

CONTRACT FOR DIFFERENCES (being a Directed Contract)

FINANCIAL ENERGY MASTER AGREEMENT

This Master Agreement is dated [XXX] and made between:

- (1) Electricity Supply Board, a statutory company organised under the laws of Ireland with principal address Two Gateway East Wall Road Dublin 3 D03 A2995 Ireland (hereinafter "**Party A**"); and
- (2) [XXX], a company organised under the laws of [XXX] (Company Registration Number: XXXXX) with registered address [XXXX] (hereinafter "**Party B**").

RECITALS:

- (A) The Single Electricity Market ("SEM") commenced operation on 1 November 2007 and the integrated Single Electricity Market ("I-SEM") is due to commence on 23 May 2018. The Regulatory Authorities' strategy to mitigate market power in SEM and I-SEM involves the implementation of a suite of Directed Contracts of which this Master Agreement is one. Consequently the Seller has been directed by the Regulatory Authorities to enter into this Master Agreement as a Directed Contract ("the Order").
- (B) In compliance with the Order, the parties have entered and/or anticipate entering into one or more cash-settled derivative transactions (each hereinafter a "**Transaction**") that are or will be governed by this Master Agreement, which includes the schedule (hereinafter the "**Schedule**"), related Annexes, and the documents (including Subscription Rules) and other confirming evidence (each hereinafter a "**Confirmation**") exchanged between the parties confirming those Transactions.

Party A and Party B hereby agree as follows:

1. INTERPRETATION

- (a) **Definitions.** The terms defined in Section 11, in the Schedule or otherwise in this Master Agreement shall have the meanings therein specified for the purpose of this Agreement.
- (b) **Construction.** A reference to a Section is a reference to a section or subsection (as the case may be) of this Master Agreement. The headings in this Master Agreement are for convenience only and are to be ignored in construing this Master Agreement. In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule shall prevail. In the event of any inconsistency between any provision of this Master Agreement (including the Schedule) and any provision of the Subscription Rules, this Master Agreement shall prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation shall prevail for the purpose of the relevant Transaction.
- (c) **Single Agreement.** Unless otherwise specified in a Confirmation with respect to any Transaction, this Master Agreement, and all Confirmations form a single agreement between the parties (hereinafter collectively this "**Agreement**").

2. TRANSACTIONS

- (a) **Procedures.** The parties may enter into a Transaction by means of electronic transmission as set out in the Subscription Rules. The

parties shall be legally bound by the terms of each Transaction whether entered into orally, electronically or otherwise from the moment they agree to those terms in accordance with this Agreement and the Subscription Rules for the relevant Transaction. Each party agrees not to contest or assert (and hereby waives any right to) any defence as to the validity or enforceability of Transactions entered into in accordance with the Subscription Rules on any date (hereinafter a "**Trade Date**") in accordance with this Agreement.

(b) **Authorised Persons.** Transactions may be concluded between the authorised traders of the Parties. In the absence of prior notice to the contrary, each Party acknowledges and represents to the other that each of its employees purporting to represent, negotiate and enter into one or more binding Transaction on such Party's behalf shall be deemed to be an authorised trader of that Party.

(c) **Confirmations.** (i) A Confirmation recording the details of each Transaction substantially in the form attached hereto as Annex I shall be issued by the Seller in respect of each Transaction within one (1) Business Day of each Transaction being concluded and may be executed and delivered in counterparts (including by electronic PDF or by an exchange of electronic messages on an electronic messaging system). (ii) If the Buyer is satisfied the Confirmation accurately reflects the agreed terms of the Transaction it shall sign and return the Confirmation to the Seller before 12:00 noon no later than two (2) Business Days following each Transaction being concluded. (iii) If the Buyer is not so satisfied, it shall inform the Seller of any inaccuracies and the Seller shall, if it agrees that the Confirmation is inaccurate, issue a new Confirmation and the provision of this Section 2(c)(i) shall apply. (iv) If the Buyer does not return the Confirmation duly signed in accordance with this Section 2(c)(ii) or notify the Seller of any inaccuracy in accordance with Section 2(c)(iii) the Buyer shall be deemed to accept the Confirmation. (v) If the Buyer does not receive a Confirmