligor Cash Management***

#### ***General***

- (a) The Issuer shall open and maintain the following accounts with the Account Bank and maintain and operate the Accounts in accordance with the Account Bank Agreement and CTA): (i) the Operating Account; (ii) the Debt Service Reserve Account; (iii) the Insurance Account; (iv) the Emergency Reserve Account; (v) the DECC Decommissioning Reserve Account; (vi) the Working Capital Reserve Account; and (vii) the Debt Service & PBCE Account.
- (b) Holdco shall open and maintain the Holdco Account with the Account Bank.

- (c) IntermediateCo shall open and maintain the IntermediateCo Account with the Account Bank.
- (d) Each Obligor shall maintain the Accounts and operate them in accordance with the Account Bank Agreement and the CTA.

#### *Operating Account*

- (a) Unless a Finance Document expressly requires an amount to be paid into any other Account, the Issuer must ensure that any amount payable to it is paid promptly into the Operating Account.
- (b) The Issuer may only withdraw amounts from the Operating Account if they are applied in accordance with the Pre-Enforcement Priority of Payment. See "*Cashflows – Pre-Enforcement Priority of Payment*" below for a detailed description.

#### *Debt Service Reserve Account*

- (a) The CTA requires that the amount standing to the credit of the Debt Service Reserve Account is not less than the Required DSRA Balance (applicable from the date on which it is calculated until the next Calculation Date).
- (b) On the Issue Date and each Calculation Date, the Issuer must transfer from the Operating Account to the Debt Service Reserve Account an amount sufficient to ensure that the amount standing to the credit of the Debt Service Reserve Account on that date is equal to the Required DSRA Balance (or if less, the amount available for that purpose in accordance with the CTA).
- (c) The Issuer may only withdraw amounts from the Debt Service Reserve Account if they are applied for the following purposes in the following order:
  - (i) to pay any amount contemplated by paragraphs (g) to (h) (inclusive) of the pre-enforcement priority of payments (see "*Cashflows – Pre-Enforcement Priority of Payment*" for more details) falling due and payable under the Finance Documents at that time but only to the extent that there are insufficient funds in the Operating Account to meet those payments; and
  - (ii) to transfer to the Operating Account on a Calculation Date, but only to the extent that the balance standing to the credit of the Debt Service Reserve Account following the transfer equals or exceeds the Required DSRA Balance on that Calculation Date.

#### *Insurance Account*

- (a) The CTA requires that all insurance proceeds, proceeds of a surrender or disposal of any group Tax relief and the proceeds of any Acquisition Recovery received by the Issuer are paid directly into the Insurance Account (save for Insurance Proceeds and the proceeds of any Acquisition Recovery in respect of delay in start-up, business interruption or anticipated loss in revenue).
- (b) The Issuer may only withdraw from the Insurance Account:
  - (i) in respect of any proceeds of claims under physical loss or damage policies, to meet any amount due and payable in respect of the reinstatement, replacement, restoration or repair of the Transmission Assets, property or asset in respect of which such proceeds were paid;

- (ii) in respect of any insurance proceeds, to meet any amount payable in respect of third party liability to meet that liability;
- (iii) in respect of any insurance proceeds to meet any amounts to be applied in the manner contemplated by paragraph (bbb) above (See "*Common Terms Agreement – General Covenants*");
- (iv) in respect of any Acquisition Proceeds to meet any amounts to be applied in the manner contemplated by paragraph (aaa) above (See "*Common Terms Agreement – General Covenants*");
- (v) in respect of Insurance Proceeds or Acquisition Proceeds, to repay amounts outstanding under the PBCE Letter of Credit which have not been paid or reimbursed pursuant to the PBCE Letter of Credit and Reimbursement Deed;
- (vi) in respect of any proceeds of a surrender or disposal of any group Tax relief, to (x) pay any tax liabilities; or (y) subject to the Issuer certifying that the Rating Agencies have not indicated that the then long-term credit rating on the Bonds would be reduced below the then current long-term credit rating of the Bonds as a result, to pay such amount into the Operating Account; and
- (vii) any other amounts standing to the credit of the Insurance Account, following the application of proceeds under subparagraphs (i), (ii), (iii), (iv), (v) and (vi) above, to transfer to the Operating Account to meet any relevant mandatory application prepayment or redemption obligation of the Issuer under the Finance Documents or purchase of the Bonds in the secondary market for immediate cancellation; and
- (viii) if any amount standing to the credit of the Operating Account is used by the Issuer to settle any liability in respect of which an insurance claim has been made, the Issuer may authorise the Account Bank to transfer an identical amount to the Operating Account from the Insurance Account.

#### *Emergency Reserve Account*

- (a) The CTA requires that the amount standing to the credit of the Emergency Reserve Account is not less than the Required ERA Balance (applicable from the date on which it is calculated until the next Calculation Date).
- (b) On the Issue Date and each Calculation Date, the Issuer must transfer from the Operating Account to the Emergency Reserve Account an amount sufficient to ensure that the amount standing to the credit of the Emergency Reserve Account on that date is equal to the Required ERA Balance (or if less, the amount available for that purpose in accordance with the CTA).
- (c) The Issuer may only withdraw amounts from the Emergency Reserve Account if they are applied for the following purposes in the following order:
  - (i) to pay any insurance deductible due and payable under the Finance Documents in relation to the Insurances;
  - (ii) at any time, to satisfy any reactive maintenance expenditure attributable to outages or repairs then due and payable to the extent that there are no funds available for that purpose in the Operating Account;



- (iii) to transfer to the Operating Account on a Calculation Date, but only to the extent that the balance standing to the credit of the Emergency Reserve Account following the transfer, equals or exceeds the Required ERA Balance on that Calculation Date;
- (iv) if there is no amount standing to the credit of the Debt Service Reserve Account, for any purpose set out in subparagraph (c)(i) above (see "*Debt Service Reserve Account*" above), in the order set out in that paragraph; and
- (v) to transfer to the Operating Account for inclusion in the calculation of Gross Revenues (pursuant to paragraph (f) of the definition of that term) it, without the inclusion of that amount, a Financial Ratio Event of Default would occur on the next Calculation Date in respect of the Projected DSCR and/or the Historic DSCR (provided that the amount transferred shall be the minimum amount required in order to ensure compliance with the relevant Financial Ratio Event of Default as at the next Calculation Date).

*DECC Decommissioning Reserve Account*

- (a) The CTA requires that on and after the first day of the eleventh year following the commencement of the Revenue Period, the Issuer must ensure that the amount standing to the credit of the DECC Decommissioning Reserve Account is not less than the Required DRA Balance (applicable from the date on which it is determined until the next Calculation Date).
- (b) On the Issue Date and each Calculation Date, the Issuer must transfer from the Operating Account to the DECC Decommissioning Reserve Account an amount sufficient to ensure that the amount standing to the credit of the DECC Decommissioning Reserve Account on that date is equal to the Required DRA Balance (or if less, the amount available for that purpose in accordance with the CTA).
- (c) The Issuer may only withdraw amounts from the DECC Decommissioning Reserve Account if they are applied for the following purposes in the following order:
  - (i) at any time, to satisfy any projected decommissioning costs in relation to the Project falling due and payable as set out in the Model; and
  - (ii) to transfer to the Operating Account on a Calculation Date, but only to the extent that the balance standing to the credit of the DECC Decommissioning Reserve Account following the transfer equals or exceeds the Required DRA Balance on that Calculation Date.
- (d) If DECC requires rights in relation to the DECC Decommissioning Reserve Account as part of its approval of the Decommissioning Plan, the Secured Creditors shall, if requested by DECC or the Issuer:
  - (i) release the security granted over the DECC Decommissioning Reserve Account pursuant to the Security Agreement in order to allow the Issuer to grant those rights to DECC over that account; and
  - (ii) effect any consequential amendments to the Finance Documents as are necessary to reflect that release and the grant of those rights to DECC.
- (e) The Issuer shall use reasonable endeavours to obtain DECC's consent to allow the Security Trustee to participate in any discussions with DECC in relation to the granting of rights to DECC as contemplated by paragraph (d) above.

### *Working Capital Reserve Account*

The CTA requires that on or before the Issue Date, the Working Capital Reserve Account is funded in an amount equal to £500,000 to be applied for the purpose of meeting pass-through costs (but shall not be obliged to replace any amount withdrawn).

### *Debt Service & PBCE Account*

- (a) The CTA requires that:
  - (i) Any amounts drawn under the PBCE Letter of Credit must be deposited into the Debt Service & PBCE Account.
  - (ii) On or prior to the date falling 14 Business Days prior to any Calculation Date, the Issuer shall transfer from the Operating Account to the Debt Service & PBCE Account the funds available to pay the amounts contemplated by paragraph (g) (See "*Cashflows – Pre-Enforcement Priority of Payment*") falling due and payable under the Finance Documents at the next Calculation Date but only to the extent that:
    - (A) there are sufficient funds standing to the credit of the Operating Account; and
    - (B) those funds are not required to pay any amount contemplated by paragraphs (a) to (f) (inclusive) in "*Cashflows – Pre-Enforcement Priority of Payment*" which are falling due and payable under the Finance Documents in next 45 days.
- (b) The Issuer may withdraw amounts from the Debt Service & PBCE Account:
  - (i) to pay the amounts contemplated by paragraph (g) (see "*Cashflows – Pre-Enforcement Priority of Payment*" or, if applicable, paragraphs (d) and (e) of the Post-Enforcement Priority of Payments, falling due and payable under the Finance Documents at that time;
  - (ii) in respect of any sums drawn under the PBCE Letter of Credit pursuant to the utilisation provisions relating to PBCE Rebalancing of the PBCE Letter of Credit and Reimbursement Deed, to transfer such amounts to the Principal Paying Agent for payment to the Bondholders by way of mandatory partial redemption of the Bonds; and
  - (iii) in respect of any sums drawn under the PBCE Letter of Credit pursuant to utilisation provisions relating to accelerated payments of the PBCE Letter of Credit and Reimbursement Deed, to pay any amount due in respect of interest and principal under Condition 9.2 (*Consequences of the service of Enforcement Notices and taking of Enforcement Action*) of the Bonds and any close-out amounts due and payable on termination of the Hedging Agreements in accordance with the Post-Enforcement Priority of Payments.

### *Holdco Account*

- (a) Holdco must ensure that any amount payable to Holdco is paid promptly into the Holdco Account.

- (b) Holdco shall only withdraw amounts standing to the credit of the Holdco Account if those amounts are to be applied for a purpose expressly permitted under the Transaction Documents.

#### *IntermediateCo Account*

- (a) IntermediateCo must ensure that any amount payable to IntermediateCo is paid promptly into the IntermediateCo Account.
- (b) IntermediateCo shall only withdraw amounts standing to the credit of the IntermediateCo Account if those amounts are to be applied for a purpose expressly permitted under the Transaction Documents.

#### *Cash Equivalent Investments*

- (a) The Issuer may invest in Cash Equivalent Investments from the amounts standing to the credit of any of the Reserve Accounts from time to time as is prudent, but may only invest in Cash Equivalent Investments which are held to its order. The Issuer will at all times ensure to the best of its knowledge that a prudent spread of any Cash Equivalent Investments is maintained and liquidate (or ensure that there are liquidated) Cash Equivalent Investments to the extent necessary to make payments due under the Finance Documents.
- (b) Whenever the Account Bank receives any Investment Proceeds it must transfer those funds to the Issuer who will apply such funds towards reinvesting them in further Cash Equivalent Investments nominated by the Issuer or paying them into the Account concerned with the Cash Equivalent Investment from which the Investment Proceeds derive.
- (c) Following the occurrence of an Event of Default which is continuing, if any document of title or other documentary evidence of ownership with respect to Cash Equivalent Investments comes into the possession or control of the Issuer, it must ensure the same is delivered as soon as practicable to, or to the order of, the Security Trustee.
- (d) Whenever the Account Bank or the Issuer receives any Income it must pay the Income into the Account concerned with the Cash Equivalent Investment from which the Income derives or if the Cash Equivalent Investment from which the Income derives is to be retained after the Income is received by the Issuer, reinvest the same in that Cash Equivalent Investment.
- (e) The Issuer must give directions under paragraph (b) and otherwise exercise its rights under the CTA in such manner as will ensure compliance with the applicable provisions of the Finance Documents with respect to Accounts, Cash Equivalent Investments, Investment Proceeds and Income.
- (f) The Issuer shall procure that the maximum average life of a Cash Equivalent Investment is appropriate having regard to the credits to be made to the Operating Account and payments to be made from the Operating Account or the Reserve Accounts. If any investment ceases to be a Cash Equivalent Investment, the Issuer must as soon as reasonably practicable after becoming aware of that fact (and in any event, no more than 30 Business Days after that time) replace the investment with a Cash Equivalent Investment or with cash.
- (g) Any reference in any Finance Document to the balance standing to the credit of one of the Accounts will be deemed to include a reference to the Cash Equivalent Investments in which all or part of such balance is for the time being invested. In the event of any dispute as to the value of any Cash Equivalent Investment deemed to be standing to the credit of an Account,

that value will be determined in good faith by the Security Trustee in conjunction with the Issuer.

### ***Insurance Requirements***

The Issuer and the Obligors are required to comply with the terms of the CTA in respect of the insurance it arranges for its business. Specifically, each Obligor must maintain insurances on and in relation to its business and assets against the risks and to the extent such insurances are required to be maintained pursuant to the Project Documents and to the extent as is commercially prudent in accordance with Good Industry Practice. For these purposes, those risks shall be deemed to include, without limitation, the risks set out in the CTA. All insurances must be with reputable independent insurance companies or underwriters.

Each Obligor is required to assign all its present and future (i) rights under and in respect of the Insurances and (ii) rights, benefits and interest in the proceeds payable in respect of the Insurances (other than claims money payable any liability Insurance direct to a third party in or towards discharge of a liability of that Obligor to such third party) to the Security Trustee on behalf of the Secured Creditors.

The CTA sets out further requirements on the Issuer including, but not limited to, ensuring that the policies are endorsed in favour of the Security Trustee, are assigned to the Security Trustee in favour of the Secured Creditors, that each insurance broker or agent who effects any Insurance provides the Security Trustee with a letter of undertaking, in the form scheduled to the CTA.

### **CP AGREEMENT**

The conditions precedent to, among other things, the signing of the CTA, the Issue Date and the effectiveness of the PBCE Documents are set out in a conditions precedent agreement (the **CP Agreement**) as agreed between, among others, the Bond Trustee, the Security Trustee, the Initial Hedge Counterparties and the Obligors.

### **AGENCY AGREEMENT**

Pursuant to the Agency Agreement between the Issuer, the Bond Trustee and the Principal Paying Agent, provision has been made for, among other things, payment of principal and interest in respect of the Bonds and the maintenance of a register of the holders of the Bonds.

### **ACCOUNT BANK AGREEMENT**

#### *General*

The Obligors will establish or cause to be established the: (a) Operating Account; (b) Debt Service Reserve Account; (c) Insurance Account; (d) Emergency Reserve Account; (e) DECC Decommissioning Reserve Account; (f) Working Capital Reserve Account; (g) Debt Service & PBCE Account; (h) HoldCo Account; and (i) IntermediateCo Account (the **Accounts**). The Accounts will be held with the Account Bank pursuant to the Account Bank Agreement between the Obligors, the Security Trustee, and the Account Bank. Deutsche Bank AG, London Branch will serve as the Account Bank pursuant to the Account Bank Agreement.

#### *Termination*

The Account Bank may resign its appointment upon not less than 60 days' notice to the Issuer (for itself and on behalf of the Obligors) (copied to the Security Trustee) provided that:

- (a) in respect of the Accounts, if the resignation would otherwise take effect less than 30 days before or on any Interest Payment Date, it shall not take effect until the thirtieth day following such date; and
- (b) such resignation shall not take effect until a substitute Account Bank which is a reputable and experienced United Kingdom-based financial institution that meets the criteria for an Acceptable Bank has been duly appointed under the Account Bank Agreement.

Additionally, the Issuer (for itself and on behalf of each Obligor) may revoke its appointment of the Account Bank by not less than 60 days' notice to the Account Bank (with a copy to the Security Trustee). Such revocation shall not take effect until a substitute has been duly appointed in accordance with the terms of the Account Bank Agreement, including that such substitute bank is an Acceptable Bank.

Furthermore, the Issuer shall be entitled to terminate the appointment of the Account Bank if: (i) an Insolvency Event occurs in relation to the Account Bank; (ii) the Account Bank no longer meets the criteria for an Acceptable Bank, unless if there is no other clearing bank which meets the criteria for an Acceptable Bank; (iii) the Account Bank defaults in the performance of any of its payment obligations under the Account Bank Agreement and such default is not cured or waived within five Business Days of it occurring; (iv) the Account Bank fails to act in accordance with any Account Mandate or defaults in the performance of any of its material obligations (other than payment obligations) under the Account Bank Agreement and such failure or default is not cured or waived within five Business Days of it occurring; or (v) the Account Bank defaults in the performance of any of its obligations (other than those under (iii) and (iv) above) and such default is materially prejudicial to the interests of the Secured Creditors and is not cured or waived within ten Business Days of it occurring.

## **BOND TRUST DEED**

### *General*

The Issuer and the Bond Trustee will enter into the Bond Trust Deed pursuant to which the Bonds will be constituted. The Bond Trust Deed will include the form of the Bonds and contain a covenant from the Issuer to the Bond Trustee to pay all amounts due under the Bonds. The Bond Trustee will hold the benefit of that covenant on trust for itself and the Bondholders in accordance with their respective interests.

### *Enforcement*

Notwithstanding the provisions of any other Transaction Document, the Security shall only become enforceable upon the delivery of an Enforcement Notice in accordance with the STID. Only the Bond Trustee may enforce the provisions of the Bonds or the Bond Trust Deed and no Bondholder, Receiptholder or Couponholder shall be entitled to proceed directly against the Issuer unless the Bond Trustee or Security Trustee (as the case may be), having become bound so to proceed, fails to do so within a reasonable time and such failure is continuing (provided that no Bondholder shall be entitled to take any steps or proceedings to procure the winding-up, administration or liquidation of the Issuer).

### *Waiver of an Event of Default*

The Bond Trustee may without the consent or sanction of the Bondholders, the Couponholders or the Receiptholders and without prejudice to its rights in respect of any subsequent breach, Event of Default or Potential Event of Default at any time and from time to time but only if and in so far as in its opinion the interests of the Bondholders shall not be materially prejudiced thereby:

- (a) waive or authorise any breach or proposed breach by the Issuer or any other person of any of the covenants or provisions contained in the Finance Documents or determine that any Event of Default or Potential Event of Default shall not be treated as such for the purposes of the Bond Trust Deed; or
- (b) direct the Security Trustee to waive or authorise any breach or proposed breach by the Issuer or any other person of any of the covenants or provisions contained in any Finance Document,

provided that such waiver, authorisation, determination or direction does not relate to an Entrenched Right and provided further that the Bond Trustee shall not exercise any powers conferred on it in contravention of any express direction given by an Extraordinary Resolution or by a direction under the Conditions but so that no such direction or request shall affect any waiver, authorisation or determination previously given or made.

Any such waiver, authorisation or determination may be given or made on such terms and subject to such conditions (if any) as the Bond Trustee may determine, and shall be binding on the Bondholders, Couponholders and Receiptholders and if, but only if, the Bond Trustee shall so require, shall be notified by the Issuer to the Bondholders in accordance with the Conditions as soon as practicable thereafter.

#### *Modification*

The Bond Trustee may without the consent or sanction of the Bondholders, at any time and from time to time concur with the Issuer and any other person, or direct the Security Trustee to concur with the Issuer or any other person, in making any modification to the Bond Trust Deed, the Conditions, the Bonds, the Receipts, the Coupons and/or the other Finance Documents if in the opinion of the Bond Trustee:

- (a) it may be proper to make, provided that the Bond Trustee is of the opinion that such modification will not be materially prejudicial to the interests of the Bondholders; or
- (b) such modification is of a formal, minor or technical nature or corrects a manifest error.

The Bond Trustee shall, without the consent or sanction of any of the Bondholders and/or Couponholders of any class and (subject as provided below) any other Secured Creditor, concur with the Issuer, and/or direct the Security Trustee to concur with the Issuer, in making any modification to the Bonds and/or Coupons, the Conditions, the Bond Trust Deed, the Receipts and/or the other Bond Documents or giving its consent to any event, matter or thing that is requested by the Issuer in writing in order to comply with any criteria of the Rating Agencies which may be published after the Issue Date and which modification(s) or consent(s) the Issuer certifies to the Bond Trustee and/or the Security Trustee (as applicable) in writing are required to avoid a downgrade, withdrawal or suspension of the then current ratings assigned by a Rating Agency to the Bonds provided that the Bond Trustee shall not concur with the Issuer in making any such modification or giving any such consent, or direct the Security Trustee to concur with the Issuer in making such modification, unless and until the Issuer has obtained the consent in writing of each other party to any relevant Bond Document to which such modification is applicable and provided further that if such document is a Finance Document to which the STID applies, the provision of the STID relating to modifications thereto shall apply and further provided that the Bond Trustee shall not be obliged to agree to any modification which, in the sole opinion of the Bond Trustee, would have the effect of (i) exposing the Bond Trustee to any liability against which it has not been indemnified and/or secured and/or pre-funded to its satisfaction or (ii) adding to or increasing the obligations, liabilities or duties, or decreasing the protections, of the Bond Trustee in respect of the Bonds, in the Finance Documents and/or the Conditions of the Bonds.

The Bond Trustee shall, without the consent of any of the Bondholders or Couponholders or any other Secured Creditor, concur with the Issuer, and/or direct the Security Trustee to concur with the Issuer, in making any modifications to the Finance Documents and/or the Conditions of the Bonds that are requested by the Issuer in order to enable the Issuer to comply with any requirements which apply to it under Regulation (EU) 648/2012 (the **European Market Infrastructures Regulation** or **EMIR**), subject to receipt by the Bond Trustee of a certificate of the Issuer certifying to the Bond Trustee and the Security Trustee that (x) the requested amendments are to be made solely for the purpose of enabling the Issuer to satisfy its requirements under EMIR; (y) the requested amendments do not effect a Basic Terms Modification; and (z) each of the Rating Agencies has been notified of the proposed amendments and have not made the Issuer aware that such amendments will result in a downgrade, withdrawal or suspension of the then current ratings assigned by that Rating Agency to the Bonds.

The Bond Trustee and the Security Trustee shall not be obliged to agree to any modification which, in the sole opinion of the Bond Trustee or the Security Trustee, as applicable, would have the effect of (A) exposing the Bond Trustee or the Security Trustee, as applicable, to any liability against which it has not been indemnified and/or secured and/or pre-funded to its satisfaction; or (B) increasing the obligations or duties, or decreasing the protections, of the Bond Trustee or the Security Trustee, as applicable, in the Finance Documents and/or the Conditions of the Bonds.

Any such modification may be made on such terms and subject to such conditions (if any) as the Bond Trustee may determine, shall be binding upon the Bondholders, the Couponholders and the Receiptholders and shall be notified by the Issuer to the Bondholders in accordance with the Conditions (unless the Bond Trustee agrees otherwise) and to the Rating Agencies, in each case as soon as practicable thereafter.

As soon as reasonably practicable after the giving of its consent or its agreement to waive, authorise or modify any event, matter or thing in accordance with the Bond Trust Deed, the Bond Trustee shall, at the cost of the Issuer, execute and deliver any deeds, documents or notices as may be required to be executed and/or delivered and which are provided to the Bond Trustee in order to give effect to or to implement, or direct the Security Trustee to give effect to or to implement, the relevant matter or thing which the Bond Trustee has consented to or agreed to waive, authorise or modify:

1. any waiver, authorisation or modification agreed or consent given by the Bond Trustee in accordance with the provisions of the Bond Trust Deed shall be binding on all Bondholders and each of the Bondholders shall be bound to give effect to it; and
2. the Bond Trustee is authorised by each Bondholder to execute and deliver on its behalf all documentation required to implement, or direct the Security Trustee to implement, any waiver, authorisation, modification or consent granted by the Bond Trustee in respect of this Bond Trust Deed, the Conditions, the Bonds, the Receipts, the Coupons and/or the other Finance Documents (other than a Basic Terms Modification) subject as provided in the STID in relation to any document to which it is a party or in respect of which the Security Trustee holds security and such execution and delivery by the Bond Trustee shall bind each Bondholder as if such documentation had been duly executed by it.

The Bond Trustee may, without the consent of the Bondholders, Couponholders or Receiptholders, agree to the substitution of another company (the **Substituted Obligor**) in place of the Issuer (or of any previous substitute) as the principal debtor under these presents, provided that:

2. a deed is executed or undertaking given by the Substituted Obligor to the Bond Trustee, agreeing to be bound by the Bond Trust Deed (with consequential amendments as the Bond Trustee may deem appropriate) as if the Substituted Obligor had been named in the Bond Trust Deed as the principal debtor in place of the Issuer;

3. the Substituted Obligor executes a security document as the Bond Trustee may require in order that the Substituted Obligor grants, among other things, security over all the shares that it holds in any directly owned Subsidiary, and comply with such other requirements as the Bond Trustee may direct in the interests of the Bondholders, the Couponholders and the Receiptholders;
4. if any two directors of the Substituted Obligor certify that it will be solvent immediately after such substitution, the Bond Trustee need not have regard to the Substituted Obligor's financial condition, profits or prospects or compare them with those of the Issuer; and
5. the Issuer and the Substituted Obligor comply with such other requirements as the Bond Trustee may direct in the interests of the Bondholders,

and provided always that the Bond Trustee is of the opinion that the interests of the Bondholders will not be materially prejudiced by such substitution.

An agreement by the Bond Trustee with respect to a Substituted Obligor shall, if so expressed, release the Issuer (or a previous substitute of) from any or all of its obligations under these presents. Notice of the substitution shall be given to the Bondholders within 14 days of the execution of such documents and compliance with such requirements and the Substituted Obligor shall be deemed to be named in the Bond Trust Deed as the principal debtor in place of the Issuer (or of any previous substitute).

#### *Action, proceedings and indemnification*

The Bond Trustee shall not be bound to take any actions, proceedings, or steps in relation to the Bond Trust Deed, the Bonds or any other Finance Document unless directed or requested to do by (a) an Extraordinary Resolution; or (b) (in respect of all matters other than relating to an Enforcement Notice) in writing by the holders of at least 25 per cent. in Outstanding Principal Amount of the Bonds or (c) in respect of any matter relating to an Enforcement Notice, in accordance with the provisions of the STID, and then only if it shall be indemnified and/or secured and/or pre-funded to its satisfaction.

Only the Bond Trustee may enforce the provisions of the Bond Trust Deed or the other Finance Documents (to the extent that it is able to do so).

#### *Provisions for Voting*

On receipt of a STID Proposal from the Security Trustee, the Bond Trustee shall promptly send a copy of such STID Proposal to the Bondholders in accordance with the Conditions.

Each Bondholder may only vote or instruct the Bond Trustee by way of Block Voting Instruction or (if notified in advance) by way of Emailed Instruction and no meetings of Bondholders will be held in respect of any such instruction or Vote.

For the purposes of determining the Votes cast in respect of a STID Proposal by a Bondholder, each Bondholder shall have one vote in respect of each £1 of Outstanding Principal Amount of the Bonds for the time being outstanding held or represented by it.

Each Bondholder must vote on or prior to the time specified by (a) the Principal Paying Agent and/or relevant clearing system in order to enable the Principal Paying Agent to issue a Block Voting Instruction on the Voting Date; or (b) the Bond Trustee in respect of an Emailed Instruction.



In respect of each STID Proposal, the Bond Trustee shall vote in respect of the Bondholders by promptly notifying the Security Trustee, in accordance with the STID, of all instructions or Votes comprised in (i) a Block Voting Instruction received by it from the Principal Paying Agent; or (ii) Emailed Instructions received from the Bondholders on or prior to the Voting Date.

The matter set out in a STID Proposal duly approved by the requisite majority of the Senior Voting Debt in accordance with the STID shall be binding on all Bondholders (subject to any Entrenched Rights). The Bond Trustee shall, following receipt from the Security Trustee of the result of any vote in respect of a STID Proposal, promptly notify the Bondholders in accordance with the Conditions.

Where a Bond is represented by a Global Bond, unless the Bond Trustee otherwise agrees that Emailed Instructions will only be accepted in respect of a matter, the holder of such Bond may require the Principal Paying Agent to issue a Block Voting Instruction by arranging (to the satisfaction of the Principal Paying Agent) for such Bond to be blocked in an account with a clearing system not later than 24 hours before the Voting Date or such other time as is specified by the Principal Paying Agent and/or relevant clearing system in order to enable the Principal Paying Agent to issue a Block Voting Instruction on the Voting Date. The holder of a Definitive Bond may require the Principal Paying Agent to issue a Block Voting Instruction by delivering to the Principal Paying Agent written instructions not later than 24 hours before the Voting Date.

The Bond Trustee shall not be obliged to investigate the validity of any Block Voting Instruction or Emailed Instruction the content of which it shall be entitled to rely on absolutely without liability to any person. Any such Block Voting Instruction or Emailed Instruction shall be conclusive and binding on the parties hereto and to the Bondholders.

Any vote cast by the Bond Trustee in accordance with the relevant Block Voting Instruction or Emailed Instruction in relation to the Bonds shall be valid even if such Block Voting Instruction or Emailed Instruction has been amended, revoked or reissued, provided that the Bond Trustee has not been notified in writing of such amendment, revocation or reissue by the time which is 24 hours before the Voting Date.

Unless revoked, a Block Voting Instruction or Emailed Instruction shall remain in force if the Decision Period is extended under the STID.

## **SECURITY TRUST AND INTERCREDITOR DEED**

### ***General***

The purpose of the STID is to regulate, among other things, (a) the claims of the Secured Creditors; (b) the exercise, acceleration and enforcement of rights by the Secured Creditors; (c) the rights of the Secured Creditors to instruct the Security Trustee; (d) the Entrenched Rights of the Secured Creditors; and (e) the giving of consents and waivers and the making of modifications to the Common Documents, Bond Documents, Hedging Agreements and PBCE Documents.

The STID also provides for the ranking in point of payment of the claims of the Secured Creditors both before and after the delivery of an Enforcement Notice and for the subordination of all claims relating to Subordinated Intragroup Liabilities.

### ***Decision-making protocol***

#### ***General***

The STID contains detailed provisions setting out the voting and instruction mechanics in respect of (a) Ordinary Voting Matters; (b) Extraordinary Voting Matters; (c) Entrenched Rights; and (d) PBCE

Entrenched Rights (as further described below in "*Types of Voting Categories*"). Subject to Entrenched Rights (which will always require the consent of all of the relevant Secured Creditors who are affected), PBCE Entrenched Rights (which will always require the consent of the PBCE Provider) and Extraordinary Voting Matters, the Security Trustee will only agree to any modification of or grant any consent or waiver under the Common Document with the consent of or if so instructed by the relevant majority of Qualifying Secured Creditors provided that the relevant Quorum Requirement has been met.

#### *STID Proposal*

The Issuer is entitled to provide the Security Trustee, the Bond Trustee, the Bondholders, the Hedge Counterparties and the PBCE Provider with written notice requesting any modification, consent or waiver it requires under or in respect of any Finance Document (a **STID Proposal**). The notice will certify whether such STID Proposal is a Discretion Matter, an Ordinary Voting Matter or an Extraordinary Voting Matter or whether it gives rise to an Entrenched Right (as further described in "*Types of Voting Categories*" below) and stating the Decision Period (as further described in "*Decision Periods*" below).

#### *Determination of voting category*

The determination of the voting category made by the Issuer in respect of a STID Proposal (as further described in "*STID Proposal*" above) shall be binding on the Secured Creditors unless the Bond Trustee on the instruction of Bondholders representing at least 10 per cent. of the aggregate amount of the outstanding Bond Liabilities, a Hedge Counterparty or (in relation to a matter designated as a Discretion Matter) the Security Trustee itself (a **Determination Dissenting Creditor**) informs the Security Trustee and the Issuer in writing within 20 Business Days of receipt from the Security Trustee of the relevant STID Voting Request or (in respect of a Discretion Matter) the STID Proposal that the Determination Dissenting Creditors disagree with the determination of voting category made in such STID Proposal (the **Determination Dissenting Notice**). The Determination Dissenting Notice should also specify the voting category of the relevant STID Proposal which each Determination Dissenting Creditor proposes should apply for the relevant STID Proposal.

The determination made by the Issuer of whether a STID Proposal (as further described in "*STID Proposal*" above) gives rise to an Entrenched Right in respect of a Secured Creditor shall be binding on the Secured Creditors unless the Bond Trustee on the instruction of Bondholders representing at least 10 per cent. of the aggregate amount of the outstanding Bond Liabilities, or any other Secured Creditor (other than any Bondholder) (an **Entrenched Right Dissenting Creditor**) informs the Security Trustee and the Issuer in writing within 20 Business Days of receipt of the STID Voting Request that an Entrenched Right Dissenting Creditor disagrees with the determination of whether such STID Proposal gives rise to an Entrenched Right of such Secured Creditor (the **Entrenched Right Dissenting Notice**). The Entrenched Right Dissenting Notice shall also specify the Affected Secured Creditor.

#### *STID Voting Request*

The Security Trustee shall, following receipt of a STID Proposal (other than in relation to a Discretion Matter), promptly but no later than three Business Days thereafter send a request (a **STID Voting Request**) to the Bond Trustee, the Bondholders, the Hedge Counterparties and the PBCE Provider, which shall:

- (a) request a vote in writing on the STID Proposal from each relevant Secured Creditor in accordance with the STID no later than the expiry of the Decision Period for or against implementation of that STID Proposal;

- (b) if the STID Proposal gives rise to an Entrenched Right, request that each Affected Secured Creditor confirms whether or not it wishes to consent to the relevant STID Proposal that gives rise to the Entrenched Right by no later than the expiry of the Decision Period; and
- (c) notify each recipient of the STID Voting Request that:
  - (i) the determination of the Issuer on the voting category; and
  - (ii) the determination of the Issuer as to whether the relevant STID Proposal gives rise to an Entrenched Right and the identity of the Affected Secured Creditors,

shall be binding on them unless, in each case other than any STID Proposal relating to paragraphs (k) or (o) in "*Summary of the other Transaction Documents – Common Terms Agreement – Covenants – Information Covenants*" above, the Security Trustee:

- (iii) is instructed by the Bond Trustee on the instruction of Bondholders representing at least 10 per cent. of the aggregate amount of the Senior Voting Debt of the Bonds or a Hedge Counterparty to deliver a Determination Dissenting Notice; or
- (iv) receives from the Bond Trustee (on the instruction of Bondholders representing at least 10 per cent. of the aggregate amount of the Senior Voting Debt of the Bonds), or any other Secured Creditor (other than any Bondholder) an Entrenched Right Dissenting Notice,

within 20 Business Days of receipt of the relevant STID Voting Request.

No physical meeting of the Bondholders shall be necessary to vote in respect of a STID Voting Request, disagree with the determination of the Issuer on the voting category or as to whether the relevant STID Proposal gives rise to an Entrenched Right or approve an Ordinary Resolution, Extraordinary Resolution or other resolution in accordance with the terms of the STID. The Bond Trustee may, however, upon request by one or more Bondholder(s) representing, in aggregate, at least 10 per cent. of the Senior Voting Debt of the Bonds, convene a physical meeting of the Bondholders.

### ***Types of Voting Categories and Voting***

#### ***Ordinary Voting Matters***

Ordinary Voting Matters include all matters which are not designated as Extraordinary Voting Matters or Discretion Matters (see "*– Extraordinary Voting Matters*" and "*– Discretion Matters*" below). Unless Senior Creditors representing in aggregate at least 25 per cent. of the Senior Voting Debt have responded to a STID Voting Request before the end of the relevant Decision Period, to inform the Security Trustee that they object to the STID Proposal, a resolution in respect of an Ordinary Voting Matter will be passed.

#### ***Extraordinary Voting Matters***

The STID also describes the treatment of Extraordinary Voting Matters. If the Quorum Requirement for an Extraordinary Voting Matter is met (see "*– Quorum Requirements*" below), the majority required to pass a resolution in respect of an Extraordinary Voting Matter will be at least 66.67 per cent. of the Senior Voting Debt in accordance with the section entitled "*– Method and Quantum of Voting*" below.

### *Entrenched Rights*

Entrenched Rights are rights that cannot be modified or waived in accordance with the STID without the consent of the Affected Secured Creditor(s).

The **Senior Creditor Entrenched Rights** of a Senior Creditor, including of the Bondholders, are as follows:

- (a) any amendment or waiver which would have the effect of adversely changing any Priority of Payments or application thereof in respect of the relevant Senior Creditor or otherwise adversely affect the ranking of the relevant Senior Creditor;
- (b) any amendment or waiver which would delay the date fixed for payment of principal, interest, Make-Whole Amount or any other amount in respect of the relevant Senior Creditor's debt or would reduce the amount of principal, the rate of interest, Make-Whole Amount or any other amount payable in respect of such debt;
- (c) any amendment or waiver which would bring forward the date fixed for payment of principal or interest in respect of the relevant Senior Creditor's debt or would increase the amount of principal, the rate of interest payable, Make-Whole Amount or any other amount on any date in respect of the relevant Senior Creditor's debt;
- (d) any amendment or waiver which would result in the exchange of the relevant Senior Creditor's debt for, or the conversion of such debt into, shares, notes or other obligations of any other person;
- (e) any amendment or waiver which would change or would relate to the currency of payment due under the relevant Senior Creditor's debt;
- (f) any amendment or waiver which would have the effect of changing or would relate to the rights of the relevant Senior Creditor to receive any sums owing to it for its own account in respect of fees, costs, charges, liabilities, taxes, damages, proceedings, claims and demands in relation to any Finance Document to which it is a party;
- (g) any amendment or waiver which would change or would relate to any existing obligation of an Obligor to gross up any payment in respect of the relevant Senior Creditor's debt in the event of the imposition of withholding taxes;
- (h) any amendment or waiver which would result in an increase in the relevant Senior Creditor's obligations or liabilities, or would adversely modify the relevant Senior Creditor's rights, under or in connection with the STID and/or any other Finance Document;
- (i) any amendment which would change or would have the effect of changing any matter which is the subject of the relevant Senior Creditor's Entrenched Right;
- (j) any amendment which would have the effect of changing the circumstances in which the relevant Senior Creditor is entitled to transfer its rights or obligations under, or its interest in, any Finance Document;
- (k) in relation to the Bond Trustee (on the instruction of the Bondholders) and the Hedge Counterparties only:
  - (i) any amendment to Schedule 3 (Events of Default) of the Common Terms Agreement or the definition of Event of Default;

- (ii) any amendment or waiver which would change or would have the effect of changing:
  - (A) any of the following definitions:
    - I. Discretion Matter;
    - II. Entrenched Rights;
    - III. Extraordinary Voting Matter;
    - IV. Ordinary Voting Matter;
    - V. Permitted Financial Indebtedness;
    - VI. Qualifying Secured Creditors;
    - VII. Qualifying Secured Debt;
    - VIII. Secured Creditor;
    - IX. Secured Liabilities;
    - X. Senior Voting Debt; or
    - XI. STID Proposal;
  - (B) any of the following:
    - I. the Decision Period,
    - II. the Quorum Requirement or Majority Requirement required in respect of any Ordinary Voting Matter,
    - III. the Quorum Requirement or Majority Requirement required in respect of any Extraordinary Voting Matter;
    - IV. an Enforcement Instruction Notice or Further Enforcement Instruction Notice;
    - V. Clause 22 (Consents, Amendments and Override) of the STID;
  - (C) Clause 13.2 (Quorum and Voting requirement in respect of an Enforcement Instruction Notice and a Further Enforcement Notice) or Schedule 2 (STID Decision Making Protocol) of the STID; or
  - (D) paragraph 27 (Treasury Transactions) of part 3 (General Covenants) of Schedule 2 (Obligor Covenants) to the Common Terms Agreement;
- (iii) any amendments which would have the effect of changing the nature or the scope of, or would release any Security, unless equivalent replacement security is taken at the same time;
- (iv) any increase in Permitted Financial Indebtedness, including fees, charges, interest or margin, changes in the repayment profile of any Financial Indebtedness, or other material amendments of terms of such Financial Indebtedness; or

- (v) any amendments to or waiver of the required levels of, or the basis or timing of, calculation of the Historic DSCR, the Projected DSCR or the Debt Life Cover Ratio;
- (l) in relation to the Bond Trustee (on the instruction of the Bondholders) only:
  - (i) any amendment or waiver which would change or have the effect of changing:
    - (A) any of the following definitions: (1) Event of Default; (2) Permitted Acquisition; (3) Permitted Business; (5) Restricted Payment; or (6) Restricted Payment Condition;
    - (B) any of the following:
      - I. paragraph 6 (Merger), paragraph 10 (Holding Companies), paragraph 12 (Pari Passu ranking), paragraph 14 (Negative Pledge), paragraph 18 (No Guarantees or Indemnities), paragraph 19 (Restricted Payments), paragraph 25 (Amendments to constitutional documents and other documents) of part 3 (General Covenants) of schedule 2 (Obligor Covenants) of the Common Terms Agreement; or
      - II. paragraph 21 (Equity Cure) of schedule 3 (Events of Default) of the Common Terms Agreement;
  - (ii) any waiver of, or amendment to, any condition precedent to the issue of any Bonds, or the issue of any demand under the PBCE Letter of Credit or effectiveness of the PBCE Letter of Credit and Reimbursement Deed; or
  - (iii) any amendment to the terms of the Bond Documents (and including, for the avoidance of doubt, any provisions relating to payments due to the Bond Creditors (including payments of interest, principal and fees), the currency of such payments, and the obligation of the Obligors to gross up any such payment in the event of imposition of withholding tax); or
  - (iv) any consent by the Issuer to receive a section E (Offshore Transmission Owner of Last Resort) direction from the Authority;
- (m) in respect of a Hedge Counterparty only, any amendment which would change or have the effect of changing:
  - (i) Clause 5 (Hedge Counterparties and Hedging Liabilities) of the STID; or
  - (ii) the terms of a Hedging Agreement

The Senior Creditor Entrenched Rights only remain valid until the Senior Discharge Date.

The “**PBCE Entrenched Rights**” of the PBCE Provider are as follows:

- (a) any amendment to the terms of the PBCE Documents or any related fee letter (and including, for the avoidance of doubt, any provisions relating to payments due to the PBCE Provider (including payments of interest, principal and fees), the currency of such payments, and the obligation of the Issuer to gross up any such payment in the event of imposition of withholding tax);

- (b) any amendment to the PBCE Provider's decision-making and voting rights, including any amendment which would change or would have the effect of changing (i) any of the definitions relating to majority thresholds and voting groups; (ii) the definition of the PBCE Entrenched Rights; (iii) the decision period, quorum requirement or voting majority required in respect of any decision, waiver, determination or enforcement instruction; (iv) the provisions of this Deed setting out the effect of the PBCE Entrenched Rights; or (v) how the Secured Creditors cast their votes or exercise their decision-making rights under the STID;
- (c) any amendment which would have the effect of adversely changing any Priority of Payments or application thereof in respect of the PBCE Provider (whether directly or indirectly);
- (d) any partial or total voluntary redemption of the Bonds by the Issuer unless there is a full payment of outstanding amounts under the PBCE Letter of Credit and Reimbursement Deed (drawn amounts plus current and capitalised interest) on a senior basis, or a pro rata reduction of the maximum amount of the PBCE Letter of Credit (and, as the case may be, a pro rata repayment of the drawn amounts plus current interest under the PBCE Letter of Credit and Reimbursement Deed) if the PBCE Provider has confirmed that the proposed voluntary redemption will not have a material adverse effect on its exposure and rights under the PBCE Letter of Credit and Reimbursement Deed;
- (e) any increase in Permitted Financial Indebtedness, including fees, charges, interest or margin, changes in the repayment profile of any Financial Indebtedness, or other material amendments of terms of such Financial Indebtedness;
- (f) any amendments to or waiver of the basis or timing of calculation of any ratios;
- (g) any amendment to, or waiver of which would constitute any amendment to, or waiver of the provisions of the following Events of Default under the Common Terms Agreement:
  - (i) paragraph 1 (Non Payment) of Schedule 3 (Event of Default) to the Common Terms Agreement;
  - (ii) paragraph 2 (Breach of Financial Covenants) of Schedule 3 (Event of Default) of the Common Terms Agreement;
  - (iii) paragraph 3 (Breach of Other Obligations) of Schedule 3 (Event of Default) to the Common Terms Agreement but only so far as it relates to:
    - (A) an increase in the Permitted Financial Indebtedness of an Obligor or any change to the repayment profile of any Financial Indebtedness or other material amendments to the terms of such Financial Indebtedness;
    - (B) a breach of the PBCE Letter of Credit by the Issuer;
    - (C) an approval of any of those events listed in paragraph 6 (Mergers) or paragraph 15 (Disposals) of part 3 (General Covenants) of Schedule 2 (Obligor Covenants) to the Common Terms Agreement; or
  - (iv) paragraph 11 (Unlawfulness and Invalidity) of Schedule 3 (Event of Default) to the Common Terms Agreement;
- (h) any amendment to or waiver of any right, under a Transaction Document which has or is likely to have a material adverse effect on the cashflows of the Issuer, other than during the subsistence of a Distress Event;

- (i) during the subsistence of a Distress Event, any amendment to or waiver of any right under a Transaction Document which either:
  - (i) could reasonably be expected to result in a material deterioration of the DLCR in any Relevant Period; or
  - (ii) could reasonably be expected to result in a material deterioration of the Issuer's ability to repay amounts outstanding under the PBCE Letter of Credit;
- (j) any amendment to the definitions of Environment or Environmental Law in the Master Definitions Agreement;
- (k) any amendment to the definition of Enforcement Action in the Master Definitions Agreement;
- (l) any amendment to the definition of Permitted Business in the Master Definitions Agreement or any proposal made by the Issuer to carry on any other business as contemplated by paragraph (b) of that definition;
- (m) any amendment to the definitions of Restricted Payment or Restricted Payment Conditions in the Master Definitions Agreement;
- (n) any amendment which would have the effect of changing the nature or the scope of, or would release any Security, unless equivalent replacement security is taken at the same time; and
- (o) any waiver of, or amendment to, any condition precedent to the availability of any funds under the PBCE Letter of Credit.

#### *Discretion Matters*

The Security Trustee may (subject to complying with the provisions of STID in relation to any modification, consent or waiver in respect of any Finance Document where such modification, consent or waiver is an Ordinary Voting Matter, Extraordinary Voting Matter or Entrenched Right), as requested by the Issuer by way of a STID Proposal, at its sole discretion, concur with the Issuer in respect of any Discretion Matter.

The Security Trustee shall be under no obligation to exercise its discretion in respect of any STID Proposal designated by the Issuer as a Discretion Matter.

#### *Quorum Requirements*

Pursuant to the terms of the STID, the Quorum Requirement is in respect of an Extraordinary Voting Matter shall initially be one or more Senior Creditors representing, in aggregate, at least 20 per cent. of the Senior Voting Debt **provided that**, if the quorum requirement has not been met on or before the Business Day immediately preceding the last day of the Decision Period, the quorum requirement shall be reduced to one or more Senior Creditors representing, in aggregate, 10 per cent. of the Senior Voting Debt, and the Decision Period shall be extended for a period of a further 10 Business Days from the expiry of the initial Decision Period.

#### *Decision Periods*

The STID includes provisions specifying the relevant decision periods within which votes must be cast (each a **Decision Period**) which period shall be (subject to the issuance of a Determination Dissenting Notice or an Entrenched Right Dissenting Notice):



- (a) not less than 10 Business Days from the date of the commencement of the Decision Period for any Discretion Matter;
- (b) not less than 15 Business Days from the date of the commencement of the Decision Period for any Ordinary Voting Matter; and
- (c) not less than 15 Business Days from the date of the commencement of the Decision Period for any Extraordinary Voting Matter (which may be extended for a further period of ten Business Days if the Quorum Requirement for the relevant Extraordinary Voting Matter has not been met within the initial Decision Period).

### ***Qualifying Secured Debt***

#### *General*

Creditors to whom Qualifying Secured Debt is owed are entitled to vote the amount of such debt when consenting to proposals made by the Issuer or instructing the Security Trustee to take action in accordance with the STID. Subject to Entrenched Rights, only the relevant Qualifying Secured Creditors that are owed, or deemed to be owed, Qualifying Secured Debt may vote.

#### *Qualifying Secured Debt*

Qualifying Secured Debt comprises all indebtedness owed by the Obligors to each of (i) each Hedge Counterparty; (ii) the Bond Trustee on the instruction of the Bondholders; and (iii) the PBCE Provider (the **Qualifying Secured Creditors**).

#### *Determining relevant percentage of Qualifying Secured Debt*

For the purposes of determining the relevant percentage of Qualifying Secured Debt that has voted for or against any Enforcement Action, the Security Trustee shall take instructions from:

- (a) the Bond Trustee, as to the outstanding principal amount of Bonds;
- (b) the Hedge Counterparties, as to the amount of their Senior Voting Debt under the Hedging Agreements; and
- (c) the PBCE Provider, as to the principal amounts drawn under the PBCE Letter of Credit which have not been reimbursed under the PBCE Letter of Credit and Reimbursement Deed.

#### *Method and Quantum of Voting*

The votes of Secured Creditors in respect of a STID Proposal will be cast by those Secured Creditors that are entitled to vote in accordance with the provisions of the STID (in the case of the Bondholders, through the Bond Trustee on their instruction) and will count in respect of Quorum Requirements and Majority Requirements as follows:

- (a) subject to the calling of a Bondholders' meeting if required and subject to any Entrenched Rights, in respect of the Bonds and a STID Proposal:
  - (i) subject to paragraph (iii) below, in an amount equal to the aggregate of the Senior Voting Debt of the Bonds which voted for the relevant STID Proposal in accordance with the STID Decision Making Protocol, for such STID Proposal;

- (ii) subject to paragraph (iii) below), in an amount equal to the aggregate of the Senior Voting Debt of the Bonds which voted against the relevant STID Proposal in accordance with the STID Decision Making Protocol, for such STID Proposal;
- (iii) if either (A) or (B) below applies to the Bonds the above subparagraphs (i) and (ii) shall not be applied to the Bonds:
  - (A) if, in respect of the Bonds and a STID Proposal:
    - I. 25 per cent. or more of the Senior Voting Debt of such Bonds voted in accordance with the STID Decision Making Protocol; and
    - II. 75 per cent. or more of the Senior Voting Debt of the Bonds which so voted, voted the same way,

then the entire Senior Voting Debt of the Bonds will count as having voted in such way, both in respect of Quorum Requirements and Majority Requirements;
  - (B) if, in respect of the Bonds and a STID Proposal:
    - I. 25 per cent. or more of the Senior Voting Debt of the Bonds voted in accordance with the STID Decision Making Protocol; but
    - II. less than 75 per cent. of the Senior Voting Debt of the Bonds which so voted, voted the same way,

then the entire Senior Voting Debt of the Bonds will count for the purposes of Quorum Requirements (but not Majority Requirements, for which they will count on a pound-for-pound basis either for or against the STID Proposal according to their vote in accordance with subparagraphs (i) and (ii) above);
- (b) subject to paragraph (e), in respect of the Bonds and a STID Proposal where a Bondholders' meeting was called, then the entire Senior Voting Debt of the Bonds will count in respect of Quorum Requirements and Majority Requirements either for or against the STID Proposal according to the outcome of such Bondholders' meeting;
- (c) subject to paragraphs (e) and (f) below, in respect of a Hedge Counterparty and a Hedging Agreement, in an amount equal to the Senior Voting Debt of such Hedging Agreement for or against (as the case may be) the STID Proposal;
- (d) subject to paragraph (e), in respect of the PBCE Provider and the PBCE Documents, in an amount equal to any drawn but unreimbursed amounts under the PBCE Letter of Credit for or against (as the case may be) the STID Proposal;
- (e) no Secured Creditor which is entitled to vote shall cast a vote unless it is authorised or permitted so to do under the Finance Documents (or, in respect of the Bond Trustee, unless it has been duly instructed in accordance with the provisions of the Bond Trust Deed). If a Secured Creditor which is entitled to vote does not vote (including, in respect of the Bond Trustee, due to a lack of due authorisation, permission and/or no instructions, or inconclusive instructions, from the relevant Bondholders and/or failure to achieve a quorum or majority threshold under the Bond Trust Deed) then:

- (i) in respect of a Quorum Requirement, the relevant Senior Voting Debt which could have been voted (or, in respect of the PBCE Provider where it is entitled to vote, the outstanding principal amount under the PBCE Letter of Credit), will not count towards the numerator of any Quorum Requirement, but will count towards the denominator of such Quorum Requirement (being the entire outstanding principal amount of all Secured Debt entitled to vote); and
  - (ii) in respect of a Majority Requirement, the relevant Senior Voting Debt which could have been voted (or, in respect of the PBCE Provider where it is entitled to vote, the outstanding principal amount under the PBCE Letter of Credit), will not count towards either the numerator or the denominator of such Majority Requirement (such Majority Requirement being calculated on the basis of being the entire outstanding principal amount of all Secured Debt entitled to vote that actually voted).
- (f) Subject to the Entrenched Rights no Hedge Counterparty shall be entitled to vote in respect of a STID Proposal unless and to the extent that such STID Proposal relates to:
- (i) any waiver of an Event of Default;
  - (ii) any amendment to or waiver of paragraph 14 (Negative pledge), paragraph 15 (Disposals), paragraph 19 (Restricted Payments) or paragraph 22 (Insurance) of part 3 (General Covenants) of schedule 2 (Obligor Covenants) of the Common Terms Agreement;
  - (iii) any amendment to the definitions of:
    - (A) Permitted Business;
    - (B) Permitted Disposal;
    - (C) Permitted Security;
    - (D) Permitted Transaction;
    - (E) Restricted Payment; or
    - (F) Restricted Payment Condition,

provided that nothing in this paragraph (f) shall restrict the Hedge Counterparties from voting in respect of any matter referred to in Clause 13 (Enforcement Action) or clause 15.28 (Instruction to Issue a Notice of Demand) of the STID.

### ***Enforcement and Acceleration***

Following an Event of Default and for so long as it is continuing the Security Trustee may, or if so requested by the PBCE Provider, the Bond Trustee or any Hedge Counterparty, the Security Trustee will, by notice, promptly request an instruction (**Enforcement Instruction Notice**) from the Qualifying Secured Creditors (an **Enforcement Instruction**) as to whether the Security Trustee should deliver an Enforcement Notice to enforce all or part of the Security or to take any other Enforcement Action. At any time following the delivery of an Enforcement Instruction Notice, the Security Trustee may, or if so requested by the PBCE Provider, the Bond Trustee or any Hedge Counterparty it shall, promptly request by notice (a **Further Enforcement Instruction Notice**) an Enforcement Instruction as to whether the Security Trustee should take any further Enforcement Action.

*Quorum and voting requirements in respect of an Enforcement Instruction Notice and a Further Enforcement Instruction Notice*

With respect to an Enforcement Instruction Notice or Further Enforcement Instruction Notice:

- (a) the references to 25 per cent. in paragraphs (a)(iii)(A) and (a)(iii)(B) (see "*Method and Quantum of Voting*" above) shall be deemed to be references to 40 per cent.;
- (b) the Decision Period (see "*Decision Periods*" above) shall not apply, but no instruction of Qualifying Secured Creditors shall be effective unless the relevant Quorum Requirement (if applicable) and Majority Requirement specified below (as applicable) have been satisfied within 90 days of the delivery by the Security Trustee of an Enforcement Instruction Notice or Further Enforcement Instruction Notice.

When voting on an Enforcement Instruction Notice or a Further Enforcement Notice the Quorum Requirement shall be:

- (i) one or more Qualifying Secured Creditors representing, in aggregate, at least 75 per cent. of the Qualifying Secured Debt in respect of any Enforcement Instruction Notice or Further Enforcement Instruction Notice delivered prior to the date falling nine months from the date of the occurrence of the Event of Default (which has continued unremedied for that period);
- (ii) one or more Qualifying Secured Creditors representing, in aggregate, at least 40 per cent. of the Qualifying Secured Debt in respect of any Enforcement Instruction Notice or Further Enforcement Instruction Notice delivered on or after the date falling nine months but prior to 18 months from the date of the occurrence of the Event of Default (which has continued unremedied for that period); and
- (iii) one or more Qualifying Secured Creditors representing, in aggregate, at least 10 per cent. of the Qualifying Secured Debt in respect of any Enforcement Instruction Notice or Further Enforcement Instruction Notice delivered on or after the date falling 18 months from the occurrence of the Event of Default (which has continued unremedied for that period).

When voting on an Enforcement Instruction Notice the majority required to approve the Enforcement Instruction shall be Qualifying Secured Creditors representing, in aggregate, at least a simple majority of the Qualifying Secured Debt as represented at such vote in the case of subparagraphs (i) and (ii) above, and shall be Qualifying Secured Creditors representing, in aggregate, at least 20 per cent. of the Qualifying Secured Debt as represented at such vote in the case of subparagraph (iii) above, provided that, once the Security Trustee has received votes in favour of the resolution from Qualifying Secured Creditors representing, in aggregate, at least a simple majority of the Qualifying Secured Debt (in the case of subparagraphs (i) and (ii) above) or representing at least 20 per cent. of the Qualifying Secured Debt (in the case of subparagraph (iii) above), no further votes will be taken into account notwithstanding the fact that the Security Trustee has yet to receive votes from all Qualifying Secured Creditors in respect of the relevant Qualifying Secured Debt.

No Enforcement Action in relation to a Default under paragraphs (b)(i) or (b)(ii) (Breach of Financial Covenant and other obligations) (see "*Description of the other Transaction Documents – Common Terms Agreement - Events of Default*" above) shall be permitted without the prior written consent of the PBCE Provider at any time while the PBCE Available Amount is greater than zero.

Where as a result of the operation of the paragraph entitled "(v) Protected rights of the Issuer as holder of the Transmission Licence" (see "*Description of the other Transaction Documents – Common Terms Agreement – Events of Default – (v) Protected rights of the Issuer as holder of the Transmission Licence*" above) the Secured Creditors have not been able to accelerate the Secured

Liabilities in full then (a) notwithstanding such circumstances all amounts received or recovered by the Security Trustee pursuant to any partial enforcement of the Security Documents shall be applied in accordance with the Post-Enforcement Priority of Payments as if a full acceleration of the Secured Liabilities had been effected and the Finance Documents enforced accordingly (see "*Cashflows - Post-Enforcement Priority of Payment*" for a detailed description) and (b) as soon as paragraph (v)(i) of "(v) Protected rights of the Issuer as holder of the Transmission Licence" (see " – *Common Terms Agreement - Events of Default*" above) no longer applies (including as a result of the transfer of the shares of Issuer to another person) Enforcement Action (including acceleration) may be effected by the Secured Creditors in accordance with the Finance Documents.

### **Post-Enforcement Priority of Payment**

Following the delivery of an Enforcement Notice, the whole of the Security will become enforceable. Subject to certain matters and to certain exceptions, following an enforcement, any proceeds of enforcement or other moneys held by the Security Trustee under the STID will be applied by the Security Trustee in accordance with the Post-Enforcement Priority of Payments waterfall. See "*Cashflows – Post-Enforcement Priority of Payment*" for a detailed description.

### ***Permitted Enforcement – Hedge Counterparties***

To the extent it is able to do so under the relevant Hedging Agreement (see below), if (i) a Hedging Force Majeure has occurred in respect of that Hedging Agreement; (ii) if the Bonds have been redeemed in full or cancelled in full in accordance with Condition 6.2, 6.3, 6.5 or 6.6, provided that there is no amount drawn under the PBCE Letter of Credit which has not been reimbursed in full (together, with applicable interest, costs and expenses); (iii) if an Obligor fails to make any scheduled payment which is due and payable under the relevant Hedging Agreement; (iv) if an insolvency-related Event of Default occurs and is continuing in relation to the Issuer; (v) if an Obligor is or is deemed to be in breach of the maximum inflation rate risk hedging requirements specified in the CTA, provided that the Hedge Counterparty may only terminate or close-out a proportion of the transactions under the relevant Hedging Agreement equal to the proportion of the transactions under all Hedging Agreements that may be terminated or closed-out in order to comply with such requirements; or (vi) following delivery to it of any Enforcement Notice from the Security Trustee, a Hedge Counterparty may (where permitted under the relevant Hedging Agreement) accelerate and declare immediately due and payable the relevant Early Termination Amount (as defined in the relevant Hedging Agreement) to the extent the same has not already been fully paid by way of Deferred Payments. For the avoidance of doubt, a Hedge Counterparty will be entitled to apply Close-Out Netting in accordance with the terms of the relevant Hedging Agreement in respect of any hedging transaction closed out in accordance with this paragraph. Save for the foregoing, the Hedge Counterparties shall not be entitled to terminate or close out any Hedging Transaction.

### **Hedging Agreements**

#### ***General***

The Obligors are required to enter into inflation-linked swap transactions with the Hedge Counterparties. All Hedging Agreements entered into will be required to be in the form, as amended by the parties thereto, of the 2002 ISDA Master Agreement or any successor thereto published by ISDA unless otherwise agreed by the Security Trustee (acting in accordance with the STID).

#### ***Principles relating to the termination of Hedging Agreements***

A Hedge Counterparty may only terminate a Hedging Agreement prior its stated maturity:

- (a) if a Hedging Force Majeure has occurred in respect of that Hedging Agreement;

- (b) following a failure by an Obligor to make a scheduled payment which is due and payable under the relevant Hedging Agreement;
- (c) the Bonds have been redeemed in full or cancelled in full in accordance with Conditions, 6.2, 6.3, 6.5 or 6.6 provided that there is no amount drawn under the PBCE Letter of Credit which has not been reimbursed in full in accordance with the PBCE Letter of Credit and Reimbursement Deed (together with applicable interest, costs and expenses which may be due and payable hereunder);
- (d) following an insolvency related Event of Default in relation to the Issuer which is continuing;
- (e) if the Issuer is or is deemed to be over-hedged for the purposes of the Common Terms Agreement (and then only to the extent of the over-hedging); or
- (f) following delivery to it of any Enforcement Notice from the Security Trustee.

## CASHFLOWS

### *Pre-Enforcement Priority of Payment*

Prior to the delivery of an Enforcement Notice, the Issuer may withdraw amounts from the Operating Account if they are applied (without double counting) for the following purposes and in the following order (the **Pre-Enforcement Priority of Payment**):

- (a) *first*, pro rata and *pari passu* toward the costs, fees, expenses and indemnities (if any) of the Security Trustee and any Receiver appointed by the Security Trustee;
- (b) *second*, towards the costs, fees, expenses and indemnities (if any) of the Bond Trustee;
- (c) *third*, pro rata and *pari passu* toward the costs, fees, expenses and indemnities (if any) of the Account Bank and each Agent;
- (d) *fourth*, pro rata and *pari passu* in payment of any Project Costs due but unpaid;
- (e) *fifth*, pro rata and *pari passu* in payment of any Operating Costs and Taxes due but unpaid;
- (f) *sixth*, pro rata and *pari passu* towards:
  - (i) costs, fees and expenses of the Technical Adviser and the Insurance Adviser; and
  - (ii) costs and expenses payable by the PBCE Provider to third parties , as payable to the PBCE Provider in accordance with the PBCE Documents;
- (g) *seventh*, pro rata and *pari passu* in payment of:
  - (i) scheduled interest and scheduled principal outstanding under the Bonds; and
  - (ii) scheduled payments (including Deferred Payments but excluding any other termination payments) on Hedging Agreements;
- (h) *eighth*, pro rata and *pari passu* in payment of:
  - (i) accelerated interest and principal (other than on a voluntary redemption basis) which is due and payable under the Bonds; and
  - (ii) termination payments (excluding Deferred Payments) and any other payments due on Hedging Agreements other than a termination payment resulting from the termination of a Hedging Agreement following the occurrence of a Qualifying Default (as defined in the relevant Hedging Agreement) in relation to a Hedge Counterparty to which part 1(j)(viii) of the schedule to the relevant Hedging Agreement applies;
- (i) *ninth*, on the Issue Date and on each Calculation Date a transfer to the Emergency Reserve Account to the extent required by the CTA;
- (j) *tenth*, on the Issue Date and on each Calculation Date a transfer to the Debt Service Reserve Account to the extent required by the CTA;
- (k) *eleventh*, on the Issue Date and on each Calculation Date a transfer to the DECC Decommissioning Reserve Account to the extent required by the CTA;

- (l) *twelfth*, payment of all amounts due or overdue to the PBCE Provider pursuant to the PBCE Letter of Credit and Reimbursement Deed, other than those amounts referred to in paragraph (f) ((ii) above (for the avoidance of doubt by way of applying 100% of cash available after paying all amounts payable under paragraphs (a) to (k) above until all amounts due or overdue to the PBCE Provider pursuant to the PBCE Letter of Credit and Reimbursement Deed have been paid) to be applied in the following order:
  - (i) first, in or towards payment of any unpaid fees, costs and expenses due under the PBCE Letter of Credit and Reimbursement Deed (excluding any amounts paid under (f) (ii) above);
  - (ii) secondly, in or towards payment of any indemnity and accrued interest due but unpaid under the PBCE Letter of Credit and Reimbursement Deed;
  - (iii) thirdly, in or towards payment of any Capitalised Interest (as defined in clause 4.1.4 (Reimbursement) of the PBCE Letter of Credit and Reimbursement Deed) due but unpaid under the PBCE Letter of Credit and Reimbursement Deed;
  - (iv) fourthly, in or towards payment of any principal due but unpaid under the PBCE Letter of Credit and Reimbursement Deed (and where the PBCE Letter of Credit has been drawn on more than one occasion, towards repayment of such drawing(s) as the PBCE Provider may determine in its sole discretion); and
  - (v) fifthly, in or towards payment of any other sum due but unpaid under the PBCE Letter of Credit and Reimbursement Deed;
- (m) *thirteenth*, in or towards payment of termination payments following the occurrence of a Qualifying Default (as defined in the relevant Hedging Agreement) in relation to a Hedge Counterparty to which part 1(j)(viii) of the schedule to the relevant Hedging Agreement applies;
- (n) *fourteenth*, in or towards satisfaction of any total voluntary redemption or any voluntary purchase of the Bonds (including without limitation, any voluntary redemption or voluntary purchase of the Bonds in full pursuant to Condition 6.5); and
- (o) *fifteenth*, subject to satisfaction of the Restricted Payment Condition and provided that such payment is within 30 days of a Calculation Date, to make a Restricted Payment.

#### *Post-Enforcement Priority of Payment*

Subject to the prospective liabilities (see "*Prospective liabilities*" below for a detailed description), all amounts from time to time received or recovered by the Security Trustee pursuant to the terms of any Finance Document in connection with the realisation or enforcement of all or any part of the Security (the **Recoveries**) shall be held by the Security Trustee on trust to apply them at any time as the Security Trustee (at its discretion) sees fit, to the extent permitted by applicable law, in the following order of priority (the **Post-Enforcement Priority of Payment**):

- (a) *first*, in discharging any sums (including indemnities, if any) owing to the Security Trustee, any Receiver or any Delegate;
- (b) *second*, in discharging any sums (including indemnities, if any) owing to the Bond Trustee and costs and expenses incurred by any Senior Creditor or the PBCE Provider in connection with any realisation or enforcement of the Security;



- (c) *third*, payments of, on a pro rata and *pari passu* basis, the fees, costs, expenses and indemnities (if any) of the Account Bank and each Agent;
- (d) *fourth*, payments of, on a pro rata and *pari passu* basis, any interest on the Bonds (both on a scheduled and an accelerated basis), and scheduled payments under the Hedging Agreements (including interest on any deferred payment payable in accordance with the relevant Hedging Agreement but excluding any deferred payment itself), and the fees, costs and expenses of the PBCE Provider;
- (e) *fifth*, payments, on a pro rata and *pari passu* basis, of principal amounts outstanding on the Bonds (both on a scheduled and accelerated basis) and all amounts due and payable under the Hedging Agreements (including any Deferred Payment in accordance with the relevant Hedging Agreement but not including any payment resulting from the termination of a Hedging Agreement following the occurrence of a qualifying default under a Hedging Agreement or any payment referred to in paragraph (d) above, and any other amounts due and payable under the Hedging Agreements;
- (f) *sixth*, payments of all amounts due or overdue to the PBCE Provider pursuant to the PBCE Letter of Credit and Reimbursement Deed other than those amounts referred to in paragraph (d) above (for the avoidance of doubt by way of applying 100% of cash available after paying all amounts payable under paragraphs (a) to (e) above until all amounts due or overdue to the PBCE Provider pursuant to the PBCE Letter of Credit and Reimbursement Deed have been paid) to be applied in the following order;
  - (i) *first*, in or towards payment of any unpaid fees costs and expenses due under the PBCE Letter of Credit and Reimbursement Deed (excluding any amounts paid under (d) above);
  - (ii) *secondly*, in or towards payment of any indemnity and accrued interest due but unpaid under the PBCE Letter of Credit and Reimbursement Deed;
  - (iii) *thirdly*, in or towards the payment of any Capitalised Interest (as defined in clause 4.1.4 (Reimbursement) of the PBCE Letter of Credit and Reimbursement Deed) due but unpaid under the PBCE Letter of Credit and Reimbursement Deed;
  - (iv) *fourthly*, in or towards payment of any principal due but unpaid under the PBCE Agreement (and where the PBCE Letter of Credit has been drawn on more than one occasion, towards repayment of such drawing(s) as the PBCE Provider may determine in its sole discretion); and
  - (v) *fifthly*, in or towards payment of any other sum due unpaid under the PBCE Agreement;
- (g) *seventh*, if the Obligors have any actual or contingent liability under any PBCE Document or any Senior Finance Document, the balance shall be retained by the Security Trustee and applied in reduction of such liabilities as and when they fall due in the order set out in paragraphs (a) to (f) above;
- (h) *eighth*, if the Obligors do not have any actual or contingent liability under any PBCE Document or any Senior Finance Document (other than to a Defaulted Hedge Counterparty) payments, on a pro rata and *pari passu* basis, of termination amounts payable resulting from the termination of a Hedging Agreement following the occurrence of a qualifying default under a Hedging Agreement;

- (i) *ninth*, if the Obligors are not under any further actual or contingent liability under any Senior Finance Document or PBCE Document, in payment or distribution to any person to whom the Security Trustee is obliged to pay or distribute in priority to such Obligor including payment of amounts owing to the Subordinated Intragroup Creditors; and
- (j) *tenth*, the balance, if any, in payment or distribution to the relevant Obligors.

*Prospective liabilities*

Following the delivery of an Enforcement Notice the Security Trustee may, at its discretion:

- (a) hold any amount of the Recoveries which is in the form of cash, and any cash which is generated by holding, managing, exploiting, collecting, realising or disposing of any Non-Cash Consideration, in one or more interest-bearing suspense or impersonal accounts in the name of the Security Trustee with such financial institution (including itself) as the Security Trustee shall think fit (any interest being credited to the relevant account); and
- (b) hold, manage, exploit, collect and realise any amount of the Recoveries which is in the form of Non-Cash Consideration,
  - (i) in each case for so long as the Security Trustee shall think fit for later application in respect of:
    - (A) any sum to any Security Trustee, any Receiver or any Delegate; and
    - (B) any part of the Secured Liabilities,

that the Security Trustee considers, in each case, might become due or owing at any time in the future and the Security Trustee may at any time vary or transfer any such investments for or into other such investments or convert any moneys so deposited into any other currency.

## USE OF PROCEEDS

The net proceeds of the issue of the Bonds, amounting to approximately £337,063,033 will be applied by the Issuer to acquire the Transmission Assets from the Vendors (the **Acquisition**) under the SPA, and certain related transaction costs.

## TAXATION

### EU SAVINGS DIRECTIVE

Under Council Directive 2003/48/EC on the taxation of savings income, Member States are required to provide to the tax authorities of other Member States details of certain payments of interest or similar income- paid or secured by a person established in a Member State to or for the benefit of an individual resident in another Member State or certain limited types of entities established in another Member State.

On 24 March 2014, the Council of the European Union adopted a Council Directive amending and broadening the scope of the requirements described above. Member States are required to apply these new requirements from 1 January 2017. The changes will expand the range of payments covered by the Directive, in particular to include additional types of income payable on securities. The Directive will also expand the circumstances in which payments that indirectly benefit an individual resident in a Member State must be reported. This approach will apply to payments made to, or secured for, persons, entities or legal arrangements (including trusts) where certain conditions are satisfied, and may in some cases apply where the person, entity or arrangement is established or effectively managed outside of the European Union.

For a transitional period, Austria is required (unless during that period it elects otherwise) to operate a withholding system in relation to such payments. The changes referred to above will broaden the types of payments subject to withholding in those Member States which still operate a withholding system when they are implemented. The end of the transitional period is dependent upon the conclusion of certain other agreements relating to information exchange with certain other countries. A number of non-EU countries and territories including Switzerland have adopted similar measures (a withholding system in the case of Switzerland).

### PROPOSED FINANCIAL TRANSACTIONS TAX (FTT)

On 14 February 2013, the European Commission published a proposal (the **Commission's Proposal**) for a Directive for a common FTT in Belgium, Germany, Estonia, Greece, Spain, France, Italy, Austria, Portugal, Slovenia and Slovakia (the **participating Member States**).

The Commission's Proposal has very broad scope and could, if introduced in its current form, apply to certain dealings in the Bonds (including secondary market transactions) in certain circumstances.

Under the Commission's Proposal could apply in certain circumstances to persons both within and outside the participating Member States. Generally, it would apply to certain dealings in the Bonds where at least one party is a financial institution, and at least one party is established in a participating Member State. A financial institution may be, or be deemed to be, "established" in a participating Member State in a broad range of circumstances, including (a) by transacting with a person established in a participating Member State, or (b) where the financial instrument which is subject to the dealings is issued in a participating Member State.

A joint statement issued in May 2014 by ten of the eleven participating Member States indicated an intention to implement the FTT progressively, such that it would initially apply to shares and certain derivatives, with this initial implementation occurring by 1 January 2016. The FTT, as initially implemented on this basis, may not apply to dealings in the Bonds.

The FTT proposal remains subject to negotiation between the participating Member States. It may therefore be altered prior to any implementation. Additional EU Member States may decide to

participate. Prospective holders of the Bonds are advised to seek their own professional advice in relation to the FTT.

## UNITED KINGDOM TAXATION

**The following applies only to persons who are the beneficial owners of Bonds and is a summary of the Issuer's understanding of current United Kingdom law and published HM Revenue and Customs' practice relating only to United Kingdom withholding tax treatment of payments of principal and interest in respect of Bonds. It does not deal with any other United Kingdom taxation implications of acquiring, holding or disposing of Bonds. The United Kingdom tax treatment of prospective Bondholders depends on their individual circumstances and may be subject to change in the future. Prospective Bondholders who may be subject to tax in a jurisdiction other than the United Kingdom or who may be unsure as to their tax position should seek their own professional advice.**

### *Payment of Interest on the Bonds*

Payments of interest on the Bonds may be made without deduction of or withholding on account of United Kingdom income tax provided that the Bonds continue to be listed on a "recognised stock exchange" within the meaning of section 1005 of the Income Tax Act 2007. The Irish Stock Exchange is a recognised stock exchange. The Bonds will satisfy this requirement if they are officially listed in Ireland in accordance with provisions corresponding to those generally applicable in European Economic Area states and are admitted to trading on the Irish Stock Exchange. Provided, therefore, that the Bonds remain so listed, interest on the Bonds will be payable without withholding or deduction on account of United Kingdom tax.

Interest on the Bonds may also be paid without withholding or deduction on account of United Kingdom tax where interest on the Bonds is paid by a company and, at the time the payment is made, the Issuer reasonably believes (and any person by or through whom interest on the Bonds is paid reasonably believes) that the beneficial owner is within the charge to United Kingdom corporation tax as regards the payment of interest; provided that HM Revenue and Customs (HMRC) has not given a direction (in circumstances where it has reasonable grounds to believe that the above exemption is not available in respect of such payment of interest at the time the payment is made) that the interest should be paid under deduction of tax.

Interest on the Bonds may also be paid without withholding or deduction on account of United Kingdom tax where the maturity of the Bonds is less than 365 days and those Bonds do not form part of a scheme or arrangement of borrowing intended to be capable of remaining outstanding for more than 364 days.

In other cases, an amount must generally be withheld from payments of interest on the Bonds that has a United Kingdom source on account of United Kingdom income tax at the basic rate (currently 20 per cent.). However, where an applicable double tax treaty provides for a lower rate of withholding tax (or for no tax to be withheld) in relation to a Bondholder, HMRC can issue a notice to the Issuer to pay interest to the Bondholder without deduction of tax (or for interest to be paid with tax deducted at the rate provided for in the relevant double tax treaty).

HMRC has powers to obtain information and documents relating to the Bonds, including in relation to issues of and other transactions in the Bonds, interest, payments treated as interest and other payments derived from the Bonds. This may include details of the beneficial owners of the Bonds, of the persons for whom the Bonds are held and of the persons to whom payments derived from the Bonds are or may be paid. Information may be obtained from a range of persons including persons who effect or are a party to such transactions on behalf of others, registrars and administrators of such transactions, the registered holders of the Bonds, persons who make, receive or are entitled to receive

payments derived from the Bonds and persons by or through whom interest and payments treated as interest are paid or credited. Information obtained by HMRC may be provided to tax authorities in other jurisdictions.

## **FOREIGN ACCOUNT TAX COMPLIANCE ACT**

Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (FATCA) impose a new reporting regime and potentially a 30% withholding tax with respect to certain payments to (i) any non-U.S. financial institution (a foreign financial institution, or FFI (as defined by FATCA)) that does not become a Participating FFI by entering into an agreement with the U.S. Internal Revenue Service (IRS) to provide the IRS with certain information in respect of its account holders and investors or is not otherwise exempt from or in deemed compliance with FATCA and (ii) any investor (unless otherwise exempt from FATCA) that does not provide information sufficient to determine whether the investor is a U.S. Person or should otherwise be treated as holding a "United States account" of the Issuer (a Recalcitrant Holder). The Issuer and the Guarantors may be classified as FFIs.

The new withholding regime is now in effect for payments from sources within the United States and will apply to foreign passthru payments (a term not yet defined) no earlier than 1 January 2017. This withholding would potentially apply to payments in respect of (i) any Bonds characterised as debt (or which are not otherwise characterized as equity and have a fixed term) for U.S. federal tax purposes that are issued after the grandfathering date, which is the date that is six months after the date on which final U.S. Treasury regulations defining the term foreign passthru payment are filed with the Federal Register, or which are materially modified after the grandfathering date and (ii) any Bonds characterised as equity or which do not have a fixed term for U.S. federal tax purposes, whenever issued. If Bonds are issued on or before the grandfathering date and additional Bonds of the same series are issued after that date, the additional Bonds may not be treated as grandfathered, which may have negative consequences for the existing Bonds, including a negative impact on market price.

The United States and a number of other jurisdictions have announced their intention to negotiate intergovernmental agreements to facilitate the implementation of FATCA (each, an IGA). Pursuant to FATCA and the "Model 1" and "Model 2" IGAs released by the United States, an FFI in an IGA signatory country could be treated as a Reporting FI not subject to withholding under FATCA on any payments it receives. Further, an FFI in an IGA jurisdiction would generally not be required to withhold under FATCA or an IGA (or any law implementing an IGA) (any such withholding being FATCA Withholding) from payments it makes. Under each Model IGA, a Reporting FI would still be required to report certain information in respect of its account holders and investors to its home government or to the IRS. The United States and the United Kingdom have entered into an agreement (the US-UK IGA) based largely on the Model 1 IGA.

If the Issuer and the Guarantors are treated as a Reporting FI pursuant to the US-UK IGA they do not anticipate that they will be obliged to deduct any FATCA Withholding on payments they make. There can be no assurance, however, that the Issuer and the Guarantors will be treated as Reporting FIs, or that they would in the future not be required to deduct FATCA Withholding from payments they make. Accordingly, the Issuer, the Guarantors and financial institutions through which payments on the Bonds are made may be required to withhold FATCA Withholding if (i) any FFI through or to which payment on such Bonds is made is not a Participating FFI, a Reporting FI, or otherwise exempt from or in deemed compliance with FATCA or (ii) an investor is a Recalcitrant Holder.

Whilst the Bonds are in global form and held within Euroclear and Clearstream, Luxembourg (together, the ICSDs), it is expected that FATCA will not affect the amount of any payments made under, or in respect of, the Bonds by the Issuer, the Guarantors, any paying agent and the common safekeeper, given that each of the entities in the payment chain between the Issuer and the participants in the ICSDs is a major financial institution whose business is dependent on compliance with FATCA and that any alternative approach introduced under an IGA will be unlikely to affect the Bonds. The

documentation expressly contemplates the possibility that the Bonds may go into definitive form and therefore that they may be taken out of the ICSDs. If this were to happen, then a non-FATCA compliant holder could be subject to FATCA Withholding. However, definitive Bonds will only be printed in remote circumstances.

**FATCA IS PARTICULARLY COMPLEX AND ITS APPLICATION IS UNCERTAIN AT THIS TIME. THE ABOVE DESCRIPTION IS BASED IN PART ON REGULATIONS, OFFICIAL GUIDANCE AND MODEL IGAS, ALL OF WHICH ARE SUBJECT TO CHANGE OR MAY BE IMPLEMENTED IN A MATERIALLY DIFFERENT FORM. PROSPECTIVE INVESTORS SHOULD CONSULT THEIR TAX ADVISERS ON HOW THESE RULES MAY APPLY TO THE ISSUER AND TO PAYMENTS THEY MAY RECEIVE IN CONNECTION WITH THE BONDS.**

## SUBSCRIPTION AND SALE

HSBC Bank plc, Mitsubishi UFJ Securities International plc and SMBC Nikko Capital Markets Limited (the **Joint Bookrunners**) have, pursuant to a Subscription Agreement (the **Subscription Agreement**) dated 13 February 2015, jointly and severally agreed to subscribe or procure subscribers for the Bonds at the issue price of 100 per cent. of the principal amount of Bonds, less a combined selling management and underwriting commission. The Issuer will also reimburse the Joint Bookrunners in respect of certain of their expenses, and has agreed to indemnify the Joint Bookrunners against certain liabilities, incurred in connection with the issue of the Bonds. The Subscription Agreement may be terminated in certain circumstances prior to payment of the Issuer.

### United States

Each Joint Bookrunner has acknowledged to the Issuer that the Bonds have not been and will not be registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. Persons except in certain transactions exempt from the registration requirements of the Securities Act. Each Joint Bookrunner has agreed that it will not offer, sell or deliver the Bonds within the United States or to, or for the account or benefit of, U.S. Persons (a) as part of its distribution at any time and (b) otherwise until 40 days after the later of the commencement of the offering and the Issue Date.

The Bonds are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by U.S. Treasury regulations. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986 and Treasury regulations promulgated thereunder.

### United Kingdom

Each Joint Bookrunner has represented and agreed that:

- (a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of any Bonds in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer; and
- (b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to any Bonds in, from or otherwise involving the United Kingdom.

### Public offer selling restriction under the Prospectus Directive

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a **Relevant Member State**), each of the Joint Bookrunners has severally represented and agreed that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the **Relevant Implementation Date**) it has not made and will not make an offer of Bonds which are the subject of the offering contemplated by the Prospectus as completed by the final terms in relation thereto to the public in that Relevant Member State except that it may, with effect from and including the Relevant Implementation Date, make an offer of such Bonds to the public in that Relevant Member State:

- (a) at any time to any legal entity which is a qualified investor as defined in the Prospectus Directive;



- (b) at any time to fewer than 150 natural or legal persons (other than qualified investors as defined in the Prospectus Directive), subject to obtaining the prior consent of the relevant dealer or dealers nominated by the Issuer for any such offer; or
- (c) at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Bonds referred to above shall require the Issuer or any Joint Bookrunner to publish a prospectus pursuant to Article 3 of the Prospectus Directive, or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this provision, the expression **an offer of Bonds to the public** in relation to any Bonds in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Bonds to be offered so as to enable an investor to decide to purchase or subscribe the Bonds, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State, the expression **Prospectus Directive** means Directive 2003/71/EC (as amended, including by Directive 2010/73/EU), and includes any relevant implementing measure in the Relevant Member State.

### **General**

No action has been taken by the Issuer or any of the Joint Bookrunners that would, or is intended to, permit a public offer of the Bonds in any country or jurisdiction where any such action for that purpose is required. Accordingly, each Joint Bookrunner has undertaken that it will not, directly or indirectly, offer or sell any Bonds or distribute or publish any Prospectus, form of application, advertisement or other document or information in any country or jurisdiction except under circumstances that will, to the best of its knowledge and belief, result in compliance with any applicable laws and regulations and all offers and sales of Bonds by it will be made on the same terms.

## **GENERAL INFORMATION**

### **Authorisation**

1. The issue of the Bonds and the granting of the Security was duly authorised by a resolution of the Board of Directors of the Issuer dated 9 February 2015. The provision of the guarantee by each of IntermediateCo and Holdco in favour of the Security Trustee have been duly authorised by resolutions of the board of directors of each of IntermediateCo and Holdco at meetings of the boards held on 9 February 2015 and 9 February 2015, respectively.

The Issuer has obtained or will obtain from time to time all necessary consents, approvals and authorisations in connection with the issue and performance of the Bonds.

### **Listing**

2. Application has been made to the Irish Stock Exchange for the Bonds to be admitted to the Official List and trading on its regulated market. The Irish Stock Exchange's regulated market is a regulated market for the purposes of the Markets in Financial Instruments Directive (Directive 2004/39/EC).
3. It is expected that the admission of the Bonds to the Irish Stock Exchange's Official List and trading on its regulated market will be granted on or about the Issue Date, subject only to the issue of the Temporary Global Bond. The listing of the Bonds will be cancelled if the Temporary Global Bond is not issued.
4. So long as the Bonds are admitted to the Irish Stock Exchange's Official List and trading on its regulated market, the most recently published audited annual accounts of the Issuer from time to time will be available at the specified office of the Principal Paying Agent.
5. The estimated expense of admission to trading on the regulated market of, and listing on, the Irish Stock Exchange is €20,940.
6. No website referred to in this Prospectus forms part of the document for the purposes of the listing of the Bonds on the Irish Stock Exchange.
7. McCann Fitzgerald is acting solely in its capacity as listing agent in connection with the Bonds and is not itself seeking admission of the Bonds to the Official List of the Irish Stock Exchange or to trading on its regulated market for the purposes of the Prospectus Directive.

### **Clearing Systems**

8. The Bonds have been accepted for clearance through Euroclear and Clearstream, Luxembourg. The ISIN for the Bonds is XS1175846580 and the Common Code is 117584658.

The address of Euroclear is Euroclear Bank S.A./N.V., 1 Boulevard du Roi Albert II, B-1210 Brussels and the address of Clearstream, Luxembourg is Clearstream Banking, 42 Avenue JF Kennedy, L-1855 Luxembourg.

### **No significant change**

9. There has been no significant change in the financial or trading position of the Issuer, Holdco and IntermediateCo since 3 December 2014, being the most recent date of their respective

audited financial statements and there has been no material adverse change in the prospects of the Issuer, Holdco and IntermediateCo since 3 December 2014, being the most recent date of their respective audited financial statements.

### **Litigation**

10. The Issuer, Holdco and IntermediateCo have not been involved in any governmental, legal or arbitration proceedings (including any such proceedings which are pending or threatened of which the Issuer, Holdco and IntermediateCo are aware) since the date of their incorporation which may have or have in such period had a significant effect on the financial position or profitability of the Issuer, Holdco and IntermediateCo.

### **Auditors**

11. The auditors of the Issuer, Holdco and IntermediateCo are Deloitte LLP. Deloitte LLP is a registered auditor and is authorised by and is a member of the Institute of Chartered Accountants in England and Wales. Deloitte LLP have audited the Issuer's, Holdco's and IntermediateCo's accounts, without qualification, in accordance with UK GAAP for the periods (i) in respect of the Issuer, 29 November 2013 to 3 December 2014, (ii) in respect of Holdco, 29 November 2013 to 3 December 2014 and (iii) in respect of IntermediateCo, 29 November 2013 to 3 December 2014. The auditors of the Issuer have no material interest in the Issuer, Holdco and IntermediateCo.

### **U.S. tax**

12. The permanent and definitive Bonds and Coupons will contain the following legend: "Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in Sections 165(j) and 1287(a) of the Internal Revenue Code."

### **Documents Available**

13. For the period of 12 months following the date of this Prospectus, copies of the following documents will be available for inspection in physical and/or electronic form from the registered office of the Issuer and from the specified office of the Principal Paying Agent and for so long as the Bonds are listed on the Irish Stock Exchange:
  - (a) the constitutional documents of the Issuer, Holdco and IntermediateCo;
  - (b) the financial statements of the Issuer, Holdco and IntermediateCo, together with the audit reports in connection therewith;
  - (c) copies of each of the following documents:
    - (i) the Bond Trust Deed;
    - (ii) the Agency Agreement;
    - (iii) the Common Terms Agreement;
    - (iv) the STID;
    - (v) the Account Bank Agreement;

(vi) the PBCE Letter of Credit; and

(vii) the Security Agreement.

Other documents and reports summarised or referred to in this Prospectus, including technical and insurance reports and reports from other advisers, are not included in this Prospectus (or in any appendix thereof) and will not be made available for inspection or otherwise.

#### **Availability of Financial Statements**

14. The audited annual financial statements of the Issuer, Holdco and IntermediateCo will be prepared as of 1 April in each year in respect of the financial period ended 31 March (other than for the financial periods starting (i) on 29 November 2013, which ended on 3 December 2014 and (ii) on 4 December 2014, which will end on 31 March 2015). The audited accounts of the Issuer, Holdco and IntermediateCo for the period ended 29 November 2013 to 3 December 2014 are reproduced in the section titled "Annex 1 – Financial Statements" below.

#### **Joint Bookrunners transacting with the Issuer**

15. Certain of the Joint Bookrunners and their affiliates have engaged, and may in the future engage, in investment banking and/or commercial banking transactions with, and may perform services to, the Issuer and its respective affiliates in the ordinary course of business.

## GLOSSARY

<b>Acceptable Bank</b>	means: <ul style="list-style-type: none"> <li>(a) a bank or financial institution acting through a branch located in the United Kingdom which has a rating for its long-term unsecured and non-credit enhanced debt obligations of A- or higher by S&amp;P or Fitch or A3 or higher by Moody's or an equivalent long-term rating from another Rating Agency; and</li> <li>(b) any other bank or financial institution approved by the Security Trustee in accordance with the STID.</li> </ul>
<b>Account</b>	means the accounts of the Obligors.
<b>Account Bank</b>	means Deutsche Bank AG, London Bank (or any successor account bank appointed pursuant to the Account Bank Agreement).
<b>Account Bank Agreement</b>	means the account bank agreement dated on or about the Signing Date between certain Obligors, the Account Bank and the Security Trustee.
<b>Account Mandate</b>	means a mandate containing instructions and signing authorities in relation an Account substantially in the form scheduled to the Account Bank Agreement.
<b>Accounting Standards</b>	means generally accepted accounting principles in England as at the Signing Date, including IFRS.
<b>Acquisition</b>	means the acquisition by the Issuer of the Transmission Assets pursuant to the Acquisition Documents.
<b>Acquisition Costs</b>	means all fees, costs and expenses, stamp, registration and other Taxes incurred by the Issuer or any other Obligor in connection with the Acquisition Documents.
<b>Acquisition Documents</b>	means: <ul style="list-style-type: none"> <li>(a) the SPA;</li> <li>(b) each Acquisition Agreement PCG;</li> <li>(c) the Disclosure Letter; and</li> <li>(d) any other document designated as an Acquisition Document by the Security Trustee and the OFTO.</li> </ul>

**Acquisition  
Agreement PCG**

means:

- (a) the guarantee in respect of the SPA dated on or about the Signing Date provided by RWE Innogy UK Holdings Limited (registered number 06451278) in favour of the Issuer;
- (b) the guarantee in respect of the SPA dated on or about the Signing Date provided by Stadtwerke München GmbH (registered number HRB 121 920) in favour of the Issuer;
- (c) the guarantee in respect of the SPA dated on or about the Signing Date provided by Siemens AG (registered number HRB 6684) in favour of the Issuer; or
- (d) (once entered into) the guarantee in respect of the SPA to be entered into after the Signing Date provided by UK Green Investment Bank plc (registered number SC424067) in favour of the Issuer.

**Acquisition Proceeds**

means the proceeds of a claim (an **Acquisition Recovery**) against the Vendor or any of its Affiliates (or any employee, officer or adviser) in relation to the Acquisition Documents or against the provider of any Adviser Report (in its capacity as a provider of that report) except for Excluded Acquisition Proceeds, and after deducting:

- (a) any reasonable expenses which are incurred by any Obligor to a person which is not an Obligor or an Affiliate of an Obligor; and
- (b) any Tax incurred and required to be paid by an Obligor (as reasonably determined by the relevant Obligor on the basis of existing rates and taking into account any available credit, deduction or allowance),

in each case in relation to that Acquisition Recovery.

**Acquisition Recovery**

has the meaning given to it in the definition of Acquisition Proceeds.

**Additional Capacity  
Adjustment  
Investment**

has the meaning given to that term in the Transmission Licence.

**Additional Equity**

means:

- (a) any amount subscribed in cash for shares in the Issuer or, provided that the cash consideration in respect of such shares is in turn paid to the Issuer, Holdco or any other form of capital contribution in cash to the Issuer (which is not Financial Indebtedness and provided that repayment (if any) of such amounts are subject to the terms of the STID); or
- (b) the incurrence of Subordinated Intragroup Liabilities by the Issuer or, provided that the proceeds of such Subordinated Intragroup Liabilities are in turn paid to the Issuer, Holdco or IntermediateCo,

which, in each case, is in addition to such amounts subscribed, committed or incurred on or before the date of the CTA and the terms of which shall be subject to the terms of the STID.

<b>Additional Hedge Counterparty</b>	means any person not already a Hedge Counterparty which becomes a Hedge Counterparty pursuant to the provisions of the STID.
<b>Adviser Report</b>	means the various reports provided as conditions precedent to the issuance of the Bonds on the Issue Date in accordance with the CP Agreement.
<b>Affected Secured Creditor</b>	means a Secured Creditor whose Entrenched Right is affected by any STID Proposal, as defined in the STID.
<b>Affiliates</b>	means in relation to any person or subsidiary (within the meaning of section 1159 of the Companies Act 2006) of that person or a holding company of that person or any other subsidiary of that holding company.
<b>Agency Agreement</b>	means the paying agency agreement dated on or about the Issue Date between, among others, the Issuer, the Principal Paying Agent and the Bond Trustee.
<b>Agent</b>	means each of the Principal Paying Agent or any other agent appointed by the Issuer pursuant to the Agency Agreement and <b>Agents</b> means all of them.
<b>Amended Standard Condition</b>	has the meaning given to it on page 51.
<b>Amortisation Amount</b>	has the meaning given to it on page 139.
<b>Annual Financial Statements</b>	means the audited financial statements (consolidated if appropriate) of each Obligor and each Major Project Party, and related accountants' reports, delivered as soon as they are available and, in any event, within 180 days after the end of each Financial Year.
<b>associate</b>	has the meaning given to it on page 59.
<b>Auditors</b>	means Deloitte LLP.
<b>Authorisation</b>	means an authorisation, consent, approval, permit, resolution, licence, exemption, filing, notarisation or registration, including, without limitation, the Transmission Licence.
<b>Authorised Credit Facility</b>	means: <ul style="list-style-type: none"> <li>(a) the Hedging Agreements;</li> <li>(b) the Bond Trust Deed;</li> <li>(c) the Bonds;</li> <li>(d) the PBCE Letter of Credit and Reimbursement Deed;</li> <li>(e) the PBCE Letter of Credit; and</li> </ul>

- (f) any other document (not being a Common Document) that has been entered into in connection with the foregoing facilities or agreements or the transactions contemplated thereby that has been designated as a document that should be deemed to be an Authorised Credit Facility for the purposes of this definition by the parties thereto (including at least one Obligor).

<b>Authorised Credit Provider</b>	means a provider of Senior Debt or the PBCE Provider (as applicable).
<b>Authorised Signatory</b>	means any person who is duly authorised by any Obligor or any Party and in respect of whom a certificate has been provided signed by a director of that Obligor or such Party setting out the name and signature of that person and confirming such person's authority to act.
<b>Authority</b>	means The Gas and Electricity Markets Authority established under Section 1 of the Utilities Act 2000, and any other additional or replacement governmental authority which may from time to time regulate the Obligor's businesses.
<b>Balfour Beatty</b>	means Balfour Beatty Investments Limited.
<b>Balfour Beatty Group</b>	means Balfour Beatty and its Affiliates.
<b>Base Case Model</b>	means the financial model delivered to the Security Trustee on or before the Issue Date, including profit and loss, balance sheet and cashflow projections in agreed form relating to the Issuer (for these purposes assuming completion of the Acquisition) together with the written business plan prepared by the Investors.
<b>Basic Terms Modification</b>	has the meaning given to that term in Condition 13.1(b).
<b>Block Voting Instruction</b>	<p>means a document in the English language issued by the Principal Paying Agent:</p> <ul style="list-style-type: none"> <li>(a) certifying that the Deposited Bonds have been deposited with the Principal Paying Agent (or to its order at a bank or other depository) or blocked in an account with a clearing system and will not be released until the earlier of: <ul style="list-style-type: none"> <li>(i) close of business (London time) on the Voting Date; and</li> <li>(ii) the surrender to the Principal Paying Agent, not less than 24 hours before the Voting Date of the receipt for the Deposited Bonds and notification thereof by the Principal Paying Agent to the Bond Trustee;</li> </ul> </li> <li>(b) certifying that the depositor of each Deposited Bond or a duly authorised person on its behalf has instructed the Principal Paying Agent that the Votes attributable to such Deposited Bond are to be cast in a particular way on a STID Proposal and that, during the</li> </ul>



period of 24 hours prior to the Voting Date, such instructions may not be amended or revoked;

- (c) listing the aggregate Outstanding Principal Amount and (if in definitive form) the serial numbers of the Deposited Bonds, distinguishing between those in respect of which instructions have been given to Vote for, or against, such STID Proposal; and
- (d) authorising the Bond Trustee to vote in respect of the Deposited Bonds in connection with such STID Proposal in accordance with such instructions and the Bond Trust Deed.

**Bond Creditors** means the Secured Creditors, other than the Hedge Counterparties and the PBCE Provider.

**Bond Debt Service** has the meaning given to such term in the PBCE Letter of Credit and Reimbursement Deed.

**Bond Documents** means:

- (a) the Bond Trust Deed (including the Conditions);
- (b) the Bonds (including any applicable Coupons);
- (c) the Agency Agreement; and
- (d) any other document designated as such by the Issuer, the Bond Trustee and the Security Trustee.

**Bond Liabilities** means the Secured Liabilities owed by the Issuer to the Bond Creditors and to the Bond Trustee for its own account under or in respect of the Security Documents.

**Bond Trust Deed** means the bond trust deed dated on or about the Issue Date between the Issuer and the Bond Trustee under which Bonds will, on issue, be constituted and any deed supplemental thereto.

**Bond Trustee** means Deutsche Trustee Company Limited or any other or additional trustee appointed pursuant to the Bond Trust Deed, for and on behalf of the Bondholders, the Receiptholders and the Couponholders.

**Bondholders** means the persons who are for the time being holders of the outstanding Bonds.

**Bonds** means the Original Bonds and any Further Bonds which are or are to be constituted under the Bond Trust Deed, which bond may be represented by a Global Bond or a Definitive Bond.

**Burbo Bank Agreement** means:

- (a) the cable proximity and crossing agreement dated 9 May 2014 and made between Dong Energy Burbo Extension (UK) Ltd and GyMOWFL;

- (b) the guarantee dated 22 January 2015 made between Dong Energy Wind Power Holding A/S and GyMOWFL in relation to the cable proximity and crossing agreement dated 9 May 2014 between Dong Energy Burbo Extension (UK) Ltd and GyMOWFL;
- (c) the occupier consent dated 9 May 2014 and made between Dong Energy Burbo Extension (UK) Ltd and GyMOWFL; or
- (d) the lease of access rights dated 30 October 2014 and made between Betty May Jones as executor of Griffith Trevor Jones deceased & Betty May Jones, Dong Energy Burbo Extension (UK) Limited and GyMOWFL.

**Business Day**

means:

- (a) in relation to any sum payable in sterling, a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealing in foreign exchange currency deposits) in London;
- (b) in relation to any sum payable in a currency other than sterling, a day on which commercial banks and foreign exchange markets settle payments generally in London, and in the principal financial centre of the currency in which such financial indebtedness is denominated (which in the case of a payment in U.S. Dollars shall be New York) and, in respect of the Bonds, in each (if any) additional city or cities specified in the Conditions; and
- (c) for any other purpose, means a day (other than a Saturday or a Sunday) on which banks are open for general business in London and Luxembourg, provided that when **Business Day** is used in relation to any Hedging Agreement, **Business Day** has the meaning given to the term "Local Business Day" in that Hedging Agreement.

**Business Plan**

means the business plan delivered to the Secured Creditors as a condition precedent to the issuance of the Bonds on the Issue Date.

**Calculation Date**

means 31 March and 30 September in each year commencing on 31 March 2015 or such other dates as may be agreed as a result of a change in the financial year-end (and associated change in the calculation of financial covenants) or regulatory year-end relating to any Obligor and the Security Group.

**Calculation Period**

means:

- (a) the period from (and excluding) the Completion Date to (and including) the first Calculation Date following the Completion Date; and
- (b) each subsequent period from (and excluding) a given Calculation Date to (and including) the next Calculation Date means the period

from (and excluding) a given Calculation Date to (and including) the next Calculation Date.

**Capital Costs**

means all costs, expenses and fees (without double counting) incurred by a member of the Security Group in connection with any Additional Capacity Adjustment Investment pursuant to an agreement between such member of the Security Group and NGET in accordance with the terms of the Transmission Licence.

**Capitalised Interest**

means any accrued interest which has not been paid pursuant to the terms of a PBCE Document, which is capitalised on the final day of each Floating Rate Reference Period and added to the principal amount of the Issuer's reimbursement obligation.

**Cash Equivalent Investments**

means at any time:

- (a) any investment (including, without limitation, a call or fixed deposit) in a money market or other account held with an Acceptable Bank which either (i) matures within six months after the relevant date of calculation or (ii) can be withdrawn or otherwise redeemed without penalty on not more than 30 days' notice;
- (b) certificates of deposit which mature within six months after the relevant date of calculation and issued by an Acceptable Bank;
- (c) any investment in marketable debt obligations issued or guaranteed by the government of:
  - (i) the United Kingdom; or
  - (ii) provided that it has a credit rating of A-1 or higher by S&P, F-1 or higher by Fitch or P-1 or higher by Moody's, any member state of the European Economic Area or any Participating Member State,

or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

- (d) commercial paper not convertible or exchangeable to any other security:
  - (i) for which a recognised trading market exists;
  - (ii) issued by an issuer incorporated in:
    - (A) the United Kingdom; or
    - (B) any member state of the European Economic Area or any Participating Member State;
  - (iii) which matures within six months after the relevant date of

calculation; and

- (iv) which has a credit rating of either A-1 or higher by S&P, F-1 or higher by Fitch or P-1 or higher by Moody's, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;
- (e) any investment in money market funds which (i) have a credit rating of either A-1 or higher by S&P, F-1 or higher by Fitch or P-1 or higher by Moody's, (ii) which invest substantially all of their assets in securities of the types described in paragraphs (c) and (d) above, and (iii) can be turned into cash on not more than 30 days' notice; or
- (f) any other debt security approved by the Security Trustee,

in each case, denominated in Sterling and to which any Obligor is alone (or together with other Obligors beneficially entitled at that time and which is not issued or guaranteed by any Obligor or subject to any Security (other than Security arising under the Security Documents)).

**CE Lease** means the lease to be entered into between The Queen's Most Excellent Majesty (1), The Crown Estate Commissioners (2), GyMOWFL (3) and the Vendors (4) in respect of the offshore substation and rights to lay and use the supply cables, to be assigned to the Issuer on Completion.

**CE Lease Licence to Assign** means the licence to assign CE Lease from GyMOWFL and each Vendor respectively to the Issuer.

**Charged Property** means the property, assets, rights and undertakings which, from time to time are, or are expressed to be, the subject of the Security Interests created, or purported to be created in favour of the Security Trustee pursuant to the Security Documents including the Security Trustee's interest in any trust fund created pursuant to the STID and, any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Trustee in accordance with the terms of the Finance Documents holds as trustee on trust for the Secured Creditors.

**Clearing Systems** has the meaning given to it on page 146.

**Clearstream, Luxembourg** means Clearstream Banking, *société anonyme*.

**Closing Date** means 17 February 2015.

**Code** has the meaning given to it on page 144.

**Code Procedures** means the procedures referred to by that name forming part of the STC.

**Common Documents** means the Security Documents, the Common Terms Agreement, the Master Definitions Agreement, the STID and the Account Bank Agreement or any other documents designated as such by the Security Trustee and the Issuer.

<b>Common Terms Agreement</b>	has the meaning given to it on page 159.
<b>Completion Date</b>	means the date on which Completion occurs.
<b>Completion under the SPA or Completion</b>	means completion of the Acquisition as provided for in the SPA.
<b>Compliance Officer Appointment Agreement</b>	means the agreement dated on or around the Signing Date between the OFTO and Henderson Loggie in relation to the appointment of Henderson Loggie as independent compliance officer of the Issuer as required by Amended Standard Condition E12 - C4 of the Transmission Licence.
<b>Conditions</b>	means in relation to the Bonds, the terms and conditions endorsed on or incorporated by reference into the Bond or Bonds, such terms and conditions being substantially in the form set out in Schedule 3 (Terms and Conditions of the Bonds) of the Bond Trust Deed as from time to time modified in accordance with the provisions of the Bond Trust Deed and any reference in the Finance Documents to a particular specified Condition or paragraph of a Condition shall be construed accordingly.
<b>Connection Agreement</b>	means the bilateral connection agreement between GyMOWFL and NGET.
<b>Connection and Use of System Code or CUSC</b>	means the contractual framework for connection to, and use of, National Grid's high voltage transmission system.
<b>Construction Agreement</b>	means a construction agreement identified as such for the purposes of the Master Definitions Agreement.
<b>Coupon</b>	means the interest coupons issued in respect of the Bonds.
<b>Couponholder</b>	means the several persons who are, for the time being, holders of the Coupons and includes, where applicable, the holders of any talons.
<b>Court of Justice</b>	has the meaning given to it on page 123.
<b>CPA</b>	has the meaning given to it on page 96.
<b>CRA Regulation</b>	has the meaning given to it on page 3.
<b>Creditor Accession Undertaking</b>	means the undertaking given by a creditor when acceding to the STID.
<b>Criminal Offence</b>	means any of the following criminal offences as applicable: fraud, corruption, coercion, collusion, obstruction, money laundering and financing of terrorism.
<b>Crossing Agreement</b>	means the offshore crossing agreements and related documents to be novated or issued on or about the Issue Date between:

- (a) the Douglas to Point of Ayr Pipeline Crossing Agreement between BHP Billiton Petroleum Limited (subsequently novated to ENI Liverpool Bay Operating Company Limited) and GyMOWFL dated 13 August 2008 to be novated insofar as relating to the export cables by a novation agreement between ENI Liverpool Bay Operating Company Limited, GyMOWFL and the Issuer (the **BHP Crossing Agreement**);
- (b) the cable crossing agreement between EirGrid plc (subsequently novated to EirGrid Interconnector Limited) and GyMOWFL dated 26 May 2010 to be novated by a novation agreement between EirGrid Interconnector Limited, GyMOWFL and the Issuer (the **EirGrid Crossing Agreement**); or
- (c) the cable crossing agreement between Rhyl Flats Wind Farm Limited and GyMOWFL dated 27 October 2010 to be novated insofar as relating to the export cables by a novation agreement between Rhyl Flats Wind Farm Limited, GyMOWFL and the Issuer (the **Rhyl Flats Crossing Agreement**).

**Crown Estate** has the meaning given to it on page 100.

**CTA** has the meaning given to it on page 159.

**DCUSA** means the Distribution Connection and Use of System Agreement between, among others, licensed electricity distributors and suppliers in Great Britain.

**Debt Life Cover Ratio or DLCR** means, in respect of any Calculation Date, the ratio of:

- (a) the NPV for that Calculation Date plus the aggregate of the balance on the Debt Service Reserve Account, the Emergency Reserve Account and the Working Capital Reserve Account at close of business on that Calculation Date and without double counting any amount already included in the calculation of Gross Revenues, the residual balance on the Operating Account; to
- (b) the aggregate principal amount of all Senior Debt (excluding the mark-to-market Liabilities under the Hedging Agreements) outstanding.

**Debt Service** means, for any period the amount of all scheduled payments of interest and principal payable in respect of Senior Debt by the Issuer during such period and for the purposes of calculating any financial ratio the amount of all termination payments then due and payable under any Hedging Agreement.

**Debt Service & PBCE Account** means the account opened and maintained by the Issuer entitled the Debt Service & PBCE Account which shall be credited with any drawings under the PBCE Letter of Credit, as further set out in "*Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management – Debt Service & PBCE Account*".

**Debt Service Cover Ratio** means, in relation to any Relevant Period, the ratio of Net Cashflow to Debt Service for that Relevant Period.

<b>Debt Service Reserve Account or DSRA</b>	means the account opened and maintained by the Issuer entitled the Debt Service Reserve Account which shall be credited with a cash reserve by the Issuer, as further set out in " <i>Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management – Debt Service &amp; PBCE Account</i> ".
<b>DECC</b>	means the Department of Energy and Climate Change.
<b>DECC Decommissioning Reserve Account</b>	means the account opened and maintained by the Issuer entitled the DECC Decommissioning Reserve Account which shall be credited with a cash reserve by the Issuer, as further set out in " <i>Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management – DECC Decommissioning Reserve Account</i> ", for the purpose of meeting its decommissioning obligations owed to DECC.
<b>Decision Period</b>	has the meaning given to it on page 211.
<b>Decommissioning Plan</b>	means the decommissioning plan agreed between the Issuer and the DECC on or after the Completion Date and as that plan may be amended from time to time.
<b>Decommissioning Programme</b>	has the meaning given to it on page 98.
<b>Default</b>	means: <ul style="list-style-type: none"> <li>(a) an Event of Default; or</li> <li>(b) a Potential Event of Default.</li> </ul>
<b>Default Ratio Level</b>	means: <ul style="list-style-type: none"> <li>(a) in respect of the Projected DSCR, 1.05:1;</li> <li>(b) in respect of the Historic DSCR, 1.05:1; and</li> <li>(c) in respect of the Debt Life Cover Ratio, 1.10:1.</li> </ul>
<b>Defaulted Hedge Counterparty</b>	a Qualifying Default by a Hedge Counterparty, as more fully defined in the relevant Hedging Agreement.
<b>Defaulting Party</b>	as defined in the 2002 ISDA Master Agreement.
<b>Deferred Payment</b>	has the meaning given to that term in the relevant Hedging Agreement.
<b>Definitive Bond</b>	means any Bonds issued in definitive bearer form.
<b>Delegate</b>	means any delegate, agent, attorney or co-trustee appointed by the Security Trustee.
<b>Deposited Bonds</b>	means certain specified Bonds which have been deposited with the Principal Paying Agent (or to its order at a bank or other depository) or blocked in an account with a clearing system, for the purposes of the issuance of a Block Voting Instruction.

<b>Designated Website</b>	has the meaning given to it on page 146 and is available at <a href="http://bondholders.gymofto.co.uk">http://bondholders.gymofto.co.uk</a> .
<b>Determination Dissenting Creditor</b>	has the meaning given to it on page 205.
<b>Determination Dissenting Notice</b>	has the meaning given to it on page 205.
<b>Developer Interface Agreement</b>	means the agreement dated on or about the Signing Date between GyMOWFL and the Issuer in respect of the interface issues arising in respect of the offshore connection of the inter-array cables to the Transmission Assets on the offshore substation.
<b>direction</b>	has the meaning given to it on page 66.
<b>Disclosure Letter</b>	means the letter dated the same date as the SPA from the Vendor to the Issuer in relation to the warranties contained within the SPA.
<b>Discount Rate</b>	means, in respect of the Relevant Period in respect of which the Debt Life Cover Ratio is to be tested, the weighted average of the interest rates applicable to the Senior Debt outstanding at the date the ratio is to be calculated.
<b>Discretion Matter</b>	means a decision required to correct a manifest error or which is of a formal, minor, administrative or technical nature.
<b>Distress Event</b>	<p>means the occurrence of:</p> <ul style="list-style-type: none"> <li>(a) a breach of a Lock-Up Ratio Level; or</li> <li>(b) a Default,</li> </ul> <p>provided that, in respect of paragraph (a), a Distress Event shall cease to subsist on the first Calculation Date following the occurrence of that Distress Event upon which each Lock-Up Ratio Level is satisfied.</p>
<b>E21 Direction</b>	has the meaning given to it on page 168.
<b>Economic Assumptions</b>	<p>means assumptions as to the following matters used in the preparation of a Model:</p> <ul style="list-style-type: none"> <li>(a) RPI;</li> <li>(b) corporate tax rate;</li> <li>(c) VAT Rate;</li> <li>(d) Refunds of Tax; and</li> <li>(e) deposit rates.</li> </ul> <p>The assumptions in items (b) to (d) above shall be as determined by reference to the following:</p>



- (i) in the case of RPI: the Retail Price Index;
- (ii) in the case of the Corporate Tax Rate: the rates as confirmed in writing by the Issuer's auditors;
- (iii) in the case of the VAT Rate: the rates as confirmed in writing by the Issuer's auditors; and
- (iv) in the case of deposit rates: the six month London interbank offered rate administered by the ICE Benchmark Administration (or any other person which takes over the administration of that rate) for Sterling displayed on pages LIBOR01 of the Reuters screen (or any replacement Reuters page which displays that rate).

**Electricity Act** means the Electricity Act 1989 as amended.

**Eligible Persons** has the meaning given to it in Condition 13.1(e).

**Emailed Instruction** means instruction from the Bondholders in the form as may be prescribed by the Bond Trustee from time to time and notified to the Bondholders, which will include an email from each such Bondholder setting out its vote or instruction to the Bond Trustee in respect of a STID Proposal, together with a certificate from it stating the Outstanding Principal Amount in respect of such Bond, proof of holding satisfactory to the Bond Trustee and an undertaking from such Bondholder that it will not sell, trade or otherwise dispose of its Bonds until the matter referred to in the STID Proposal is decided.

**Emergency** means a condition, circumstance or situation that arises or occurs which presents, or is likely to present, a physical threat to persons or property or to security or availability of the Transmission Assets which would require an operator using Prudent Operating Practice to take immediate measures to prevent or mitigate such threat.

**Emergency Capital Expenditure** (f) means any capital expenditure incurred or to be incurred in order to avoid or respond to an Emergency.

**Emergency Reserve Account** means the account opened and maintained by the Issuer entitled the Emergency Reserve Account which shall be credited with a cash reserve by the Issuer, as further set out in "*Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management – Emergency Reserve Account*".

**Energy Transfer Scheme** has the meaning given to it on page 22.

**Enforcement Action** means:

- (a) in relation to any Liabilities:
  - (i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for

- any of the Senior Creditors or the PBCE Provider to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Finance Documents);
- (ii) the making of any declaration that any Liabilities are payable on demand;
  - (iii) the making of a demand in relation to a Liability that is payable on demand;
  - (iv) the making of any demand against any member of the Security Group in relation to any Liabilities guaranteed by that member of the Security Group;
  - (v) the exercise of any right of set-off, account combination, close-out or payment netting against any Obligor in respect of any Liabilities other than the exercise of any such right:
    - (A) as Payment Netting by a Hedge Counterparty;
    - (B) where permitted under the terms of the STID, Close-Out Netting by a Hedge Counterparty; or
    - (C) which is otherwise expressly permitted under the Finance Documents (other than any Investor Funding Loan (or any other documents or instruments pursuant to which the Subordinated Intragroup Liabilities are constituted) and any Hedging Agreement; and
  - (vi) the suing for, commencing or joining of any legal or arbitration proceedings against any Obligor to recover any Liabilities;
- (b) the premature termination or close-out of any hedging transaction under any Hedging Agreement;
  - (c) the taking of any steps to enforce or require the enforcement of any Security (including the crystallisation of any floating charge forming part of the Security);
  - (d) the entering into of any composition, compromise, assignment or arrangement with any Obligor which owes any Liabilities, or has given any Security Interest, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted by the STID);
  - (e) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, Receiver, administrator or similar officer) in relation to, the winding-up, dissolution, administration or reorganisation of any Obligor which owes any Liabilities, or has given any Security Interest, guarantee, indemnity or other assurance against loss in respect of any of the

Liabilities, or any of such Obligor's assets or any suspension of payments or moratorium of any indebtedness of any such Obligor, or any analogous procedure or step in any jurisdiction; or

- (f) the taking of any steps to claim against the provider of any Adviser Report in its capacity as provider of the report,

except that the following shall not constitute Enforcement Action:

- (x) the taking of any action which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Secured Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods; and
- (y) a Hedge Counterparty or the PBCE Provider bringing legal proceedings against any person solely for the purpose of:
  - (A) obtaining injunctive relief (or any analogous remedy outside England and Wales) to restrain any actual or putative breach of any Finance Document to which it is party;
  - (B) obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages; or
  - (C) requesting judicial interpretation of any provision of any Finance Document to which it is party with no claim for damages.

**Energy Act 2004** means the Energy Act 2004 as amended by the Energy Act 2008 and as further amended.

**Energy Act 2008** means the Energy Act 2008 as amended.

**Energy Administration Order or EAO** has the meaning given on page 24.

**Enforcement Instruction** has the meaning given to it on page 214.

**Enforcement Instruction Notice** has the meaning given to it on page 214.

**Enforcement Notice** means a notice delivered by the Security Trustee in accordance with the STID by which the Security Trustee declares that the Security has become enforceable.

**Engagement Letters** means (a) the engagement letter dated on or about the Signing Date between the Issuer and the Insurance Adviser then appointed as such and (b) the

	engagement letter dated on or about the Signing Date between the Issuer and the Technical Adviser then appointed as such.
<b>Entrenched Right</b>	has the meaning given to it in the STID, as summarised in the section " <i>Description of the other Transaction Documents – Security Trust And Intercreditor Deed</i> ".
<b>Entrenched Right Dissenting Creditor</b>	has the meaning given to it on page 205.
<b>Entrenched Right Dissenting Notice</b>	has the meaning given to it on page 205.
<b>Environment</b>	means the following, in so far as they affect human health and social well-being: (a) fauna and flora; (b) soil, water, air, climate and the landscape; and (c) cultural heritage and the built environment, and includes, without limitation, occupational and community health and safety matters and working conditions.
<b>Environmental Claim</b>	means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.
<b>Environmental Law</b>	means any: <ul style="list-style-type: none"> <li>(a) European Union law, including principles and standards;</li> <li>(b) national laws and regulations; and</li> <li>(c) applicable international treaties,</li> </ul> of which a principal objective is the preservation, protection or improvement of the Environment.
<b>Environmental Matter</b>	has the meaning given to it on page 97.
<b>Environmental Permits</b>	means any permit and other Authorisation required under any Environmental Law for the operation of the business of any Obligor conducted on or from the properties owned or used by any Obligor.
<b>Equitix</b>	means Equitix Limited.
<b>Equity Cure Amount</b>	has the meaning given to it on page 192.
<b>Equity Cure Right</b>	has the meaning given to it on page 192.
<b>ESMA</b>	has the meaning given to it on the cover page.
<b>Emergency Reserve Account or ERA</b>	means the account opened and maintained by the Issuer entitled the "Emergency Reserve Account" which shall be credited with a cash reserve by the OFTO in accordance with the Common Terms Agreement.
<b>EU</b>	means the European Union.
<b>Euro, euro, EUR or €</b>	means the single currency of the Participating Member States.

<b>Euroclear</b>	means Euroclear Bank SA/NV.
<b>European Market Infrastructures Regulation or EMIR</b>	has the meaning given to that term in the Bond Trust Deed.
<b>Event of Default and Events of Default</b>	has the meaning given to it on page 183.
<b>Exchange Date</b>	has the meaning given to it on page 3.
<b>Exchange Event</b>	has the meaning given to it on page 153.
<b>Excluded Acquisition Proceeds</b>	<p>means any proceeds of an Acquisition Recovery which the Issuer notifies the Security Trustee are, or are to be, applied:</p> <ul style="list-style-type: none"> <li>(a) to satisfy (or reimburse an Obligor which has discharged) any liability, charge or claim upon an Obligor by a person which is not an Obligor or an Affiliate of any Obligor; or</li> <li>(b) in the replacement, reinstatement and/or repair of assets of an Obligor which have been lost, destroyed or damaged,</li> </ul> <p>in each case as a result of the events or circumstances giving rise to that Acquisition Recovery, if those proceeds are so applied as soon as possible (but in any event within 60 days after receipt).</p>
<b>Excluded Insurance Proceeds</b>	<p>means any proceeds of an insurance claim which the Issuer notifies the Security Trustee are, or are to be, applied:</p> <ul style="list-style-type: none"> <li>(a) in the reinstatement, replacement, restoration or repair of the Transmission Assets, property or assets in respect of which the relevant insurance claim was made; or</li> <li>(b) in satisfying any third party liability,</li> </ul> <p>in each case, as contemplated by the Common Terms Agreement, but only to the extent so applied or committed to be applied as soon as possible (and in any event within 180 days after receipt or, if those amounts have been committed to be applied, provided those amounts are actually applied within 180 days thereafter).</p>
<b>Extraordinary Resolution</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) a resolution approved by Senior Creditors representing not less than 66.67 per cent. of the Senior Voting Debt who (i) for the time being are entitled to receive notice of a voting matter, and (ii) have participated in the approval process in respect of such resolution, subject to the quorum requirements; or</li> <li>(b) a resolution signed in writing by or on behalf of Senior Creditors representing not less than 66.67 per cent. of the Senior Voting Debt who for the time being are entitled to receive notice of a voting</li> </ul>

matter, which resolution in writing may be contained in one document or in several documents in like form each signed by or on behalf of one or more of the Senior Creditors.

**Extraordinary  
Voting Matter**

means a modification, consent, waiver or determination which would:

- (a) have the effect of changing or changes (i) the voting mechanics, the Majority Requirement, the Quorum Requirement or the Decision Period relating to Extraordinary Voting Matters or (ii) any of the matters constituting Extraordinary Voting Matters;
- (b) change any Event of Default;
- (c) relate to the waiver of any Event of Default;
- (d) change in any adverse respect the restriction on any disposal of the Issuer or relate to a consent in respect of any such disposal;
- (e) materially change or have the effect of materially changing the definition of Permitted Business; or
- (f) change in any adverse respect the restrictions set out in, or relate to a consent in respect of:
  - (i) part 1 (Information Covenants) of Schedule 2 (Obligor Covenants) of the Common Terms Agreement;
  - (ii) paragraph 15 (Disposals) of part 3 (General Covenants) of Schedule 2 (Obligor Covenants) of the Common Terms Agreement;
  - (iii) paragraph 16 (Arm's Length Basis) of part 3 (General Covenants) of Schedule 2 (Obligor Covenants) of the Common Terms Agreement;
  - (iv) paragraph 17 (Loans or Credit) of part 3 (General Covenants) of Schedule 2 (Obligor Covenants) of the Common Terms Agreement;
  - (v) paragraph 21 (Share Capital) of part 3 (General Covenants) of Schedule 2 (Obligor Covenants) of the Common Terms Agreement;
  - (vi) paragraph 22 (Insurance) of part 3 (General Covenants) of Schedule 2 (Obligor Covenants) of the Common Terms Agreement; or
  - (vii) to the extent it relates to the Transmission Licence, paragraph 26 (Project Documents) of part 3 (General Covenants) of Schedule 2 (Obligor Covenants) of the Common Terms Agreement.

**FEPA**

has the meaning given to it on page 96.

**Final Maturity Date** means:

- (a) in relation to a Bond, the final date on which that Bond is expressed to be redeemable; and
- (b) in relation to any other Authorised Credit Facility, the date on which all financial accommodation made available under that Authorised Credit Facility is expressed to be repayable in full (without any further obligation of the relevant Authorised Credit Provider to continue to make available such financial accommodation).

**Final Redemption Date** has the meaning given to it on page 3.

**Final Section K Notification** has the meaning given to that term in the STC.

**Finance Document** means:

- (a) each Hedging Agreement and any other credit support or collateral documentation entered into in connection therewith or pursuant thereto;
- (b) each Bond Document;
- (c) each Common Document;
- (d) the CP Agreement;
- (e) each PBCE Document;
- (f) each Investor Funding Loan;
- (g) any fee letter, commitment letter or request entered into in connection with an Authorised Credit Facility that has been designated as a Finance Document by the parties thereto (including at least one Obligor); and
- (h) any amendment and/or restatement agreement relating to any of the above documents.

**Finance Parties** means each Authorised Credit Provider and each arranger, agent, representative and trustee appointed in connection with the Authorised Credit Facility.

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

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);

- (c) any Bonds, (excluding any Bonds owned or held by the Issuer or where the Issuer is not entitled (or has waived its entitlement to receive) principal and/or Interest in relation to those Bonds), debentures, loan stock or any similar instrument or any obligation to purchase the Bonds, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of finance leases;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked-to-market loss to the Security Group (or, if any actual amount is due from the Security Group as a result of the termination or closeout of that Treasury Transaction, that amount) shall be taken into account) and any liability thereunder;
- (g) any counterindemnity obligation in respect of any guarantee, indemnity, bond, standby or documentary letter of credit or other instrument issued by a bank or financial institution;
- (h) any amount raised by the issue of redeemable shares which are redeemable (other than at the option of the Issuer) before the Final Maturity Date or are otherwise classified as borrowings under the Accounting Standards;
- (i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question, or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 120 days after the date of supply;
- (j) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the Accounting Standards; and
- (k) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (j) above.

<b>Financial Ratio Event of Default</b>	means an Event of Default as set out in " <i>Description of the other Transaction Documents – Common Terms Agreement – Events of Default – Breach of Financial Covenant and other obligations</i> ".
<b>Financial Statements</b>	means the Annual Financial Statements or the Semi-Annual Financial Statements as applicable.
<b>Financial Year</b>	means the annual accounting period of the Security Group ending on or about 31 March in each year.



<b>Fitch</b>		means Fitch Ratings Ltd. and any successor to the rating agency business of Fitch Ratings Ltd.
<b>Floating Rate Reference Period</b>		means the period commencing on the date on which a payment is made by the PBCE Provider under the PBCE Letter of Credit (in the case of the first Floating Rate Reference Period) or on the expiry date of a previous Floating Rate Reference Period (in any other case) and ending on the next Interest Payment Date for the Bonds and each six month period thereafter.
<b>Force Majeure Event</b>		as defined in the 2002 ISDA Master Agreement.
<b>FSMA</b>		means the Financial Services and Markets Act 2000.
<b>FTT</b>		has the meaning given to it on page 223.
<b>Further Bonds</b>		has the meaning given to that term in Condition 15.1.
<b>Further Enforcement Instruction Notice</b>		has the meaning given to it on page 214.
<b>General Liability</b>		means any loss, damage, cost, fee, charge, claim, demand, expense, judgment, action, proceeding or other liability whatsoever (including, without limitation, in respect of taxes, duties, levies, imposts and other charges) and including any value added tax or similar tax charged or chargeable in respect thereof and legal fees and expenses on a full indemnity basis.
<b>Generator Assets</b>		has the meaning given to that term in the Interface Agreement.
<b>Global Bond</b>		means a Temporary Global Bond and/or a Permanent Global Bond, as the context may require.
<b>Good Industry Practice</b>		means the exercise of the degree of skill, care and operating practice which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the same type of undertaking as the Issuer under the same or similar circumstances.
<b>Government Entity</b>		means: <ul style="list-style-type: none"> <li>(a) the government of the United Kingdom;</li> <li>(b) any authority, agency or department established by the government of the United Kingdom; and</li> <li>(c) any public corporation or other entity of which the government of the United Kingdom has direct or indirect control and "control" for this purpose means the power to direct the management and the policies of the entity whether through the ownership of share capital, contract or otherwise.</li> </ul>
<b>Grid Code</b>		means the code of that name pursuant to NGET's transmission licence.
<b>Gross Redemption</b>		has the meaning given to it on page 141.

## **Yield**

### **Gross Revenues**

means, in relation to any period (without counting any item more than once), all moneys received (as appropriate) or to be received (as appropriate) by the Security Group in respect of:

- (a) its revenues from its operations in that period;
- (b) any net revenue in that period under any Revenue Transaction;
- (c) an Insurance in respect of physical damage (but only to the extent that these moneys have actually been received and applied towards an equivalent reinstatement, repair, restoration or replacement cost in that period) as contemplated by paragraph (b)(i) under "Insurance Accounts" (see "*Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management*");
- (d) a refund or payment in respect of Tax in that period;
- (e) interest earned or to be earned on the Accounts in that period;
- (f) (other than for the purposes of calculating the Debt Life Cover Ratio) all moneys withdrawn in that period from the Emergency Reserve Account, (except for the purposes of calculating a Debt Service Cover Ratio only, to the extent that such amounts have been withdrawn to pay Debt Service in that period as contemplated by paragraphs (c)(iv) or (c)(v) (See "*Description of the other Transaction Documents - Common Terms Agreement - Obligor Cash Management – Emergency Reserve Account*"), the DECC Decommissioning Reserve Account and the Working Capital Reserve Account less any moneys transferred to each of these Accounts (as applicable) in that period (excluding any amounts standing to the credit of each of those Accounts at the close of business on the Closing Date) in each case in accordance with the cash management provisions of the Common Terms Agreement (See *Common Terms Agreement - Obligor Cash Management*).

### **Guarantee**

has the meaning given to it on page 13.

### **Guarantors**

has the meaning given to it on page 2.

### **GyMOWFL**

means Gwynt-Y-Môr Offshore Wind Farm Limited (registered number 3697015) acting as principal and/or as undisclosed or disclosed agent of the Participants.

### **Hedge Counterparty**

means an Initial Hedge Counterparty or any counterparty which accedes as a hedge counterparty to the STID and Common Terms Agreement as a hedge counterparty.

### **Hedging Agreement**

means each ISDA Master Agreement entered into by the Issuer and a Hedge Counterparty for the purpose of executing a Revenue Transaction, in each case in accordance with the CTA and which governs the Hedging Transactions between such parties.

<b>Hedging Force Majeure</b>	means an Illegality or Tax Event, Tax Event Upon Merger or a Force Majeure Event (each as defined in the 2002 ISDA Master Agreement).
<b>Hedging Liabilities</b>	means the Secured Liabilities owed by the Issuer to the Hedge Counterparties under or in connection with the Hedging Agreements.
<b>Hedging Transaction</b>	means any inflation-linked Treasury Transaction or any other Treasury Transaction governed by a Hedging Agreement and entered into with the Issuer in accordance with the Common Terms Agreement.
<b>Historic DSCR</b>	means, on any Calculation Date, the Debt Service Cover Ratio for the Relevant Period ending on that Calculation Date.
<b>HMRC</b>	has the meaning given to it on page 224.
<b>Holdco</b>	means Gwynt y Môr OFTO Holdings Limited.
<b>Holdco Account</b>	means the account opened by Holdco entitled the Holdco Account which shall be operated and maintained by Holdco, as further set out in <i>"Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management – Holdco Account"</i> .
<b>Holding Company</b>	means, in relation to a company or a corporation, any other company or corporation in respect of which it is a Subsidiary.
<b>HV</b>	means high voltage.
<b>ICPC</b>	means the International Cable Protection Committee..
<b>IFRS</b>	means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.
<b>Illegality</b>	as defined in the 2002 ISDA Master Agreement.
<b>Income</b>	means any interest, dividends or other income arising from or in respect of a Cash Equivalent Investment.
<b>Independent Expert</b>	means a major international accountancy or consultancy firm, or other person with appropriate expertise and no interest in the outcome of the matter that is the subject of the referral made (or to be made) to it, nominated by the Issuer after consultation with the PBCE Provider and the Technical Adviser and/or Insurance Adviser (as appropriate).
<b>Indexed</b>	means, in respect of any amount, that amount (as previously indexed) adjusted up or down at the beginning of each calendar year by a percentage equal to the amount equal to the percentage increase or, as the case may be, decrease in the Retail Price Index for such year or as is otherwise specified in the relevant Finance Document.
<b>Initial Hedge Counterparties</b>	HSBC Bank plc, Mitsubishi UFJ Securities International plc and Sumitomo Mitsui Banking Corporation.

<b>Insolvency Act</b>	means the Insolvency Act 1986 as amended.
<b>Insolvency Event</b>	<p>means, in respect of any company:</p> <ul style="list-style-type: none"> <li>(a) the initiation of or consent to Insolvency Proceedings by such company or any other person or the presentation of a petition or application for the making of an administration order which proceedings (other than in the case of the Issuer) are not being disputed in good faith with a reasonable prospect of success or which are frivolous or vexatious and discharged, stayed or dismissed within 10 Business Days of commencement or, if earlier, the date on which it is advertised;</li> <li>(b) an encumbrancer taking possession of the whole or any part of the undertaking or assets of such company;</li> <li>(c) any distress, execution, attachment or other process being levied or enforced or imposed upon or against the whole or any substantial part of the undertaking or assets of such company and such order, appointment, possession or process (as the case may be) not being discharged or otherwise ceasing to apply within 30 days;</li> <li>(d) a composition, compromise, assignment or arrangement with creditors of such company (as part of a general composition, compromise, assignment or arrangement affecting such company's creditors generally) other than a composition compromise, assignment or arrangement with respect to any subordinated Financial Indebtedness, any intragroup loan or guarantee;</li> <li>(e) the passing by such company of an effective resolution or the making of an order by a court of competent jurisdiction for the winding-up, liquidation or dissolution of such company (except, in the case of the Issuer, a winding-up for the purpose of a merger, reorganisation or amalgamation the terms of which have previously been approved by an Extraordinary Resolution);</li> <li>(f) the appointment of an Insolvency Official in relation to such company or in relation to the whole or any substantial part of the undertaking or assets of such company;</li> <li>(g) save as permitted in the STID, the cessation or suspension of payment of its debts generally or a public announcement by such company of an intention to do so; or</li> <li>(h) save as provided in the STID, a moratorium is declared in respect of any indebtedness of such company.</li> </ul>
<b>Insolvency Official</b>	means, in connection with any Insolvency Proceedings in relation to a company, a liquidator, provisional liquidator, administrator, Receiver, nominee, supervisor, trustee, conservator, guardian or other similar official in respect of such company or in respect of all (or substantially all) of the company's assets or in respect of any arrangement or composition with creditors.

<b>Insolvency Proceedings</b>	means, in respect of any company, the winding-up, liquidation, dissolution or administration of such company, or any equivalent or analogous proceedings under the law of the jurisdiction in which such company is incorporated or of any jurisdiction in which such company carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors.
<b>Insurance</b>	means the contracts and policies of insurance taken out by or on behalf of the Issuer in accordance with the terms of the Finance Documents or (to the extent of its interest) in which the Issuer has an interest.
<b>Insurance Account</b>	means the account opened and maintained by the Issuer entitled the Insurance Account which shall be credited with certain insurance proceeds as further set out in " <i>Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management – Insurance Account</i> ".
<b>Insurance Adviser</b>	means an insurance adviser appointed by the Issuer in accordance with the CTA.
<b>Insurance Proceeds</b>	means the proceeds of any insurance claim under any insurance maintained by an Obligor except for Excluded Insurance Proceeds and after deducting any reasonable expenses in relation to that claim which are incurred by any Obligor to persons who are not Obligors or Affiliates of any Obligor.
<b>Intellectual Property Rights</b>	means: <ul style="list-style-type: none"> <li>(a) any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, know how and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and</li> <li>(b) the benefit of all applications and rights to use such assets of each Obligor (which may now or in the future subsist).</li> </ul>
<b>Interest</b>	means: <ul style="list-style-type: none"> <li>(a) interest and amounts in the nature of interest accrued;</li> <li>(b) prepayment penalties or premia incurred in repaying or prepaying Senior Debt;</li> <li>(c) discount fees and acceptance fees payable or deducted in respect of any Senior Debt, including fees payable in respect of any letters of credit and guarantees;</li> <li>(d) any net payment (or, if appropriate in the context, receipt) under any interest rate or cross currency hedging agreement or instrument, taking into account any premia payable; and</li> <li>(e) any other payment and deduction of similar effect.</li> </ul>

<b>Interest Date</b>	<b>Payment</b>	has the meaning given thereto in Condition 4.1 or otherwise means the date(s) specified in the Conditions.
<b>Interface Agreement</b>		means the agreement entered into between the Issuer and GyMOWFL.
<b>Interim Section K Notification</b>		has the meaning given to that term in the STC.
<b>IntermediateCo</b>		means Gwynt y Môr OFTO Intermediate Limited.
<b>IntermediateCo Account</b>		means the account opened by IntermediateCo entitled the IntermediateCo Account which shall be operated and maintained in by IntermediateCo, as further set out in " <i>Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management – IntermediateCo Account</i> ".
<b>IntermediateCo Loan Note Instrument</b>		means the loan note instrument made by IntermediateCo on or around the Signing Date.
<b>Interruption</b>		has the meaning given to that term in the CUSC.
<b>Interruption Charges</b>		has the meaning given to it on page 72.
<b>Investment Proceeds</b>		means: <ul style="list-style-type: none"> <li>(a) any net proceeds received upon disposal or realisation; or</li> <li>(b) any sum received upon maturity of a Cash Equivalent Investment, but excluding all Income.</li> </ul>
<b>Investor</b>		means Balfour Beatty OFTO Holdings Limited and Equitix Transmission 2 Limited and their, or any subsequent, successors or assignees or transferees.
<b>Investor Loan</b>	<b>Funding</b>	means: <ul style="list-style-type: none"> <li>(a) as at the Issue Date, any loan made under: <ul style="list-style-type: none"> <li>(i) the IntermediateCo Loan Note Instrument; and</li> <li>(ii) the OFTO Loan Note Instrument; and</li> </ul> </li> </ul> any loan made or deemed to be made by any Investor to any Obligor, provided that the benefit of such loan is subject to the terms of the STID as an Investor Funding Loan.
<b>Investor Report</b>		means each report produced by the Issuer to be delivered by each Calculation Date in each year (see " <i>Description of the other Transaction Documents – Common Terms Agreement – Information Covenants</i> ").
<b>Investor's Currency</b>		has the meaning given to it on page 45.
<b>Irish Stock Exchange</b>		means the Irish Stock Exchange plc or any other body to which its functions have been transferred.

<b>ISDA Agreement</b>	<b>Master</b>	means an agreement in the form of the 2002 ISDA Master Agreement (including the schedule, each confirmation and any credit support annex thereto) or any successor thereto published by ISDA unless otherwise agreed by the Security Trustee acting in accordance with the STID.
<b>Issue Date</b>		means the date upon which the Bonds are issued by the Issuer.
<b>Issuer</b>		means Gwynt y Môr OFTO plc.
<b>Joint Bookrunners</b>		has the meaning given to it on page 11.
<b>Joint Venture</b>		means any joint venture entity, partnership or similar person, the ownership of or other interest in which does not require any Obligor to consolidate the results of that person with its own as a Subsidiary.
<b>Key Assumptions</b>		means the availability of the Transmission Assets
<b>Liabilities</b>		<p>means all present and future liabilities and obligations at any time of any Obligor to any Secured Creditor under the Finance Documents, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:</p> <ul style="list-style-type: none"> <li>(a) any novation, deferral or extension;</li> <li>(b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;</li> <li>(c) any claim for damages or restitution; and</li> <li>(d) any claim as a result of any recovery by such Obligor of a Payment on the grounds of preference or otherwise; and</li> <li>(e) any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.</li> </ul>
<b>LIBOR</b>		London inter bank offer rate.
<b>Limitation Acts</b>		means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.
<b>Lock-Up Ratio Level</b>		<p>means:</p> <ul style="list-style-type: none"> <li>(a) in respect of the Projected DSCR, 1.10:1;</li> <li>(b) in respect of the Historic DSCR, 1.10:1; and</li> <li>(c) in respect of the Debt Life Cover Ratio, 1.15:1,</li> </ul> <p>in each case, in respect of the Relevant Period as at the relevant Calculation</p>

	Date, as stated in the Investor Report.
<b>Major Project Party</b>	means: <ul style="list-style-type: none"> <li>(a) the O&amp;M Contractor; and</li> <li>(b) the O&amp;M Guarantor.</li> </ul>
<b>Majority Requirement</b>	see " <i>Description of the other Transaction Documents – Security Trust And Intercreditor Deed – Method and Quantum of Voting</i> ".
<b>Make-Whole Amount</b>	means any premium payable on redemption of any Senior Debt in excess of: <ul style="list-style-type: none"> <li>(a) the principal amount outstanding of such debt; plus</li> <li>(b) accrued interest on such debt; plus</li> <li>(c) any final payment in respect of accretions for inflation on any such debt that is index-linked.</li> </ul>
<b>Master Definitions Agreement</b>	means the agreement of the same name between, <i>inter alia</i> , the Obligors, the Bond Trustee, the Security Trustee, the PBCE Provider, HSBC Bank PLC (as Bond Arranger) and the Joint Bookrunners.
<b>Material Adverse Effect</b>	means an effect which is or would likely to be materially adverse to: <ul style="list-style-type: none"> <li>(a) the business, assets or condition (financial or otherwise) of the Obligors taken as a whole;</li> <li>(b) the ability of the Issuer to perform its obligations under the Finance Documents and/or its ability to meet a Default Ratio Level (for the avoidance of doubt calculated without making any adjustment in the calculation of Net Cashflow as contemplated by paragraph (b) (<i>Breach of Financial Covenant and other obligations</i>)) (See <i>Common Terms Agreement - Events of Default</i>);</li> <li>(c) the validity, legality, enforceability or effectiveness of any provision of any Transaction Document;</li> <li>(d) the priority of any Security Interest granted or purported to be granted pursuant to any Security Document or the rights or remedies of the Secured Creditors under any Finance Document; or</li> <li>(e) the ability of a Major Project Party or an Obligor to perform its material obligations under any Project Document.</li> </ul>
<b>MCAA</b>	has the meaning given to it on page 96.
<b>Member State and Member States</b>	has the meaning given to it on page 123.
<b>Model</b>	means the Base Case Model as most recently amended in relation to the Key Assumptions, the Economic Assumptions and/or the Monitored Operating Costs from time to time in accordance with paragraph 3 (Financial Model) of part 1 (Information Covenants) of schedule 2 (Obligor Covenants) of the



Common Terms Agreement. For the avoidance of doubt, all projected figures included in any Model are for internal use by the Issuer and certain parties to the CTA, and will not be available to Bondholders.

**Monitored Operating Costs** means the following line items in the Model:

- (a) "Operations";
- (b) "Surveys and inspections";
- (c) "Planned maintenance";
- (d) "HSE, consumable spares and clean up fees";
- (e) "Consumable Spares, Batteries, HVAC & SVC";
- (f) "Strategic spares storage";
- (g) "Insurance Premia"; and
- (h) "SPV running costs".

**Moody's** means Moody's Investors Services Limited (registered number 01950192) or any successor to its rating business.

**Net Cashflow** means, for any period:

- (a) (i) Gross Revenues received or to be received during that period and  
(ii) any proceeds received from the creation and issuance of Further Bonds issued to fund Capital Costs in that period; *minus*
- (b) the following amounts payable in relation to that period:
  - (i) all Operating Costs;
  - (ii) all Taxes payable in connection with any or all of the Project, including any payments made to any Obligor in respect of the surrender or transfer of any Tax credit, loss, relief or allowance, but only to the extent that:
    - (A) any such Tax credit, loss, relief or allowance is actually used to reduce the Taxes payable in connection with all or any of the Project;
    - (B) the amount of the payment is no greater than the amount of the Taxes thereby saved; and
    - (C) no such payment is made earlier than the latest date on which such Taxes would have been payable without incurring interest or penalties; and
  - (iii) all Capital Costs,

converted, in the event that any such amount is not denominated in Sterling, into Sterling at the actual rate of exchange received by the

relevant member of the Security Group in respect of the receipt or payment or, in the case of any Operating Cost not yet payable or any Gross Revenues not yet received, at the Projected Spot Rate of Exchange on the date of projected receipt or payment.

<b>NETSO</b>	has the meaning given to it on page 50.
<b>NGET</b>	means National Grid Electricity Transmission plc (registered number 02366977).
<b>NGET Credit Rating</b>	has the meaning given to it in the STC.
<b>NGET Interface Agreement</b>	means the agreement entered into between the Issuer and NGET dated on or about the date of Completion for interface arrangements in relation to assets of the Issuer located on NGET's land.
<b>NGET Notes</b>	has the meaning given to it on page 64.
<b>Non-Cash Consideration</b>	means consideration in a form other than cash.
<b>Notice of Demand</b>	has the meaning given to such term in the PBCE Letter of Credit and Reimbursement Deed.
<b>NPV</b>	means, in relation to the Relevant Period applicable to the calculation of the Debt Life Cover Ratio, an amount equal to the present value (discounted back to the relevant Calculation Date at the Discount Rate applicable to that Relevant Period) of the projected Net Cashflow for that Relevant Period calculated on the basis of figures available to the Security Group and consistent with the budgets, forecasts and other projections provided to the Security Trustee, the PBCE Provider, the Hedge Counterparties and the Bond Trustee.
<b>O&amp;M Agreement</b>	means the operation and maintenance agreement dated on or about the Signing Date between the O&M Contractor as operator and the Issuer.
<b>O&amp;M Contractor</b>	means Balfour Beatty Utility Solutions Limited (registered number 01062438) acting as agent for Balfour Beatty Group Limited.
<b>O&amp;M Guarantee</b>	means the guarantee dated on or about the Signing Date between, among others, the O&M Guarantor in respect of the obligations of the O&M Contractor under the O&M Agreement.
<b>O&amp;M Guarantor</b>	means Balfour Beatty Investment Holdings Limited.
<b>Obligor</b>	means the Issuer, IntermediateCo and Holdco.
<b>Offshore Compensation Payments</b>	has the meaning given to it on page 72.

<b>Offshore Construction Securities</b>	has the meaning given to it on page 72.
<b>Offshore Site</b>	means the two areas each circular in shape and having a diameter of 200 metres and on which the two offshore platforms have been constructed.
<b>Ofgem</b>	means the Office of Gas and Electricity Markets.
<b>OFTO or Offshore Transmission Owner</b>	means the relevant offshore transmission owner, which may include but not be limited to the Issuer.
<b>OFTO Cables</b>	means any existing or future media for the passage of electricity, signals and data and any ancillary apparatus attached to them, and any enclosures for them, which are to be owned by the Issuer.
<b>OFTO Licence</b>	means the transmission licence to be granted to the Issuer under section 6 Electricity Act and is the "offshore transmission licence" referred to in section 6C(5) Electricity Act.
<b>OFTO Loan Note Instrument</b>	means the loan note instrument made by the Issuer on or around the Signing Date.
<b>OFTO of Last Resort</b>	means an OFTO appointed by the Authority pursuant to a licence condition E21 of a transmission licence.
<b>Oil and Gas Works</b>	has the meaning given to it on page 102.
<b>Onshore Lease Agreements</b>	means: <ul style="list-style-type: none"> <li>(a) the lease dated 6 November 2009 and made between (1) Griffith Trevor Jones and Betty May Jones and (2) GyMOWFL registered with leasehold title number CYM476173 known as land lying to the south of Clascoed Road, St Asaph;</li> <li>(b) the TR1 transfer deed between GyMOWFL and the OFTO with respect to the transfer of the lease registered with leasehold title number CYM476173 known as land lying to the south of Clascoed Road, St Asaph dated on or about the Initial Issue Date;</li> <li>(c) the lease dated 6 November 2009 and made between (1) Sir David Watkin Williams Wynn and (2) GyMOWFL registered with leasehold title number CYM475317 known as the land lying to the south of St Asaph Business park;</li> <li>(d) the TR1 transfer deed between GyMOWFL and the OFTO with respect to the transfer of the lease registered with leasehold title number CYM475317 known as the land lying to the south of St Asaph Business park dated on or about the Initial Issue Date;</li> <li>(e) the lease of easement between Network Rail Infrastructure Ltd and GyMOWFL dated 4 April 2011;</li> </ul>

- (f) the deed of grant of easement between Clifford Frazier and Jeffrey Frazier and GyMOWFL dated 1 September 2010;
- (g) the deed of grant of easement between Danbanks Development Limited and GyMOWFL dated 31 August 2010;
- (h) the deed of grant of easement between Robert Henry Lloyd Jones and GyMOWFL dated 31 August 2010;
- (i) the deed of grant of easement between Nora Parry & Alfred Henry Parry and GyMOWFL dated 2 September 2010;
- (j) the deed of grant of easement between Nora Parry and GyMOWFL dated 2 September 2010;
- (k) the deed of grant of easement between Peter David Brogden and GyMOWFL dated 3 September 2010;
- (l) the deed of grant of easement between George Berwyn Lloyd Kerfoot, Iola Morris Kerfoot & Jeremy Charles Salisbury and GyMOWFL dated 1 October 2010;
- (m) the deed of grant of easement between George Berwyn Lloyd Kerfoot, & Iola Morris Kerfoot and GyMOWFL dated 1 October 2010;
- (n) the deed of grant of easement between Edward Dickon Hanning Fethersonhaugh and GyMOWFL dated 20 September 2010;
- (o) the deed of grant of easement between Hugh Simon Fethersonhaugh and GyMOWFL dated 20 September 2010;
- (p) the deed of grant of easement between Malcolm Spencer Humbert Ring, Michael William Verity & Mark Henry Hudson and GyMOWFL dated 5 October 2010;
- (q) the deed of grant of easement between Malcolm Spencer Humbert Ring, Anthony Francis Anson & Mark Henry Hudson and the GyMOWFL dated 20 September 2010;
- (r) the deed of grant of easement between Raymond Ivor Beech and GyMOWFL dated 8 September 2010;
- (s) the deed of grant of easement between Wynford Davies and GyMOWFL dated 26 April 2010;
- (t) the deed of grant of easement between Catherine Nerys Thomas and GyMOWFL dated 31 August 2010;
- (u) the deed of grant of easement between Islwyn Williams and Elizabeth Eirlys Williams and GyMOWFL dated 31 August 2010;
- (v) the deed of grant of easement between Executors of Dr Jones-

Mortimer and GyMOWFL dated 10 May 2010;

- (w) the deed of grant of easement between Denbighshire County Council and GyMOWFL dated 31 August 2010;
- (x) the deed of grant of easement between Dekade Limited and GyMOWFL dated 31 August 2010;
- (y) the deed of grant of easement between Bryn Jones and GyMOWFL dated 26 April 2010;
- (z) the deed of grant (access) between Griffith Trevor Jones & Betty May Jones and GyMOWFL dated 6 November 2009;
- (aa) the deed of variation (access) between Griffith Trevor Jones & Betty May Jones and GyMOWFL dated 16 January 2010;
- (bb) the deed of grant of easement between Griffith Trevor Jones & Betty May Jones and GyMOWFL dated 6 November 2009;
- (cc) the deed of grant of easement between Sir David Watkins Williams Wynn BT and GyMOWFL dated 6 November 2009;
- (dd) the deed of consent to drainage works and variation of water rights between Sir David Watkins Williams Wynn BT, Robert Bryn Davies and Mona Elizabeth Davies and GyMOWFL dated 6 November 2009; and
- (ee) the deed of grant of easement between GyMOWFL and the OFTO dated on or about the Signing Date.

**Onshore Property Interests** has the meaning given to it on page 104

**Operating Account** means the account opened by the Issuer entitled the Operating Account which shall be operated and maintained by the Issuer, as further set out in "*Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management – Operating Account*".

**Operating Communications** means any material communication or report delivered by the Issuer to the Authority or NETSO pursuant to the terms of any Transaction Authorisation in respect of the performance of the Project.

**Operating Costs** means all costs and expenses (without double counting) incurred by the Issuer in the ordinary course of its business including, but not limited to:

- (a) operating costs and expenses whether or not they are set out in the relevant Model (but not including capital expenditure);
- (b) the amount of all fees, costs and expenses payable in respect of Secured Debt by the Issuer during such period (as contemplated by paragraphs 2.2.1, 2.2.2, 2.2.3 and 2.2.6 of the Pre-Enforcement Priority of Payment);

- (c) liabilities of the Issuer under the Project Documents;
- (d) premia on Insurances payable by the Issuer;
- (e) maintenance expenditure in respect of the Project;
- (f) the costs associated with the replacement, reinstatement, repair or amelioration of the loss in respect of any assets of any Obligor;
- (g) administrative, legal, accounting, management and employee costs;
- (h) Rating Agency costs;
- (i) any other costs and expenses agreed by the Security Trustee and the Issuer;
- (j) any net revenue payable by the Issuer under any Revenue Transaction;
- (k) decommissioning costs payable by the Issuer in accordance with the Decommissioning Plan; and
- (l) any additional amounts paid in respect of VAT in respect of the above,

but excluding:

- (i) Taxes (other than additional amounts in respect of VAT contemplated by paragraph (l) above);
- (ii) any amounts payable in respect of Capital Costs;
- (iii) any amounts payable in respect of Interest, principal amounts, fees and other costs and expenses due and payable by the Issuer under the Senior Debt;
- (iv) termination payments, final payments and accretion or other pay-as-you-go payments under any Hedging Agreement; and
- (v) depreciation, non-cash charges, reserves, amortisation of intangibles and similar bookkeeping entries.

**Operator** means Balfour Beatty Utility Solutions Limited as operator under the O&M Agreement.

**Ordinary Resolution** has the meaning given to that term in paragraph 5.2 (Requisite Majority) of schedule 2 (STID Decision Making Protocol) of the STID.

**Ordinary Voting Matter** means a matter relating to a modification, consent, waiver or determination which is not a Discretion Matter or an Extraordinary Voting Matter.

**Original Bonds** means the Bonds.

**OSP** means an offshore platform.

**Outage**

means a de-energisation of the Transmission Assets which is caused by (a) an event described in paragraph 9 of amended standard condition E12-J4 of the Transmission Licence or (b) an exceptional event as defined in paragraph 1 of amended standard condition E12-J1 of the Transmission Licence.

**Outstanding**

means, in relation to the Bonds, all the Bonds issued other than:

- (a) those Bonds which have been redeemed in full or purchased, and cancelled, in accordance with Condition 6 or otherwise under the Bond Trust Deed;
- (b) those Bonds in respect of which the date (including, where applicable, any deferred date) for redemption in accordance with the Conditions has occurred and the redemption moneys for which (including premium (if any) and all interest payable thereon) have been duly paid to the Bond Trustee or to the Principal Paying Agent, as applicable, in the manner provided in the Agency Agreement (and where appropriate notice to that effect has been provided or published in accordance with Condition 12) and remain available for payment against presentation of the relevant Bonds and/or Coupons and/or Receipts;
- (c) those Bonds which have become void or in respect of which claims have become prescribed, in each case, under Condition 8;
- (d) those mutilated or defaced Bonds which have been surrendered and cancelled and in respect of which replacements have been issued pursuant to Condition 11;
- (e) (for the purpose only of ascertaining the Outstanding Principal Amount of the Bonds and without prejudice to the status for any other purpose of the relevant Bonds) those Bonds which are alleged to have been lost, stolen or destroyed and in respect of which replacements have been issued pursuant to Condition 11;
- (f) the Temporary Global Bonds to the extent that they have been exchanged for Permanent Global Bonds or Definitive Bonds pursuant to the provisions of the Bond Trust Deed;
- (g) the Permanent Global Bonds that remain in escrow pending exchange of the Temporary Global Bonds therefor, pursuant to the provisions of the Bond Trust Deed; and
- (h) the Permanent Global Bonds to the extent that they have been exchanged for Definitive Bonds pursuant to the provisions of the Bond Trust Deed,

provided that for each of the following purposes, namely:

- (i) the right to attend and vote at any meeting of the Bondholders or in respect of an Extraordinary Resolution in writing or an Ordinary Resolution in writing as envisaged by the Bond

Trust Deed;

- (ii) the determination of how many and which Bonds are for the time being outstanding for the purposes of the Bond Trust Deed and Conditions 9 and 13; and
- (iii) any discretion, power or authority (whether contained in the Bond Trust Deed or vested by operation of law) which the Bond Trustee is required, expressly or implicitly, to exercise in or by reference to the interests of the Bondholders or any of them,

those Bonds which are for the time being held by or on behalf of or for the benefit of the Issuer or any other Obligor in each case as beneficial owner, shall (unless and until ceasing to be so held) be deemed not to remain outstanding.

**Outstanding  
Principal Amount**

shall have the meaning give to it in Condition 6.9.

**Outstanding Works**

shall have the meaning given to it on page 83.

**Over-hedging  
Termination  
Payments**

means any sums that are payable to a Hedge Counterparty pursuant to any termination of a Treasury Transaction pursuant to the Common Terms Agreement.

**Owner's  
Representative**

has the meaning given to it in the O&M Agreement.

**Participants**

means the Vendors and their successors and assigns.

**Participating  
Member State**

means a member state of the European Union that adopts or has adopted the euro as its lawful currency under the legislation of the European Union for European Monetary Union.

**participating owner**

has the meaning given to it on page 59.

**Party**

means, in relation to a Finance Document, a party to such Finance Document.

**Party Entry  
Processes**

means the processes required to be followed by a new party in respect of its entry into the STC.

**Payment**

means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, cash collateralisation or discharge of those Liabilities (or other liabilities or obligations).

**Payment Date**

means, in respect of an Authorised Credit Facility, each date on which a payment is made or is scheduled to be made by an Obligor in respect of any obligations or liability under such Authorised Credit Facility.

**Payment Netting**

has the meaning given to it in the relevant ISDA Master Agreement.

**PBCE Available  
Amount**

has the meaning given to it on page 124.



<b>PBCE DLCR Rebalancing Event</b>	means a PBCE Rebalancing Event that occurs as a result of the circumstances specified in paragraph (a) of the definition of PBCE Rebalancing Event.
<b>PBCE Document</b>	means: <ul style="list-style-type: none"> <li>(a) the PBCE Letter of Credit and Reimbursement Deed;</li> <li>(b) the PBCE Letter of Credit; and</li> <li>(c) any other document designated as such by the Issuer, the PBCE Provider and the Security Trustee.</li> </ul>
<b>PBCE Drawdown Cancellation</b>	occurs if the Issuer delivers to the PBCE Provider and the Security Trustee a PBCE Drawdown Cancellation Notice by no later than 10am (London time) on the PBCE Drawdown Cancellation Date.
<b>PBCE Drawdown Cancellation Date</b>	means the date falling five Business Days prior to any Scheduled Payment Date in respect of which the Security Trustee has requested a drawing under the PBCE Letter of Credit in order to fund Scheduled Debt Service.
<b>PBCE Drawdown Cancellation Notice</b>	means a notice from the Issuer to the PBCE Provider and the Security Trustee certifying that: (a) it has received additional revenues since the date of delivery of the Notice of Demand in an amount which, together with all amounts then standing to the credit of the Debt Service Account, the Debt Service Reserve Account and if applicable, the Emergency Reserve Account, is sufficient to enable the Issuer to pay all amounts of Scheduled Debt Service falling due on the relevant Scheduled Payment Date in accordance with the Pre-Enforcement Priority of Payment without any requirement for the Issuer (on behalf of the Security Trustee) to draw on the PBCE Letter of Credit; and (b) no PBCE Rebalancing is required on that Scheduled Payment Date.
<b>PBCE Entrenched Right</b>	means the entrenched rights of the PBCE Provider as follows: <ul style="list-style-type: none"> <li>(a) any amendment to the terms of the PBCE Documents or any related fee letter (and including, for the avoidance of doubt, any provisions relating to payments due to the PBCE Provider (including payments of interest, principal and fees), the currency of such payments, and the obligation of the Issuer to gross up any such payment in the event of imposition of withholding tax);</li> <li>(b) any amendment to the PBCE Provider's decision-making and voting rights, including any amendment which would change or would have the effect of changing (i) any of the definitions relating to majority thresholds and voting groups; (ii) the definition of the PBCE Entrenched Rights; (iii) the decision period, quorum requirement or voting majority required in respect of any decision, waiver, determination or enforcement instruction; (iv) the provisions of this Deed setting out the effect of the PBCE Entrenched Rights; or (v) how the Secured Creditors cast their votes or exercise their decision-making rights under the STID;</li> </ul>

- (c) any amendment which would have the effect of adversely changing any Priority of Payments or application thereof in respect of the PBCE Provider (whether directly or indirectly);
- (d) any partial or total voluntary redemption of the Bonds by the Issuer unless there is a full payment of outstanding amounts under the PBCE Letter of Credit and Reimbursement Deed (drawn amounts plus current and capitalised interest) on a senior basis, or a pro rata reduction of the maximum amount of the PBCE Letter of Credit (and, as the case may be, a pro rata repayment of the drawn amounts plus current interest under the PBCE Letter of Credit and Reimbursement Deed) if the PBCE Provider has confirmed that the proposed voluntary redemption will not have a material adverse effect on its exposure and rights under the PBCE Letter of Credit and Reimbursement Deed;
- (e) any increase in Permitted Financial Indebtedness, including fees, charges, interest or margin, changes in the repayment profile of any Financial Indebtedness, or other material amendments of terms of such Financial Indebtedness;
- (f) any amendments to or waiver of the basis or timing of calculation of any ratios;
- (g) any amendment to, or waiver of which would constitute any amendment to, or waiver of the provisions of the following Events of Default under the Common Terms Agreement:
  - (i) paragraph 1 (Non Payment) of Schedule 3 (Event of Default) to the Common Terms Agreement;
  - (ii) paragraph 2 (Breach of Financial Covenants) of Schedule 3 (Event of Default) of the Common Terms Agreement;
  - (iii) paragraph 3 (Breach of Other Obligations) of Schedule 3 (Event of Default) to the Common Terms Agreement but only so far as it relates to:
    - (A) an increase in the Permitted Financial Indebtedness of an Obligor or any change to the repayment profile of any Financial Indebtedness or other material amendments to the terms of such Financial Indebtedness;
    - (B) a breach of the PBCE Letter of Credit by the Issuer;
    - (C) an approval of any of those events listed in paragraph 6 (Mergers) or paragraph 15 (Disposals) of part 3 (General Covenants) of Schedule 2 (Obligor Covenants) to the Common Terms Agreement; or
  - (iv) paragraph 11 (Unlawfulness and Invalidity) of Schedule 3

(Event of Default) to the Common Terms Agreement;

- (h) any amendment to or waiver of any right, under a Transaction Document which has or is likely to have a material adverse effect on the cashflows of the Issuer, other than during the subsistence of a Distress Event;
- (i) during the subsistence of a Distress Event, any amendment to or waiver of any right under a Transaction Document which either:
  - (i) could reasonably be expected to result in a material deterioration of the DLCR in any Relevant Period; or
  - (ii) could reasonably be expected to result in a material deterioration of the Issuer's ability to repay amounts outstanding under the PBCE Letter of Credit;
- (j) any amendment to the definitions of Environment or Environmental Law in the Master Definitions Agreement;
- (k) any amendment to the definition of Enforcement Action in the Master Definitions Agreement;
- (l) any amendment to the definition of Permitted Business in the Master Definitions Agreement or any proposal made by the Issuer to carry on any other business as contemplated by paragraph (b) of that definition;
- (m) any amendment to the definitions of Restricted Payment or Restricted Payment Conditions in the Master Definitions Agreement;
- (n) any amendment which would have the effect of changing the nature or the scope of, or would release any Security, unless equivalent replacement security is taken at the same time; and
- (o) any waiver of, or amendment to, any condition precedent to the availability of any funds under the PBCE Letter of Credit.

**PBCE Excess Draw Rebalancing Event** means a PBCE Rebalancing Event that occurs as a result of one of the circumstances specified in either paragraph (b) or paragraph (c) of the definition of PBCE Rebalancing Event.

**PBCE Letter of Credit** means the standby letter of credit no. FI 84294 to be issued by the PBCE Provider on or about the Issue Date in accordance with the provisions of the PBCE Letter of Credit and Reimbursement Deed.

**PBCE Letter of Credit and Reimbursement Deed** means the standby letter of credit and reimbursement deed dated on or about the Signing Date between the Issuer, the Security Trustee and the PBCE Provider.

**PBCE Liabilities** means the Secured Liabilities owed by the Issuer to the PBCE Provider under or in connection with the PBCE Documents.

<b>PBCE Maximum Amount</b>	has the meaning given to it on page 124.
<b>PBCE Provider</b>	means the European Investment Bank.
<b>PBCE Rebalancing</b>	means the drawing on a Scheduled Payment Date of an amount equal to the PBCE Available Amount (less, if any, the amount to be drawn under the PBCE Letter of Credit to pay Scheduled Debt Service on such Scheduled Payment Date) in order to fund the mandatory partial redemption of the Bonds as a result of the occurrence of a PBCE Rebalancing Event on the immediately preceding Scheduled Payment Date and no PBCE Rebalancing Cure has occurred on or before the PBCE Rebalancing Cure Date.
<b>PBCE Rebalancing Cure</b>	<p>occurs in respect of a PBCE Rebalancing Event if the Issuer certifies to the PBCE Provider and the Security Trustee by no later than the PBCE Rebalancing Cure Date that either:</p> <ul style="list-style-type: none"> <li>(a) following the occurrence of a PBCE DLCR Rebalancing Event, an Equity Cure Amount has been applied in accordance with the Common Terms Agreement and the PBCE Rebalancing DLCR is no longer below 1.10:1;</li> <li>or</li> <li>(b) following the occurrence of a PBCE Excess Draw Rebalancing Event: <ul style="list-style-type: none"> <li>(i) Insurance proceeds (in respect of a loss incurred and claimed for before the Scheduled Payment Date in respect of which the PBCE Excess Draw Rebalancing Event occurred) have been agreed and received by the Issuer on or before the PBCE Rebalancing Cure Date; and</li> <li>(ii) the PBCE Letter of Credit would not have needed to be drawn down to meet Scheduled Debt Service on the Scheduled Payment Date in respect of which the PBCE Excess Draw Rebalancing Event occurred, or the PBCE Excess Draw Rebalancing Event would not have occurred, if such Insurance proceeds had been received by the Issuer on or before the Scheduled Payment Date in respect of which the PBCE Excess Draw Rebalancing Event occurred.</li> </ul> </li> </ul>
<b>PBCE Rebalancing Cure Date</b>	<ul style="list-style-type: none"> <li>(c) in respect of a PBCE DLCR Rebalancing Event, the date on which the Equity Cure Amount is applied in accordance with the Common Terms Agreement; or</li> <li>(d) in respect of a PBCE Excess Draw Rebalancing Event, the date falling 11 Business Days prior to a PBCE Rebalancing Date.</li> </ul>
<b>PBCE Rebalancing Date</b>	means the Scheduled Payment Date immediately following the Scheduled Payment Date in respect of which a PBCE Rebalancing Event has occurred.
<b>PBCE Rebalancing</b>	means the Debt Life Cover Ratio calculated without making any adjustment

<b>DLCR</b>		to the calculation of Net Cashflow as contemplated in " <i>Description of the other Transaction Documents – Common Terms Agreement – Events of Default – Breach of Financial Covenant and other obligations</i> ").
<b>PBCE Rebalancing Event</b>		<p>will be deemed to have occurred in respect of a Scheduled Payment Date if, on such Scheduled Payment Date, the PBCE Letter of Credit has been drawn to pay Scheduled Debt Service on such Scheduled Payment Date and:</p> <ul style="list-style-type: none"> <li>(a) the PBCE Rebalancing DLCR as at that Scheduled Payment Date was below 1.10:1; or</li> <li>(b) on that Scheduled Payment Date, the sum of <ul style="list-style-type: none"> <li>(i) the amount of the PBCE Letter of Credit drawn to pay Scheduled Debt Service on such Scheduled Payment Date, plus</li> <li>(ii) any amounts previously drawn under the PBCE Letter of Credit and not repaid by the Issuer pursuant to Clause 4.1.1(i) (Reimbursement) of the PBCE Letter of Credit and Reimbursement Deed,</li> </ul> <p>exceeded an amount equal to 50 per cent. of the Bond Debt Service falling due on that Scheduled Payment Date; or</p> </li> <li>(c) the PBCE Letter of Credit is drawn to pay Scheduled Debt Service for the fourth consecutive Scheduled Payment Date.</li> </ul>
<b>Permanent Bond</b>	<b>Global</b>	means the permanent global bond in respect of the Bonds to be issued pursuant to the Bond Trust Deed in the form set out in part 2 (Form of Permanent Global Bond) of Schedule 1 (Form of the Global Bonds) to the Bond Trust Deed.
<b>Permitted Acquisition</b>		<p>means:</p> <ul style="list-style-type: none"> <li>(a) the Acquisition;</li> <li>(b) an acquisition of shares or securities pursuant to a Permitted Share Issue;</li> <li>(c) an acquisition of securities which are Cash Equivalent Investments so long as those Cash Equivalent Investments become subject to the Security Documents as soon as is reasonably practicable thereafter; and</li> <li>(d) the acquisition of any Secured Debt pursuant to any debt buyback subject to the terms of the Common Terms Agreement, the STID and the Bond Trust Deed.</li> </ul>
<b>Permitted Business</b>		<p>means the business of the Obligors being:</p> <ul style="list-style-type: none"> <li>(a) the business of being an offshore transmission owner comprising managing, operating, maintaining, repairing and decommissioning the Transmission Assets in accordance with the Transaction</li> </ul>

Authorisations, law and regulation; and

- (b) any other business approved or consented to by the Security Trustee in accordance with the STID,
- (c) provided that the activities set out in paragraph (a) above shall constitute the principal business carried on by the Security Group.

**Permitted Disposal**

means any sale, lease, licence, transfer or other disposal which is on arm's length terms and is otherwise in compliance with the Transaction Authorisations:

- (a) of assets in exchange for other assets for use in the ordinary course of business of the disposing entity;
- (b) a surrender or disposal of group Tax relief in accordance with the provisions of paragraph (g) (Taxation) ( See *Common Terms Agreement - General Covenants - Obligor Covenants*);
- (c) of obsolete or redundant vehicles, plant, equipment, parts or similar items for cash;
- (d) of Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;
- (e) arising as a result of the creation of any Permitted Security;
- (f) the application or disposal of cash for value and on an arm's length basis not otherwise prohibited under the Finance Documents;
- (g) where the consideration receivable (when aggregated with the consideration receivable for any other sale, lease, licence, transfer or other disposal not permitted under the preceding paragraphs) does not exceed: (i) until the fifteenth anniversary of the Completion Date, £5,000,000.00 in any Financial Year, and (ii) on or after the fifteenth anniversary of the Completion Date £2,000,000.00 in any Financial Year; and
- (h) any other payment or disposal approved or consented to by the Security Trustee in accordance with the STID.

**Permitted Financial Indebtedness** means Financial Indebtedness:

- (a) arising under the Finance Documents (including, without limitation, any Treasury Transactions) but excluding any Financial Indebtedness which is being incurred to finance all or part of any Additional Capacity Adjustment Investment as required by the Transmission Licence;
- (b) arising under any Subordinated Intragroup Liabilities, subject to the terms of the Common Terms Agreement and the STID;
- (c) arising under a Permitted Loan or under or in respect of a Permitted Guarantee or as permitted by paragraph (kk) in "*Description of the other Transaction Documents – Common Terms Agreement – General Covenants*";
- (d) not permitted by the preceding paragraphs where such Financial Indebtedness is being incurred in the form of Further Bonds to finance all or part of any Additional Capacity Adjustment Investment as required by the Transmission Licence provided that:
  - (i) the Issuer provides a certificate (together with supporting evidence where appropriate) to the Security Trustee at the time of incurring such Financial Indebtedness confirming that:
    - (A) no Event of Default or Potential Event of Default is subsisting or would occur as a result of the incurrence of such Financial Indebtedness;
    - (B) the Projected DSCR and the Debt Life Cover Ratio would be equal to or greater than the higher of: (I) the applicable Lock-Up Ratio Level; and (II) the levels for those ratios shown in the Model if it were recalculated for the Relevant Period ending on the most recent Calculation Date before the incurrence of such Financial Indebtedness on a pro forma basis as if that Financial Indebtedness had been incurred on the first day of the applicable Relevant Period; and
    - (C) the Issuer has provided details of such Financial Indebtedness to the Rating Agencies mandated by the Issuer from time to time to provide public long-term credit ratings;
  - (ii) the Issuer either:
    - (A) provides a copy of a Ratings Confirmation; or
    - (B) certifies that the Rating Agencies have not indicated that the then long-term credit rating on the Bonds would be reduced below the lower of the

then current long-term credit rating of the Bonds (before the incurrence of such Financial Indebtedness); and

- (iii) the Issuer provides, or procures the provision of:
  - (A) a report and opinion from the Technical Adviser confirming that the additional capital expenditure will have no Material Adverse Effect and will not adversely affect the Transmission Assets or the existing revenue stream of the Issuer being generated by those assets;
  - (B) a legal due diligence report confirming that the incurrence of that Financial Indebtedness will not jeopardise any material Authorisation necessary for the conduct of the Permitted Business and confirmation of compliance with all applicable EU environmental and procurement law; and
  - (C) an insurance report from the Insurance Adviser confirming those insurances, and the relevant terms of such new or existing policies, that it would be commercially prudent and/or in accordance with Good Industry Practice for the Issuer to maintain in relation to such additional capacity; and
- (iv) the documents constituting such Financial Indebtedness are designated as Bond Documents and are in a form and substance satisfactory to the Security Trustee; and
- (e) any other financial indebtedness approved or consented to by the Security Trustee in accordance with the STID.

**Permitted Guarantee** means:

- (a) the Regulatory Financial Security provided that the issuer of any performance bond or bank guarantee or letter of credit provided in respect of that Regulatory Financial Security has no recourse to any Obligor under the terms of such arrangements;
- (b) any guarantee permitted as Financial Indebtedness;
- (c) any guarantee granted under the Finance Documents;
- (d) any indemnity given in the ordinary course of an acquisition or disposal which is a Permitted Acquisition or Permitted Disposal which indemnity is in customary form and subject to customary limitations; and
- (e) any other guarantee approved or consented to by the Security Trustee in accordance with the STID.

**Permitted Loan** means:



- (a) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness under paragraph (b) or (d) thereof;
- (b) a loan made by an Obligor to another Obligor (including under the OFTO Loan Note Instrument) that is not a Restricted Payment;
- (c) any loan made by an Obligor to an Investor in accordance with the Restricted Payment Condition;
- (d) subject to the terms of STID, any loan made by an Obligor for the purposes of enabling (indirectly or directly) the Issuer to meet its payment obligations under the Finance Documents; and
- (e) any other loans or grant of credit approved or consented to by the Security Trustee in accordance with the STID,

so long as in the case of paragraph (e) above to the extent required by the STID, the creditor and (if the debtor is an Obligor) the debtor of such Financial Indebtedness are or become party to the STID as a new Obligor.

**Permitted Payments** means any payment described in paragraphs (a)(i) and (a)(ii) of the exclusions to the definition of Restricted Payment.

**Permitted Security** means:

- (a) any Security Interest or quasi-security arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by any Obligor;
- (b) any netting or set-off arrangement entered into by any Obligor with an Acceptable Bank in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of members of the Security Group;
- (c) any Security Interest or quasi-security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to an Obligor in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any Obligor;
- (d) the Security Interests created pursuant to the Security Documents;
- (e) any netting or set-off arrangement under a Hedging Agreement or schedule thereto entered into by any Obligor pursuant to paragraph 27 (Treasury Transactions) of part 3 (General Covenants) of schedule 2 (Obligor Covenants) of the Common Terms Agreement for the purposes of determining its obligations by reference to its net exposure under that agreement (and for the avoidance of doubt, not as a credit support provider under any such agreement);
- (f) any netting or set-off arrangement or quasi-security constituting a

Permitted Transaction;

- (g) any Security Interest or quasi-security arising in the ordinary course of trade over documents of title or in respect of other Permitted Financial Indebtedness;
- (h) any Security Interest or quasi-security approved or consented to by the Security Trustee in accordance with the STID;
- (i) any Security Interest arising under statute or by operation of law in favour of any government, state or local authority in respect of taxes, assessments or government charges which are being contested by the relevant Obligor in good faith and with a reasonable prospect of success;
- (j) any Security Interest created in respect of any pre-judgment legal process or any judgment or judicial award relating to security for costs, where the relevant proceedings are being contested in good faith by the relevant Obligor by appropriate procedures and with a reasonable prospect of success; and
- (k) any cash collateral given by way of security in order to cash collateralise the Regulatory Financial Security,

but, in each case, excluding any such Security Interest or quasi-security over any Real Property.

**Permitted  
Issue**

**Share** means:

- (a) an issue of shares by Holdco to an immediate Holding Company, paid for in full in cash upon issue and which by their terms are not redeemable;
- (b) any issue of shares within the Security Group where the newly issued shares also become subject to the Security on the same terms;
- (c) any issue of shares by way of a Restricted Payment so long as at the time of issue the Restricted Payment Condition is satisfied; and
- (d) any other issue of shares approved or consented to by the Security Trustee in accordance with the STID.

**Permitted  
Transaction**

means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security Interest or quasi-security given, or other transaction arising, under the Finance Documents; or
- (b) any other transaction approved or consented to by the Security Trustee in accordance with the STID.

**Post-Enforcement  
Priority of Payments**

has the meaning given to it on page 216.

<b>Potential Event of Default</b>	means any event which, with the lapse of time and/or the giving of any notice and/or the making of any determination (in each case where the lapse of time and/or giving of notice and/or determination is provided for in the terms of such Event of Default, and assuming no intervening remedy), will become an Event of Default.
<b>Pre-Enforcement Priority of Payment</b>	has the meaning given to it on page 218.
<b>Presentation Date</b>	has the meaning given to it on page 138.
<b>Priority of Payments</b>	means the Pre-Enforcement Priority of Payments and/or the Post-Enforcement Priority of Payments, as the context may require.
<b>Principal Paying Agent</b>	means, in relation to the Bonds, Deutsche Bank AG, London Branch Winchester House, 1 Great Winchester Street, London EC2N 2DB at its office at Winchester House, 1 Great Winchester Street, London EC2N 2DB as principal paying agent under the Agency Agreement, or if applicable, any Successor principal paying agent in relation to the Bonds.
<b>Proceedings</b>	has the meaning given to it on page 152.
<b>Professional Services Agreement</b>	means the agreement dated on or around the Signing Date between the Issuer and each Investor in relation to the provision of personnel and other services to the Issuer from time to time.
<b>Project</b>	means the Acquisition and subsequent management, operation, maintenance, repair and decommissioning of the Transmission Assets by the Issuer for the duration of the terms of the Transmission Licence and the financing thereof.
<b>Project Costs</b>	<p>means all fees, costs and expenses, stamp duty, registration and other Taxes incurred by the Issuer in connection with the Acquisition and the Transaction Documents as set out in the Base Case Model, including, <i>inter alia</i>, the following:</p> <ul style="list-style-type: none"> <li>(a) the Purchase Price and all other Acquisition Costs;</li> <li>(b) development costs;</li> <li>(c) initial premia payable in respect of any Insurances;</li> <li>(d) Interest accrued prior to the Issue Date;</li> <li>(e) upfront fees falling due and payable on the Issue Date to any Authorised Credit Provider;</li> <li>(f) legal, accounting and other professional fees and costs incurred by the Issuer arising out of or in connection with the Transaction Documents and any documents referred to in the Transaction Documents;</li> <li>(g) any initial Issuer costs and overheads incurred by the Issuer;</li> </ul>

- (h) any pre-funding of any required Reserve Accounts up to its Required Balance (if applicable);
- (i) any fees necessary for obtaining the Transmission Licence; and
- (j) any irrecoverable VAT or similar Tax in respect of any of the above,

but excluding:

- (i) any other Interest; and
- (ii) principal amounts due and payable by the Issuer in respect of the Senior Debt.

**Project Document**

means:

- (a) the Transmission Licence;
- (b) an Acquisition Document;
- (c) a Crossing Agreement;
- (d) an Onshore Lease Agreement;
- (e) a Burbo Bank Agreement;
- (f) the CE Lease;
- (g) the CE Lease Licence to Assign;
- (h) a Construction Agreement;
- (i) the Developer Interface Agreement;
- (j) the O&M Agreement;
- (k) the O&M Guarantee;
- (l) the Transmission Owner Construction Agreement;
- (m) the Professional Services Agreement;
- (n) the Compliance Officer Appointment Agreement;
- (o) the NGET Interface Agreement; and
- (p) any other material contract entered into by the OFTO in connection with the Project.

**Projected DSCR**

means, on any Calculation Date, the projection of the Debt Service Cover Ratio for the Relevant Period commencing on that Calculation Date.

<b>Projected Spot Rate of Exchange</b>	means the mid-rate between the projected spot rate of exchange for the purchase of one currency with another and the projected spot rate of exchange for the sale of that currency with that other currency, in each case in the London foreign exchange market at or about 11am on a particular day for delivery two Business Days later.
<b>Prospectus</b>	means this prospectus relating to the Bonds prepared in connection with the Acquisition and constituting, to the extent specified in it, a prospectus for the purposes of the Prospectus Directive as revised, supplemented or amended from time to time by the Issuer.
<b>Prospectus Directive</b>	means Directive 2003/71/EC as amended by Directive 2010/73/EU.
<b>Prudent Operating Practice</b>	means the practice of a person seeking in good faith to perform its contractual obligations in order to comply with its obligations under the Transmission Licence or mitigate its losses and, in so doing (and in the general conduct of its undertaking), exercising that degree of skill, diligence, prudence, foresight and care reasonably expected of a skilled and experienced operator of offshore transmission assets in England and Wales taking into account any relevant manufacturer's recommendations and other guidelines, and to achieve optimum levels of performance (including reliability, safety and availability) relative to the remaining life of the assets and complying with applicable law (including, without limitation, health and safety law, regulations and recommendations of the Health and Safety Executive and/or Health and Safety Commission).
<b>PSA Counterparty</b>	has the meaning given to it on page 190.
<b>Purchase Price</b>	means the purchase price to be paid by the Issuer for the Transmission Assets under the SPA.
<b>Qualifying Secured Debt</b>	<p>means indebtedness owed by the Obligors to the Qualifying Secured Creditors and,</p> <ul style="list-style-type: none"> <li>(a) in relation to a Bondholder, means the Outstanding Principal Amount of the Bonds;</li> <li>(b) in relation to a Hedge Counterparty, means the amount of its Senior Voting Debt under the Hedging Agreement; and</li> <li>(c) in relation to the PBCE Provider, means the principal amounts drawn under the PBCE Letter of Credit which have not been reimbursed under the PBCE Letter of Credit and Reimbursement Deed.</li> </ul>
<b>Quorum Requirement</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) in relation to an Extraordinary Voting Matter, the percentages as further detailed in "<i>Description of the other Transaction Documents – Security Trust And Intercreditor Deed – Types of Voting Categories – Quorum Requirements</i>"; and</li> <li>(b) in relation to an Enforcement Instruction Notice and a Further</li> </ul>

Enforcement Instruction Notice, the percentages as further detailed in "*Description of the other Transaction Documents – Security Trust And Intercreditor Deed – Enforcement and Acceleration*".

<b>Rating Agency</b>	means each of Fitch, Moody's and S&P or any other internationally recognised rating agency and any successor to any of the aforementioned parties.
<b>Ratings Confirmation</b>	in respect of a proposed action means a confirmation by the relevant Rating Agencies mandated by the Issuer from time to time (who give such Ratings Confirmations as a part of their mandate), in respect of the Bonds, to the effect that the then ratings on such Bonds would not be reduced below the lower of (a) the credit ratings of such Bonds as at the Issue Date or (b) the then current credit ratings (before the proposed action) or, if any Rating Agency is unwilling to provide such confirmation for any reason as certified in writing by an authorised signatory of the Issuer to the Security Trustee after the Issuer has (x) notified the Rating Agency of the proposed alternative arrangements and (y) made all reasonable enquiries with that Rating Agency. Such certification by the Issuer shall, inter alia, include an opinion of the Issuer as to why the then current ratings of the outstanding Bonds shall not be adversely affected and include a confirmation that the Issuer has undertaken steps (x) and (y). The Security Trustee may rely absolutely on such certification in the absence of manifest error. For the avoidance of doubt, such Ratings Confirmation or non-receipt of such Ratings Confirmation shall, however, not be construed to mean that any such action or inaction (or contemplated action or inaction) or such exercise (or contemplated exercise) by the Bond Trustee or Security Trustee of any right, power, trust, authority, duty or discretion under or in relation to any Transaction Document is not materially prejudicial to the interests of the Bondholders.
<b>Ratio</b>	means either a Lock-Up Ratio Level or a Default Ratio Level.
<b>Real Property</b>	means: <ul style="list-style-type: none"><li>(a) any freehold, leasehold or immovable property; and</li><li>(b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property.</li></ul>
<b>Real Transmission Revenue</b>	means the allowed transmission owner revenue (OFTO) as defined in paragraph 4 (Formula for Allowed Transmission Owner Revenue (OFTO)) of Amended Standard Condition E12 – J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) of the Transmission Licence adjusted such that the calculation of OFTO shall exclude any revenue indexation adjustment contemplated by RIT.
<b>Receipt</b>	means a receipt for the payment of instalments of principal (other than the final instalment) attached on issue to Definitive Bonds, such receipt being substantially in the form set out in the Bond Trust Deed or in such other form as may be agreed between the Issuer, the Principal Paying Agent and the Bond Trustee and includes any replacements for Receipts issued pursuant to Condition 11.

<b>Receiptholders</b>	means the several persons who are for the time being holders of the Receipts.
<b>Receiver</b>	means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.
<b>Recoveries</b>	has the meaning given to it on page 219.
<b>Redemption Date</b>	has the meaning given to it on page 140.
<b>Redemption Percentage</b>	has the meaning given to it on page 141.
<b>Reference Market Makers</b>	has the meaning given to it on page 141.
<b>Registered Party</b>	has the meaning given to it on page 170.
<b>Regulation S</b>	has the meaning given to it on page 153.
<b>Regulatory Financial Security</b>	means any deposit of money, performance bond or bank guarantee, insurance policy or a letter of credit to be provided by the Issuer in accordance with its obligations under paragraph 14 of condition E12-J4 (Restriction of transmission revenue: Annual revenue adjustments) of the Transmission Licence.
<b>Relevant Date</b>	has the meaning given to it on page 141.
<b>Relevant Implementation Date</b>	has the meaning given to it on page 227.
<b>Relevant Interruption</b>	has the meaning given to that term in the CUSC and refers to an interruption for which compensation is payable.
<b>Relevant Jurisdiction</b>	means, in relation to an Obligor: <ul style="list-style-type: none"> <li>(a) its jurisdiction of incorporation;</li> <li>(b) any jurisdiction where any asset subject to or intended to be subject to the Security to be created by it is situated;</li> <li>(c) any jurisdiction where it conducts its business; and</li> <li>(d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it.</li> </ul>
<b>Relevant Member State</b>	has the meaning given to it on page 227.
<b>Relevant Period</b>	means, for the purpose of: <ul style="list-style-type: none"> <li>(a) Historic DSCR, the period commencing on the day immediately following the Calculation Date falling 12 months previously (or, if fewer than 12 months have elapsed since the Completion Date, the</li> </ul>

Completion Date) and ending on the relevant Calculation Date;

- (b) Projected DSCR, the period commencing on the relevant Calculation Date and ending on the day immediately preceding the Calculation Date falling 12 months subsequently and, after any drawing has been made under the PBCE Letter of Credit, a further two 12 month periods (or, in each case, if sooner, the Final Maturity Date); and
- (c) the Debt Life Cover Ratio, the period commencing on and including the day after the relevant Calculation Date up to and including the Final Maturity Date.

**Relevant Treasury Stock** has the meaning given to it on page 141.

**Remedial Plan** means any remedial plan provided by the Issuer to the Security Trustee and the other Secured Creditors.

**Repayment Costs** means, in respect of the repayment or prepayment of all or part of a particular Senior Debt, any make-whole or redemption premium or other equivalent costs payable including any related swap termination amounts and break costs payable in connection with the repayment or prepayment of such Secured Debt.

**Representative** means any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian.

**Required Balance** means:

- (a) in respect of the Debt Service Reserve Account, the Required DSRA Balance;
- (b) in respect of the DECC Decommissioning Reserve Account, the Required DRA Balance; and
- (c) in respect of the Emergency Reserve Account, the Required ERA Balance.

**Required Balance DRA** means, on and from the first day of the eleventh year following the commencement of the Revenue Period, the balance for the DECC Decommissioning Reserve Account required to satisfy the Issuer's obligations under the Decommissioning Plan as set out in the Model following the directions of the relevant authority.

**Required Balance DSRA** means, on and from the first Calculation Date, an amount equal to the projected Debt Service for the following six months (calculated on a rolling basis on each Calculation Date).

**Required Balance ERA** means on the Issue Date and each Calculation Date, an amount of:

- (a) the greater of:
  - (i) £5,000,000.00 (Indexed); and



- (ii) such amount as certified by the Insurance Adviser pursuant to the insurance schedule to the Common Terms Agreement; plus
- (b)
  - (i) if an Emergency has occurred and is continuing; and
  - (ii) the Issuer has not complied with the provisions of paragraph (m) in "*Description of the other Transaction Documents – Common Terms Agreement – Information Covenants*" before incurring any Monitored Operating Costs or Emergency Capital Expenditure for the purpose of remedying that Emergency,

an amount equal to the greater of (A) zero; and (B) the difference between the amount of Monitored Operating Costs or Emergency Capital Expenditure (as applicable) incurred by the Issuer in respect of that Emergency and the amount of Monitored Operating Costs or Emergency Capital Expenditure (as applicable) that the Technical Adviser certifies would have been reasonable and in accordance with Prudent Operating Practice to incur (having due regard to the Business Plan as contemplated by paragraph (n)(ii) in "*Description of the other Transaction Documents – Common Terms Agreement – Information Covenants*").

**Required Arrangements**

**PSA** has the meaning given to it on page 177.

**Reservations**

means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time-barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim; and
- (c) any other matters which are set out as qualifications or reservations as to matters of law of general application in the legal opinions delivered to the Security Trustee under the CP Agreement.

**Reserve Accounts**

means the Debt Service Reserve Account, the DECC Decommissioning Reserve Account and the Emergency Reserve Account.

**Restricted Payment** means:

- (a) any payment (by way of loan or repayment of any loan or otherwise) (in cash or in kind) of a dividend by an Obligor to a an Investor or a an Investor other than where that payment:
  - (i) has been consented to or approved by the Security Trustee (in accordance with the STID); or
  - (ii) is made in accordance with the provisions of the STID; or
- (b) any payment or repayment of interest, principal or other charges under any Subordinated Intragroup Liabilities.

**Restricted Payment Condition** means:

- (a) no Event of Default or Potential Event of Default is subsisting or would result from making any proposed Restricted Payment;
- (b) as at the most recent Calculation Date, the Historic DSCR, the Projected DSCR and the Debt Life Cover Ratio were equal to or greater than the applicable Lock-Up Ratio Level, in each case as stated in the Investor Report delivered by the Issuer in respect of that Calculation Date and no Equity Cure Right has been exercised during the Relevant Period;
- (c) the balance standing to the credit of each Reserve Account is not less than the applicable Required Balance;
- (d) the first Payment Date in respect of the Bonds has occurred;
- (e) the Purchase Price has been paid to the Vendor;
- (f) the Auditors' report on the Issuer's most recent Annual Financial Statements delivered pursuant to the Common Terms Agreement does not include a qualification that has, or is reasonably likely to have, a Material Adverse Effect;
- (g) the O&M Agreement is in full force and effect and has not expired or terminated without being replaced in accordance with the terms of the Common Terms Agreement;
- (h) the Issuer has not received a provisional order (which has been confirmed) or a final order made under section 25 or section 26 of the Electricity Act 1989 during the 12 months ending on the relevant Calculation Date with which it is yet to comply;
- (i) there has been no failure to pay any amount payable under condition A4 (Payment by the Licensee to the Authority) of the Transmission Licence after the Authority has given notice (as referred to in paragraph 1(b) of Schedule 2 to the Transmission Licence) to the Issuer that the payment is overdue;

- (j) if there has been a failure to pay any financial penalty (as defined in section 27A of the Electricity Act) by the due date such payment has been made within 30 days after the Authority has given notice of such failure to the Issuer;
- (k) no order listed in paragraph 1d of Schedule 2 of the Transmission Licence has been made;
- (l) there are no amounts due and payable to the PBCE Provider pursuant to the terms of the PBCE Documents which have not been discharged;
- (m) no breach of the covenants of the PBCE Letter of Credit and Reimbursement Deed is subsisting, unwaived or unremedied to the satisfaction of the PBCE Provider; and
- (n) no Emergency is subsisting unless the Technical Adviser has either:
  - (i) approved the expenditure of Monitored Operating Costs or Emergency Capital Expenditure in advance in accordance with paragraph (m) of "*Description of the other Transaction Documents – Common Terms Agreement – Information Covenants*"; or
  - (ii) retrospectively approved the incurrence of the Monitored Operating Costs or Emergency Capital Expenditure in accordance with paragraph (n) of "*Description of the other Transaction Documents – Common Terms Agreement – Information Covenants*".

**Retail Price Index or RPI** means the all items retail prices index for the United Kingdom published by the Office for National Statistics as made available by the Bank of England (at <http://www.bankofengland.co.uk/publications/pages/inflationreport/default.aspx>) or, if the retail prices index ceases to exist, such other indexation procedure as the Security Trustee may approve on recommendation of the Issuer.

**Revenue Period** means the period commencing on the date of the Transmission Licence and ending on the date falling 20 years after the date of the Transmission Licence.

**Revenue Transaction** means an inflation-linked swap transaction entered into between the Issuer and a Hedge Counterparty under a Hedging Agreement pursuant to which the Issuer will pay a floating amount linked to RPI and the Issuer will receive an amount uplifted at a fixed rate (i.e. compounded at a fixed rate).

**RIT** has the meaning given to it in in paragraph 4 (Formula for Allowed Transmission Owner Revenue (OFTO)) of Amended Standard Condition E12 - J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) of the Transmission Licence.

**RWE** means RWE Innogy UK Holdings Limited.

<b>RWE Guarantee</b>	has the meaning given to it on page 81.
<b>S&amp;P or Standard &amp; Poor's</b>	means Standard & Poor's Rating Services, a division of The McGraw Hill Companies, Inc or any successor to its rating business.
<b>s36 Consent</b>	means the consent issued for the construction of the Gwynt y Môr generating station under section 36 Electricity Act.
<b>SCADA</b>	means the Supervisory Control and Data Acquisition System which is a computer-based system used to provide data on the condition and status of, and send instructions to, particular pieces of equipment.
<b>Section K</b>	has the meaning given to it on page 73.
<b>Section K Notification</b>	means an Interim Section K Notification or a Final Section K Notification.
<b>Securities Act</b>	has the meaning given to it on page 3.
<b>Services Capability Specification</b>	is the specification of transmission services developed by a transmission owner under the STC describing the parameters and levels within which its transmission services have been planned to be provided and identifying the technical limits that would normally apply to the provision of its transmission services.
<b>Scheduled Debt Service</b>	means each scheduled payment of principal and interest on the Bonds and each net scheduled payment due and payable under the Hedging Agreements as contemplated by paragraph (vii) of the Pre-Enforcement Priority of Payment including, for the avoidance of doubt, any Deferred Payment in relation to any Hedging Agreement, but excluding any early redemption arising as a result of a PBCE Rebalancing Event or acceleration of the Bonds arising as a result of any Event of Default or any close-out or other amounts (except for any deferred payment in relation to any Hedging Agreement) payable on termination of the Hedging Agreements.
<b>Scheduled Payment Date</b>	means each scheduled date for the payment of Scheduled Debt Service.
<b>Secured Creditor Representative</b>	means the representative of a Secured Creditor.
<b>Secured Creditors</b>	means: <ul style="list-style-type: none"> <li>(a) the Security Trustee (in its own capacity and on behalf of the other Secured Creditors), any Receiver or Delegate;</li> <li>(b) the Bondholders;</li> <li>(c) the Bond Trustee (in its own capacity and on behalf of the Bondholders);</li> <li>(d) each Hedge Counterparty;</li> </ul>

- (e) the Account Bank;
- (f) the Principal Paying Agent;
- (g) the PBCE Provider; and
- (h) each other Agent,

and **Secured Creditor** means any one of them.

**Secured Debt** means any financial accommodation that is, for the purposes of the STID, to be treated as Secured Debt and includes:

- (a) the Bond Liabilities;
- (b) the Hedging Liabilities; and
- (c) the PBCE Liabilities.

**Secured Liabilities** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Secured Creditor under each Finance Document to which such Obligor is a party.

**Security** means the security constituted by the Security Documents including any guarantee or obligation to provide cash collateral or further assurance thereunder, including the following:

- (a) fixed charge over all shares in IntermediateCo and the Issuer;
- (b) assignments by way of security of its rights under the Transaction Documents (other than the Bond Trust Deed, the Bonds and the Security Documents) to which it is a party, including the Hedging Agreements, the Common Terms Agreement and the STID;
- (c) assignments by way of security of the benefit of insurance policies;
- (d) fixed or floating charges over bank accounts (depending on the relevant account) and charges over investments; and
- (e) a floating charge over all of its assets to the extent not effectively charged or assigned by way of fixed security.

**Security Agreement** means the security agreement dated on or about the Signing Date among each Obligor and the Security Trustee.

**Security Documents** means:

- (a) the Security Agreement;
- (b) the STID and each Creditor Accession Undertaking, together with any deed supplemental to the STID; and
- (c) any other document evidencing or creating security over any asset

of an Obligor to secure any obligation of any Obligor to a Secured Creditor in respect of the Secured Liabilities.

<b>Security Group</b>	means Holdco, IntermediateCo and Issuer.
<b>Security Interest</b>	means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
<b>Security Trustee</b>	means Deutsche Trustee Company Limited or any successor appointed as security trustee pursuant to the STID.
<b>Semi-Annual Financial Statements</b>	means the unaudited management accounts (consolidated if appropriate) of each Obligor and each Major Project Party for the first financial half-year in each Financial Year, as soon as they are available and, in any event, within 90 days after the end of such financial half-year.
<b>Senior Creditor</b>	means any Secured Creditor other than the PBCE Provider.
<b>Senior Creditor Entrenched Right</b>	means: <ul style="list-style-type: none"> <li>(a) any amendment or waiver which would have the effect of adversely changing any Priority of Payments or application thereof in respect of a Senior Creditor or otherwise adversely affect the ranking of the Senior Creditor;</li> <li>(b) any amendment or waiver which would delay the date fixed for payment of principal, interest, Make-Whole Amount or any other amount in respect of the relevant Senior Creditor's debt or would reduce the amount of principal, the rate of interest, Make-Whole Amount or any other amount payable in respect of such debt;</li> <li>(c) any amendment or waiver which would bring forward the date fixed for payment of principal or interest in respect of a Senior Creditor's debt or would increase the amount of principal, the rate of interest payable, Make-Whole Amount or any other amount on any date in respect of the Senior Creditor's debt;</li> <li>(d) any amendment or waiver which would result in the exchange of the relevant Senior Creditor's debt for, or the conversion of such debt into, shares, notes or other obligations of any other person;</li> <li>(e) any amendment or waiver which would change or would relate to the currency of payment due under the relevant Senior Creditor's debt;</li> <li>(f) any amendment or waiver which would have the effect of changing or would relate to the rights of the relevant Senior Creditor to receive any sums owing to it for its own account in respect of fees, costs, charges, liabilities, taxes, damages, proceedings, claims and demands in relation to any Finance Document to which it is a party;</li> <li>(g) any amendment or waiver which would change or would relate to any existing obligation of an Obligor to gross up any payment in</li> </ul>

respect of the relevant Senior Creditor's debt in the event of the imposition of withholding taxes;

- (h) any amendment or waiver which would result in an increase in a Senior Creditor's obligations or liabilities, or would adversely modify a Senior Creditor's rights, under or in connection with this Deed and/or any other Finance Document;
- (i) any amendment or waiver which would change or would have the effect of changing:
  - (i) any of the following definitions:
    - (A) Discretion Matter;
    - (B) Entrenched Rights;
    - (C) Event of Default;
    - (D) Extraordinary Voting Matter;
    - (E) Ordinary Voting Matter;
    - (F) Permitted Acquisition;
    - (G) Permitted Business;
    - (H) Permitted Financial Indebtedness;
    - (I) Qualifying Secured Creditors;
    - (J) Qualifying Secured Debt;
    - (K) Restricted Payment;
    - (L) Restricted Payment Condition;
    - (M) Senior Voting Debt;
    - (N) Secured Liabilities; or
    - (O) STID Proposal;
  - (ii) any of the following:
    - (A) the Decision Period;
    - (B) the Quorum Requirement or Majority Requirement required in respect of any Ordinary Voting Matter;
    - (C) the Quorum Requirement or Majority Requirement required in respect of any Extraordinary Voting Matter;
    - (D) an Enforcement Instruction Notice or Further

Enforcement Instruction Notice;

- (E) the Consents, Amendments and Override provision of the STID;
- (F) the following covenants of the CTA: Merger, Holding Companies, Pari Passu ranking, Negative Pledge, No Guarantees or Indemnities, Restricted Payments, Amendments to constitutional documents and other documents, Treasury Transactions; or
- (G) the equity cure provisions of the CTA;
- (H) any amendment or waiver which would change or have the effect of changing the quorum and voting requirements in respect of an Enforcement Instruction Notice and a Further Enforcement Instruction Notice of the STID;
- (I) any amendment which would change or would have the effect of changing any matter which is the subject of the relevant Senior Creditor Entrenched Rights;
- (J) any amendments to or waiver of the basis, the levels or timing of calculation of any financial ratios;
- (K) any amendment which would have the effect of changing the nature or the scope of, or would release any Security, unless equivalent replacement security is taken at the same time;
- (L) any waiver of, or amendment to, any condition precedent to the issue of any Bonds, effectiveness of the PBCE Letter of Credit and Reimbursement Deed or the issue of any demand under the PBCE Letter of Credit;
- (M) in respect of the Bond Creditors only, any amendment to the terms of the Bond Documents (and including, for the avoidance of doubt, any provisions relating to payments due to the Bond Creditors (including payments of interest, principal and fees), the currency of such payments, and the obligation of the Obligors to gross up any such payment in the event of imposition of withholding tax);
- (N) any increase in Permitted Financial Indebtedness, including fees, charges, interest or margin, changes in the repayment profile of any Financial Indebtedness, or other material amendments of



terms of such Financial Indebtedness;

- (O) any consent by the Issuer to receive a section E (Offshore Transmission Owner of Last Resort) direction from the Authority;
- (P) in respect of a Hedge Counterparty only, any amendment which would change or have the effect of changing:
  - I. the provisions relating to the permitted enforcement of the Hedge Counterparties of the STID;
  - II. the terms of a Hedging Agreement;
- (Q) in respect of the Security Trustee, any amendment which would increase the obligations or duties, or decrease the rights or protections or the amounts payable, of or to the Security Trustee; or
- (R) any amendment which would have the effect of changing the circumstances in which a Senior Creditor is entitled to transfer its rights or obligations under, or its interest in, any Finance Document.

**Senior Debt** means any financial accommodation that is, for the purposes of the STID, to be treated as Senior Debt and includes:

- (a) the Bond Liabilities and the Hedging Liabilities; and
- (b) any further debt incurred which ranks *pari passu* with the debt specified in (a) above.

**Senior Discharge Date** means the first date on which all Senior Debt has been fully and finally discharged in accordance with the Conditions (in the case of the Bond Liabilities) and each Hedge Counterparty (in the case of its Hedging Liabilities), whether as the result of any Enforcement Action or otherwise, and the Senior Creditors are under no further obligation to provide financial accommodation to the Issuer under the Senior Finance Documents.

**Senior Finance Document** means a Common Document, a Bond Document or a Hedging Agreement (as the context may require).

**Senior Voting Debt** means, in relation to a Bondholder or a Hedge Counterparty, the aggregate of:

- (a) its aggregate of the Outstanding Principal Amount of the Bonds, if any;
- (b) in respect of any Hedging Transaction of that Hedge Counterparty under any Hedging Agreement that has, as of the date the calculation is made, been terminated or closed out in accordance

with the terms of the STID, the amount, if any, payable to it under any Hedging Agreement in respect of that termination or close-out as of the date of termination or close-out (and before taking into account any interest accrued on that amount since the date of termination or close-out), but including any termination payments which have deferred in accordance with the terms of the relevant Hedging Agreement to the extent that that amount is unpaid (that amount to be certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement); and

- (c) in respect of any Hedging Transaction of that Hedge Counterparty under any Hedging Agreement that has, as of the date the calculation is made, not been terminated or closed out the amount, if any, which would be payable to it under that Hedging Agreement in respect of that Hedging Transaction, if the date on which the calculation is made was deemed to be an Early Termination Date (as defined in the relevant ISDA Master Agreement) for which the Issuer is the Defaulting Party (as defined in the relevant ISDA Master Agreement), as certified by the relevant Hedge Counterparty and as calculated in accordance with the relevant Hedging Agreement.

**Shared Permits** has the meaning given to it on page 110.

**Shareholder** means Balfour Beatty OFTO Holdings Limited or Equitix Transmission 2 Limited and their, or any subsequent, successors or assignees or transferees.

**Shareholder Affiliate** means, in respect of a Shareholder:

- (a) if the Shareholder is a Subsidiary of another company, the Shareholder's ultimate Holding Company and any Subsidiary (other than the Shareholder itself) of the Shareholder's ultimate Holding Company and any Subsidiary of the Shareholder;
- (b) if the Shareholder is not a Subsidiary of another company, any Subsidiary of the Shareholder;
- (c) any general partner, limited partner, trustee, manager or nominee of a Shareholder (or any Affiliate of that Shareholder) or an Affiliate of such general partner, limited partner, trustee, manager or nominee; or
- (d) any unit trust, investment fund, investment company, general partnership, limited partnership or other collective investment scheme, pension fund, superannuation fund or any other fund, company or entity of which any Shareholder (or any Affiliate of any Shareholder) or any person referred to in paragraph (c) above is the general partner, limited partner, trustee, principal, manager, co-manager or nominee (either directly or indirectly).

**Signing Date** means on or about 13 February 2015.

**Sites** has the meaning given to it on page 77.

<b>Sole Arranger</b>	means HSBC Bank plc.
<b>SPA</b>	means the form of sale and purchase agreement to be entered into on or about Issue Date between the Issuer and the SPA Counterparties for the Acquisition of the Transmission Assets.
<b>SPA Counterparties</b>	means the Vendors and/or GyMOWFL as applicable.
<b>Special Conditions</b>	has the meaning given to it on page 51.
<b>Stabilising Manager</b>	has the meaning given to it on page 9.
<b>Standard Licence Conditions</b>	means the standard conditions for transmission licensees under the Electricity Act a number of which are incorporated into the OFTO Licence.
<b>Statute</b>	has the meaning given to it on page 123.
<b>STC</b>	means the System Operator – Transmission Owner Code, as published from time to time on <a href="http://www.nationalgrid.com">www.nationalgrid.com</a> or any other replacement industry code.
<b>STC Accession Deed</b>	means the deed of accession between the Issuer and NGET in its capacity as National Electricity Transmission System Operator (NETSO) under which the Issuer agrees to be bound by the STC.
<b>Sterling or £</b>	means the lawful currency for the time being of the UK.
<b>STID or Security Trust and Intercreditor Deed</b>	means the security trust and intercreditor deed entered into on or about the Issue Date between the parties to the Common Terms Agreement, together with any deed supplemental to the STID.
<b>STID Decision Making Protocol</b>	has the meaning given to it in the STID.
<b>STID Proposal</b>	has the meaning given to it on page 205.
<b>STID Voting Request</b>	has the meaning given to it on page 205.
<b>Stock Exchange</b>	means the Irish Stock Exchange or any other or further stock exchange(s) on which any Bonds may from time to time be listed, and references to the relevant Stock Exchange shall, in relation to any Bonds, be references to the Stock Exchange on which such Bonds are, from time to time, or are intended to be, listed.
<b>Subordinated Intragroup Creditor</b>	means a Shareholder, IntermediateCo and any other entity which accedes to the STID as a Subordinated Intragroup Creditor.
<b>Subordinated Intragroup Liabilities</b>	means all present and future liabilities at any time of any Obligor to a Subordinated Intragroup Creditor, in respect of any Financial Indebtedness.
<b>Subscription Agreement</b>	has the meaning given to it on page 227.

<b>Subsidiary</b>	means a subsidiary within the meaning of section 1159 of the Companies Act 2006 and, unless the context otherwise requires, a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006.
<b>Substituted Obligor</b>	has the meaning given to it on page 202.
<b>Successor</b>	means, in relation to the Principal Paying Agent, any successor to it in relation to the Bonds which shall become such pursuant to the provisions of the Bond Trust Deed and/or the Agency Agreement (as the case may be) and/or such other or further principal paying agent, agent bank and calculation agent (as the case may be) in relation to the Bonds as may from time to time be appointed as such, and/or, if applicable, such other or further specified offices (in the case of the Principal Paying Agent being within the same city as the office(s) for which it is substituted) as may from time to time be nominated, in each case by the Issuer and the Obligors, and (except in the case of the initial appointments and specified offices made under and specified in the Conditions and/or the Agency Agreement, as the case may be) notice of whose appointment or, as the case may be, nomination has been given to the Bondholders.
<b>Tax</b>	means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest) and <b>Taxes, taxation, taxable</b> and comparable expressions will be construed accordingly.
<b>Tax Event</b>	as defined in the 2002 ISDA Master Agreement.
<b>Tax Event Upon Merger</b>	as defined in the 2002 ISDA Master Agreement.
<b>Technical Adviser</b>	means a technical adviser (which is of international repute and with equivalent expertise in transactions and projects of a similar nature to the Project) appointed by the Issuer as the Technical Adviser from time to time in accordance with the CTA.
<b>Technical Description</b>	means the technical description of the Project, as set out in the PBCE Letter of Credit and Reimbursement Deed.
<b>Temporary Global Bond</b>	means a temporary global bond in respect of the Bonds to be issued pursuant to the Bond Trust Deed in the form or substantially in the form set out in the Bond Trust Deed.
<b>Tender Regulations</b>	means the Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2010.
<b>Term</b>	has the meaning given to it on page 124.
<b>Third Electricity Directive</b>	means Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.
<b>Third Gas Directive</b>	means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural

gas and repealing Directive 2003/55/EC.

<b>Third Package</b>	means the Third Electricity Directive and the Third Gas Directive and associated EU legislation including Regulation 2009/714/EC, and relevant national implementing legislation.
<b>TO</b>	has the meaning given to it on page 71.
<b>TO Construction Agreement</b>	means an agreement between a transmission owner and NGET in respect of construction works entered into pursuant to the STC.
<b>TPD</b>	has the meaning given to it on page 56.
<b>Transaction Authorisation</b>	<p>means:</p> <ul style="list-style-type: none"><li>(a) the Transmission Licence (and any directions issued pursuant to the Transmission Licence);</li><li>(b) the STC; and</li><li>(c) the STC Accession Deed,</li></ul> <p>and any replacement of those documents which is in force at any given time.</p>
<b>Transaction Document</b>	means a Finance Document or a Project Document.
<b>Transferring Asset Permits</b>	has the meaning given to it on page 91.
<b>Transmission Assets</b>	<p>means the transmission assets transferred to the Issuer under the SPA, which include (without limitation):</p> <ul style="list-style-type: none"><li>(a) Two OSPs, East (OSPE) and West 9OSPW), each equipped with 132/33kV transformers and 132kV switchgear connecting to submarine cable circuits. These platforms also accommodate GyMOWFL assets, including the 33kV switchgear.</li><li>(b) Two 22.4km export submarine cable connecting the OSPE to shore.</li><li>(c) Two 19.0km export submarine cables, connecting OSPW to shore.</li><li>(d) Four 11.0km export land cable circuits, connecting the onshore transition joint bays to the onshore Issuer 132kV substation.</li><li>(e) One onshore Issuer 132kV substation compound (adjacent to the National Grid Electricity Transmission Limited (NGET) 400 kV Bodelwyddan Substation), equipped with nine bays in a double busbar arrangement and 400/132/13.9kV auto-transformers to connect the four export circuits into the NGET 400 kV network.</li><li>(f) Two 400kV cable interconnections, each connecting one of the 400/132/13.9 kV auto-transformers to the NGET 400 kV Bodelwyddan Substation.</li></ul>

- (g) Two bays of 400kV switchgear within the NGET Bodelwyddan Substation building.

The offshore interface point on the OSP is at the 33kV connections to the 132kV transformers on the 33kV switchgear.

At the onshore interface point, the NGET/Issuer ownership boundary is on the connections between the NGET 400kV busbars and the Issuer owned 400kV switchgear assemblies.

<b>Transmission Licence</b>	means the offshore electricity transmission licence granted by Ofgem to the Issuer under Section 6(1)(b) of the Electricity Act 1989.
<b>Transmission Owner</b>	means a relevant owner of a transmission system, such as an OFTO.
<b>Treasury Transaction</b>	means any currency or interest rate purchase, cap or collar agreement, forward rate agreement, interest rate agreement, index linked agreement, interest rate or currency or future or option contract, foreign exchange or currency purchase or sale agreement, interest rate swap, currency swap or combined similar agreement or any derivative transaction protecting against or benefiting from fluctuations in any rate or price.
<b>Treaty</b>	has the meaning given to it on page 123.
<b>UCITS</b>	means Undertakings For The Collective Investment Of Transferable Securities.
<b>U.S. Dollar, USD or \$</b>	means the lawful currency for the time being of the United States of America.
<b>U.S. Person</b>	has the meaning given to it on page 3.
<b>User</b>	has the meaning given to that term in the STC and refers to a type of person engaged in electricity activities (other than NGET or a Transmission Owner), such as a generator.
<b>Utilities Act 2000</b>	means the Utilities Act 2000 as amended.
<b>Validity Warranties</b>	has the meaning given to it on page 80.
<b>VAT</b>	means value added tax as provided for in the Council Directive 2006/112/EC on the common system of value added tax and any law of a member state of the European Union adopting or implementing the same and any other tax of a similar nature, together with any applicable fines, penalties or interest payable in connection with a failure to pay or any delay in paying of the same.

**Vendor**

means:

- (a) RWE INNOGY GYM 1 LIMITED with a registered number 7233484, a registered address at Auckland House, Lydiard Fields, Great Western Way, Swindon, SN5 8ZT and holding a 10% interest;
- (b) RWE INNOGY GYM 2 LIMITED with a registered number 7233494, a registered address at Auckland House, Lydiard Fields, Great Western Way, Swindon, SN5 8ZT and holding a 10% interest;
- (c) RWE INNOGY GYM 3 LIMITED with a registered number 7233487, a registered address at Auckland House, Lydiard Fields, Great Western Way, Swindon, SN5 8ZT and holding a 10% interest;
- (d) RWE INNOGY GYM 4 LIMITED with a registered number 7233491, a registered address at Auckland House, Lydiard Fields, Great Western Way, Swindon, SN5 8ZT and holding a 30% interest;
- (e) GYM OFFSHORE ONE LIMITED with a registered number 7233489, a registered address at 160 London Road, Sevenoaks, Kent TN13 1BT and holding a 15% interest;
- (f) GYM OFFSHORE TWO LIMITED with a registered number 7207084, a registered address at 160 London Road, Sevenoaks, Kent TN13 1BT and holding a 10% interest;
- (g) GYM OFFSHORE THREE LIMITED with a registered number 7252984, a registered address at 160 London Road, Sevenoaks, Kent TN13 1BT and holding a 5% interest; and
- (h) GYM RENEWABLES ONE LIMITED with a registered number 7233497, a registered address at Faraday House, Sir William Siemens Square, Frimley, Camberley, Surrey GU16 8QD and holding a 10% interest.

**Vendor Guarantor**

means:

- (a) RWE Innogy (UK) Limited (registered number 06451278);
- (b) Stadtwerke München GmbH (incorporated in Germany with registered number HRB 121 920); or
- (c) Siemens Aktiengesellschaft (established in Berlin and Munich, Germany with registered number HRB 6684).

**Vendor Participant Percentage**

means the percentage of that Vendor set out against its name in the definition of Vendor.

**Vote**

means an instruction from a Bondholder to the Bond Trustee to vote on its

behalf in respect of any STID Proposals, such instructions to be given in accordance with the Bond Trust Deed and the STID and **Voting** shall be construed accordingly.

**Voting Date**

means (a) in respect of a Decision Period, the Business Day immediately preceding the last day of such Decision Period and (b) in respect of a Decision Period that is extended in accordance with the STID (as the case may be), the last date of such extended Decision Period.

**Wind Farm**

means the wind farm known as Gwynt y Môr to which the Transmission Assets are connected.

**Working Capital Reserve Account**

means the account opened and maintained by the Issuer entitled the Working Capital Reserve Account credited with a cash reserve by the Issuer on or before the Issue Date, as further set out in "*Description of the other Transaction Documents – Common Terms Agreement – Obligor Cash Management – Working Capital Reserve Account*".



## **ANNEX 1 – FINANCIAL STATEMENTS**

### **Audited financial statements of the Issuer**

**Gwynt y Mor OFTO Limited  
(Formerly Alnery No. 3126 Limited)**

**Report and financial statements for the period from 29  
November 2013 to 3 December 2014**

## **Directors' Report**

For the period from incorporation to 3 December 2014

The Directors present their report together with the financial statements of the Company for the period from incorporation on 29 November 2013 to 3 December 2014.

### **Incorporation**

The Company was incorporated on 29 November 2013 as Alnery No. 3126 Limited and changed its name to Gwynt y Mor OFTO Limited on 25 February 2014. This directors' report has been prepared in accordance with the provisions applicable to companies entitled to the small companies' exemption.

### **Principal Activity**

The Company did not trade during the period. In future periods Gwynt y Mor OFTO Limited is expected to own, operate and maintain the offshore high-voltage transmission asset, which will connect the Gwynt y Mor offshore wind farm to the onshore electricity transmission system. The performance of the asset will influence the results of the Company.

### **Going Concern**

The current economic situation creates some uncertainty but the Company's forecasts and projections, taking account of reasonable possible changes in trading performance, show that the Company has adequate resources to be in operational existence for the foreseeable future. Accordingly, the Directors continue to adopt the going concern basis in preparing the financial statements. More information is provided in note 1 to the financial statements.

### **Share Capital**

The Company issued 1 share at £1 upon incorporation 29 November 2013 and 50,998 shares at £1 for a total consideration of £50,998 on 21 November 2014.

### **Directors**

The following persons were Directors of the Company during the period:

V.J Rankmore	(Appointed 29 November 2013; resigned 31 January 2014)
Alnery Incorporations No.1 Limited	(Appointed 29 November 2013; resigned 31 January 2014)
Alnery Incorporations No.2 Limited	(Appointed 29 November 2013; resigned 31 January 2014)
H B Crossley	(Appointed 31 January 2014)
R Collins	(Appointed 31 January 2014)
S Orrell	(Appointed 31 January 2014)
B R Walker	(Appointed 31 January 2014)

6<sup>th</sup> Floor, 350 Euston Road  
Regent's Place  
London  
NW1 3AX

By order of the Board



B R Walker  
Director  
5 December 2014

## **Statement of Directors' Responsibilities**

The Directors are responsible for preparing the Report and the financial statements in accordance with applicable law and regulations.

Company law requires the Directors to prepare financial statements for each financial year. Under that law the Directors have elected to prepare the financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law). Under company law the Directors must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the Company and of the profit or loss of the Company for that period. In preparing these financial statements, the Directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK Accounting Standards have been followed; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Company will continue in business.

The Directors are responsible for keeping adequate accounting records that are sufficient to show and explain the Company's transactions and disclose with reasonable accuracy at any time the financial position of the Company and enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the Company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

# **Statement of the Independent Auditor to Gwynt y Mor OFTO Limited for the Purpose of Sections 92 (1) (b) and (c) of the Companies Act 2006**

We have audited the balance sheet and related notes of Gwynt y Mor OFTO Limited as at 3 December 2014 set out on pages 4 to 5 which have been prepared under the accounting policies set out therein.

This report is made solely to the company for the purpose of compliance with sections 92(1)(b) and (c) of the Companies Act 2006. Our work has been undertaken so that we might state to the company those matters we are required to state to them in such an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company for our work, for this report, or for the opinions we have formed.

## **Respective responsibilities of directors and auditor**

The company's directors are responsible for the preparation of the balance sheet and related notes.

It is our responsibility to:

- (a) report on whether the balance sheet has been properly prepared in accordance with the provisions of the Companies Act 2006 that would have applied if it had been prepared for a financial year of the company with such modifications as are necessary by reason of that fact; and
- (b) form an independent opinion concerning the relationship between the company's net assets and its called-up share capital and undistributable reserves at the balance sheet date.

## **Opinion concerning proper preparation of balance sheet**

In our opinion the balance sheet and related notes as at 3 December 2014 have been properly prepared in accordance with the provisions of the Companies Act 2006, which would have applied had the balance sheet been prepared for a financial year of the company.

## **Statement on net assets**

In our opinion, at 3 December 2014 the amount of the company's net assets (within the meaning given to that expression by section 831(2) of the Companies Act 2006) was not less than the aggregate of its called-up share capital and undistributable reserves.



**Deloitte LLP**

Chartered Accountants and Statutory Auditor  
London, United Kingdom

*SH* December 2014



## Balance Sheet

	Notes	3 December 2014 £
<b>Current assets</b>		
Cash at bank and in hand		51,000
<b>Creditors amounts falling due within one year</b>		
Creditors	2	(1)
<b>Net assets</b>		<u>50,999</u>
<b>Capital and reserves</b>		
Called-up share capital	3	50,999
<b>Equity shareholder's funds</b>	4	<u>50,999</u>

The Company did not trade during the period and has made neither profit nor loss, nor any other recognised gain or loss. Consequently no Profit and Loss account or Statement of Recognised Gains and Losses is presented.

These financial statements for Gwynt y Mor OFTO Limited, company registration number 8796159, were approved by the Board of Directors on 5 December 2014 and signed on its behalf by



B R Walker  
Director

## Notes to the accounts

For the period from incorporation to 3 December 2014

### 1 Accounting policies

A summary of the principal accounting policies of the Company, all of which have been applied consistently during the period is set out below.

#### a) Basis of preparation

The financial statements have been prepared under the historical cost convention and in accordance with applicable United Kingdom law and accounting standards.

#### b) Going Concern

The Company's proposed business activities, together with the factors likely to affect its future development, performance and position are set out in the Directors' Report on pages 1 to 2.

The Directors have reviewed the Company's supply chain and do not believe that any specific risk has been identified. The Directors have also considered the ability of the client (National Grid) to pay unitary fees due under the concession contract to the Company and do not consider this to be a material risk. The Company's forecasts and projections, taking account of reasonably possible counterparty performance, show the Company expects to be able to continue to operate for the full term of the concession. After making enquiries, the Directors have a reasonable expectation that the Company has adequate resources to continue in operational existence for the foreseeable future. Accordingly, they are adopting the going concern basis in preparing the report and financial statements.

### 2 Creditors amounts falling due within one year

	£
Amounts due to immediate parent company	1

The amount due to immediate parent company relates to called up share capital and is due at financial close. There is no interest that is applied to the outstanding creditor.

**3 December 2014**

### 3 Called up share capital

	No	£
<i>Authorised, allotted, fully called up and paid</i>		
Ordinary shares of £1 each	50,999	50,999

### 4 Reconciliation of movements in equity shareholder's funds

	£
Upon incorporation	1
Shares issued in the period	50,998
At 3 December 2014	50,999

The Company issued 1 share at £1 upon incorporation 29 November 2013 and 50,998 shares at £1 for a total consideration of £50,998 on 21 November 2014.

### 5 Related party transactions

Apart from share capital the Company had no related party transactions during the period with companies associated with its ultimate parent companies as well as the ultimate parent companies.

### 6 Ultimate parent companies and controlling parties

The Company's immediate parent company is Gwynt y Mor OFTO Holdings Limited, which is incorporated in Great Britain and registered in England and Wales. Gwynt y Mor OFTO Holdings Limited is the parent company of the largest and smallest group of which the Company is a member and for which group accounts are drawn up. The Company's ultimate parent companies and controlling parties are Balfour Beatty plc and Equitix Capital Eurobond 2 Limited which are incorporated in Great Britain and registered in England and Wales.

## **Audited financial statements of Holdco**



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**Gwynt y Mor OFTO Holdings Limited (formerly  
Alnery No. 3128 Limited)**

**Report and financial statements for the period from  
29 November 2013 to 3 December 2014**

## **Directors' Report**

For the period from incorporation to 3 December 2014

The Directors present their report together with the financial statements of the Company for the period from incorporation on 29 November 2013 to 3 December 2014.

### **Incorporation**

The Company was incorporated on 29 November 2013 as Alnery No.3128 Limited and changed its name to Gwynt y Mor OFTO Holdings Limited on 25 February 2014. This directors' report has been prepared in accordance with the provisions applicable to companies entitled to the small companies' exemption.

### **Principal Activity and Business Review**

The Company is an investment holding company whose sole business is the holding of investments in its wholly owned subsidiaries Gwynt y Mor OFTO Intermediate Limited and Gwynt y Mor OFTO Limited.

The Company's subsidiary, Gwynt y Mor OFTO Limited is expected to own, operate and maintain the offshore high-voltage transmission asset, which will connect the Gwynt y Mor offshore wind farm to the onshore electricity transmission system. The Company's other subsidiary Gwynt y Mor Intermediate Limited is a financing company whose sole purpose is the lending to Gwynt y Mor OFTO Limited. The performance of the asset will influence the results of the Company.

### **Going Concern**

The current economic situation creates some uncertainty but the Company's forecasts and projections, taking account of reasonable possible changes in trading performance, show that the Company has adequate resources to continue in operational existence for the foreseeable future. Accordingly, the Directors continue to adopt the going concern basis in preparing the financial statements. More information is provided in note 1 to the financial statements.

### **Share Capital**

The Company issued 1 share at £1 upon incorporation 29 November 2013 and 50,999 shares at £1 for a total consideration of £50,999 on 21 November 2014.

### **Directors**

The following persons were Directors of the Company during the period:

V.J Rankmore	(Appointed 29 November 2013; resigned 31 January 2014)
Alnery Incorporations No.1 Limited	(Appointed 29 November 2013; resigned 31 January 2014)
Alnery Incorporations No.2 Limited	(Appointed 29 November 2013; resigned 31 January 2014)
H B Crossley	(Appointed 31 January 2014)
R Collins	(Appointed 31 January 2014)
S Orrell	(Appointed 31 January 2014)
B R Walker	(Appointed 31 January 2014)

6<sup>th</sup> Floor, 350 Euston Road  
Regent's Place  
London  
NW1 3AX

By order of the Board



B R Walker  
Director  
5 December 2014

## **Statement of Directors' Responsibilities**

The Directors are responsible for preparing the Report and the financial statements in accordance with applicable law and regulations.

Company law requires the Directors to prepare financial statements for each financial year. Under that law the Directors have elected to prepare the financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law). Under company law the Directors must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the Company and of the Group and of the profit or loss of the Company for that period. In preparing these financial statements, the Directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK Accounting Standards have been followed; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Company will continue in business.

The Directors are responsible for keeping adequate accounting records that are sufficient to show and explain the Company's transactions and disclose with reasonable accuracy at any time the financial position of the Company and enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the Company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.



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## **Independent Auditor's Report to the Directors of Gwynt y Mor OFTO Holdings Limited**

We have audited the non-statutory financial statements of Gwynt y Mor OFTO Holdings Limited for the period ended 5 December 2014 which comprise the balance sheet and the related notes 1 to 8. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice) and the provisions of the Companies Act 2006 that would have applied were these statutory financial statements.

This report is made solely to the company's directors in accordance with our engagement letter dated 3 December 2014 and solely for the purpose of to be included in a Prospectus for bond financing. Our audit work has been undertaken so that we might state to the company's directors those matters we are required to state to them in an independent auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company, for our audit work, for this report, or for the opinions we have formed.

### **Respective responsibilities of directors and auditor**

As explained more fully in the Statement of Directors' Responsibilities, the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the directors; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the annual report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

### **Opinion on financial statements**

In our opinion the financial statements:

- give a true and fair view of the state of the company's affairs as at 3 December 2014;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been properly prepared in accordance with the provisions of the Companies Act 2006 which would have applied if the financial statements were statutory financial statements.

### **Opinion on other matter prescribed by the Companies Act 2006**

In our opinion the information given in the Directors' Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

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## Independent Auditor's Report to the Directors of Gwynt y Mor OFTO Holdings Limited (Continued)

### Matters on which we are required to report by exception

We have nothing to report in respect of the following matters where the Companies Act 2006 requires us to report to you if, in our opinion:

- adequate accounting records have not been kept, or returns adequate for our audit have not been received from branches not visited by us; or
- the non-statutory financial statements are not in agreement with the accounting records and returns; or
- certain disclosures of directors' remuneration specified by law are not made; or
- we have not received all the information and explanations we require for our audit.

*Deloitte LLP*

**Deloitte LLP**

Chartered Accountants and Statutory Auditor  
London, United Kingdom

*SH* December 2014

## Consolidated and Company Balance Sheets

As at 3 December 2014

	Notes	Group £	Company £
<b>Fixed Assets</b>			
Investments	2	-	51,000
<b>Current Assets</b>			
Debtors	3	-	1
Cash		51,000	-
		51,000	1
<b>Creditors amounts falling due within one year</b>			
Creditors	4	-	(1)
		-	(1)
<b>Net current assets</b>		51,000	-
<b>Net assets</b>		51,000	51,000
<b>Capital and reserves</b>			
Called-up share capital	5	51,000	51,000
<b>Equity shareholder's funds</b>	6	51,000	51,000

The Group did not trade during the period and has made neither profit nor loss, nor any other recognised gain or loss. Consequently no Profit and Loss account or Statement of Recognised Gains and Losses is presented.

These financial statements for Gwynt y Mor OFTO Holdings Limited, company registration number 8796189, were approved by the Board of Directors on 5 December 2014 and signed on its behalf by

B R Walker  
Director

## **Consolidated Cash Flow Statement**

For the period ended 3 December 2014

	Notes	3 December 2014 £
Net cash inflow from operating activities		-
Returns on investments and servicing of finance		-
<b>Net cash outflow from returns on investments and servicing of finance</b>		<u>-</u>
Taxation		-
Capital expenditure and financial investments		<u>-</u>
<b>Net cash inflow from capital expenditure and financial investments</b>		-
Equity dividends paid		-
<b>Net cash inflow before use of liquid resources and financing</b>		<u>-</u>
Management of liquid resources		-
<b>Net cash inflow/(outflow) from liquid resources</b>		<u>-</u>
<b>Financing</b>		
Receipts from issuing shares		51,000
<b>Net cash inflow from financing</b>		<u>51,000</u>
<b>Increase in cash in the period</b>		<u>51,000</u>



## Notes to the accounts

For the period from incorporation to 3 December 2014

### 1 Accounting policies

A summary of the principal accounting policies of the Group, all of which have been applied consistently during the period is set out below.

#### a) Basis of preparation

The financial statements have been prepared under the historical cost convention and in accordance with applicable United Kingdom law and accounting standards.

#### b) Going Concern

The Group's proposed business activities, together with the factors likely to affect its future development, performance and position are set out in the Directors' Report on page 1.

The Directors have reviewed the Gwynt y Mor OFTO Group supply chain and do not believe that any specific risk has been identified. The Directors have also considered the ability of the client (National Grid) to pay unitary fees due under the concession contract to the Gwynt y Mor OFTO Limited and do not consider this to be a material risk. The current economic situation creates some uncertainty but the Group's forecasts and projections, taking account of reasonably possible counterparty performance, show the Group expects to be able to continue to operate for the full term of the concession. After making enquiries, the Directors have a reasonable expectation that the Group has adequate resources to continue in operational existence for the foreseeable future. Accordingly, they are adopting the going concern basis in preparing the report and financial statements.

#### c) Investments

Investments are stated at cost less impairment. The carrying value of investments is reviewed annually by the Directors to determine where there has been any impairment.

### 2 Fixed asset investments

	Company £
Cost and net book value	
Shares in subsidiary undertakings at 3 December 2014	<u>51,000</u>

Principal subsidiary undertakings

The Company has investments in the following subsidiary undertakings

	Activity	Country of Operation	Shareholding of ordinary shares
Gwynt y Mor OFTO Limited	Concession company	England	100%
Gwynt y Mor OFTO Intermediate Limited	Financing company	England	100%

Both Gwynt y Mor OFTO Limited and Gwynt y Mor OFTO Intermediate Limited were incorporated in Great Britain and registered in England and Wales.

The Company's subsidiary Gwynt y Mor OFTO Limited re-registered as a public company under the name of Gwynt y Mor OFTO plc on 5 December 2014.



## Notes to the accounts (continued)

For the period from incorporation to 3 December 2014

### 3 Debtors

	Company £
Amounts due from subsidiary company	1

The amount due from subsidiary company relates to called up share capital and is due at financial close. There is no interest that is applied to the outstanding debtor.

### 4 Creditors amounts falling due within one year

	Company £
Amounts due to subsidiary company	1

The amount due to subsidiary company relates to called up share capital and is due at financial close. There is no interest that is applied to the outstanding creditor.

### 5 Called up share capital

	3 December 2014	
	No	£
<i>Authorised, allotted, fully called up and paid</i>		
Ordinary shares of £1 each	51,000	51,000

### 6 Reconciliation of movements in equity shareholder's funds

	£
Upon incorporation	1
Shares issued in the period	50,999
At 3 December 2014	51,000

The Company issued 1 share at £1 upon incorporation 29 November 2013 and 50,999 shares at £1 for a total consideration of £50,999 on 21 November 2014

### 7 Related party transactions

Other than share capital the Company had no related party transactions during the period with its parent companies Balfour Beatty OFTO Holdings Limited and Equitix Transmission 2 Limited or companies associated with its parent companies.

### 8 Ultimate parent companies and controlling parties

The immediate parent companies and controlling parties are Balfour Beatty OFTO Holdings Limited and Equitix Transmission 2 Limited which are incorporated in Great Britain and registered in England and Wales.

The ultimate parent companies and controlling parties are Balfour Beatty plc, and Equitix Capital Eurobond 2 Limited. Gwynt y Mor OFTO Holdings Limited is the parent company of the largest and smallest group of which the Company is a member and for which group accounts are drawn up.

**Audited financial statements of IntermediateCo**

**Gwynt y Mor OFTO Intermediate Limited  
(formerly Alnery No. 3127 Limited)**

**Report and financial statements for the period from  
29 November 2013 to 3 December 2014**

## **Directors' Report**

For the period from incorporation to 3 December 2014

The Directors present their report together with the financial statements of the Company for the period from incorporation on 29 November 2013 to 3 December 2014.

### **Incorporation**

The Company was incorporated on 29 November 2013 as Alnery No. 3127 Limited and changed its name to Gwynt y Mor OFTO Intermediate Limited on 25 February 2014. This directors' report has been prepared in accordance with the provisions applicable to companies entitled to the small companies' exemption.

### **Principal Activity and Business Review**

The Company is a financing company whose sole purpose is the provision of finance to Gwynt y Mor OFTO Limited. The Company and Gwynt y Mor OFTO Limited are wholly owned subsidiaries of Gwynt y Mor OFTO Holdings Limited.

Gwynt y Mor Limited is expected to own, operate and maintain the offshore high-voltage transmission asset, which will connect the Gwynt y Mor offshore wind farm to the onshore electricity transmission system. The performance of the asset will influence the results of the Company.

### **Going Concern**

The current economic situation creates some uncertainty but the Company's forecasts and projections, taking account of reasonable possible changes in trading performance, show that the Company has adequate resources to continue in operational existence for the foreseeable future. Accordingly, the Directors continue to adopt the going concern basis in preparing the financial statements. More information is provided in note 1 to the financial statements.

### **Share Capital**

The Company issued 1 share at £1 upon incorporation for a total consideration of £1 on 29 November 2013.

### **Directors**

The following persons were Directors of the Company during the period:

V.J Rankmore	(Appointed 29 November 2013; resigned 31 January 2014)
Alnery Incorporations No.1 Limited	(Appointed 29 November 2013; resigned 31 January 2014)
Alnery Incorporations No.2 Limited	(Appointed 29 November 2013; resigned 31 January 2014)
H B Crossley	(Appointed 31 January 2014)
R Collins	(Appointed 31 January 2014)
S Orrell	(Appointed 31 January 2014)
B R Walker	(Appointed 31 January 2014)

6<sup>th</sup> Floor, 350 Euston Road  
Regent's Place  
London  
NW1 3AX

By order of the Board



B R Walker  
Director  
5 December 2014

## **Statement of Directors' Responsibilities**

The Directors are responsible for preparing the Report and the financial statements in accordance with applicable law and regulations.

Company law requires the Directors to prepare financial statements for each financial year. Under that law the Directors have elected to prepare the financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law). Under company law the Directors must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the Company and of the profit or loss of the Company for that period. In preparing these financial statements, the Directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK Accounting Standards have been followed; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Company will continue in business.

The Directors are responsible for keeping adequate accounting records that are sufficient to show and explain the Company's transactions and disclose with reasonable accuracy at any time the financial position of the Company and enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the Company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.



## **Independent Auditor's Report to the Directors of Gwynt y Mor OFTO Intermediate Limited**

We have audited the non-statutory financial statements of Gwynt y Mor OFTO Intermediate Limited for the period ended 3 December 2014 which comprise the balance sheet and the related notes 1 to 6. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accounting Practice) and the provisions of the Companies Act 2006 that would have applied were these statutory financial statements.

This report is made solely to the company's directors in accordance with our engagement letter dated 5 December 2014 and solely for the purpose of to be included in a Prospectus for bond financing. Our audit work has been undertaken so that we might state to the company's directors those matters we are required to state to them in an independent auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company, for our audit work, for this report, or for the opinions we have formed.

### **Respective responsibilities of directors and auditor**

As explained more fully in the Statement of Directors' Responsibilities, the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the directors; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the annual report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

### **Opinion on financial statements**

In our opinion the financial statements:

- give a true and fair view of the state of the company's affairs as at 3 December 2014
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice
- have been properly prepared in accordance with the provisions of the Companies Act 2006 which would have applied if the financial statements were statutory financial statements.

### **Opinion on other matter prescribed by the Companies Act 2006**

In our opinion the information given in the Directors' Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

## Independent Auditor's Report to the Directors of Gwynt y Mor OFTO Intermediate Limited (Continued)

### Matters on which we are required to report by exception

We have nothing to report in respect of the following matters where the Companies Act 2006 requires us to report to you if, in our opinion:

- adequate accounting records have not been kept, or returns adequate for our audit have not been received from branches not visited by us; or
- the financial statements are not in agreement with the accounting records and returns; or
- certain disclosures of directors' remuneration specified by law are not made; or
- we have not received all the information and explanations we require for our audit.

Deloitte LLP

### Deloitte LLP

Chartered Accountants and Statutory Auditor  
London, United Kingdom

SH December 2014

## Balance Sheet

	Notes	3 December 2014 £
<b>Current assets</b>		
Debtors	2	1
<b>Net assets</b>		<u>1</u>
<b>Capital and reserves</b>		
Called-up share capital	3	1
<b>Equity shareholder's funds</b>	4	<u>1</u>

The Company has made neither a profit nor a loss nor any other recognised profit or loss. Consequently no Profit and Loss account or Statement of Recognised Gains and Losses is presented.

These financial statements for Gwynt y Mor OFTO Intermediate Limited, company registration number 8796181, were approved by the Board of Directors on 5 December 2014 and signed on its behalf by



B R Walker  
Director



## Notes to the accounts

For the period from incorporation to 3 December 2014

### 1 Accounting policies

A summary of the principal accounting policies of the Company, all of which have been applied consistently during the period is set out below.

#### a) Basis of preparation

The financial statements have been prepared under the historical cost convention and in accordance with applicable United Kingdom law and accounting standards.

#### b) Going Concern

The Group's proposed business activities, together with the factors likely to affect its future development, performance and position are set out in the Directors' Report on page 1.

The Directors have reviewed the Gwynt y Mor OFTO Group supply chain and do not believe that any specific risk has been identified. The Directors have also considered the ability of the client (National Grid) to pay unitary fees due under the concession contract to Gwynt y Mor OFTO Limited and do not consider this to be a material risk. The Company's forecasts and projections, taking account of reasonably possible counterparty performance, show the Company expects to be able to continue to operate for the full term of the concession. After making enquiries, the Directors have a reasonable expectation that the Company has adequate resources to continue in operational existence for the foreseeable future. Accordingly, they are adopting the going concern basis in preparing the report and financial statements.

The financial statements have been prepared under the historical cost convention and in accordance with applicable United Kingdom law and accounting standards.

### 2 Debtors amounts falling due within one year

	£
Amounts due from immediate parent company	1

The amount due from immediate parent company relates to called up share capital and is due at financial close. There is no interest that is applied to the outstanding debtor.

### 3 Called up share capital

3 December 2014

	No	£
<i>Authorised, allotted, fully called up and paid</i>		
Ordinary shares of £1 each	1	1

### 4 Reconciliation of movements in equity shareholder's funds

	£
Upon incorporation	1
Shares issued in the period	-
At 3 December 2014	1

The Company issued 1 share at £1 upon incorporation for a total consideration of £1 on 29 November 2013.

### 5 Related party transactions

As a subsidiary of Gwynt y Mor OFTO Holdings Limited the Company has taken advantage of the exemption in FRS 8 "Related Party Disclosures" from disclosing transactions with other members of the Group headed by Gwynt y Mor Holdings Limited.

**6 Ultimate parent companies and controlling parties**

The Company's immediate parent company is Gwynt y Mor OFTO Holdings Limited, which is incorporated in Great Britain and registered in England and Wales. Gwynt y Mor OFTO Holdings Limited is the parent company of the largest and smallest group of which the Company is a member and for which group accounts are drawn up.

The Company's ultimate parent companies and controlling parties are Balfour Beatty plc and Equitix Capital Eurobond 2 Limited which are incorporated in Great Britain and registered in England and Wales.

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**INTERMEDIATECO**  
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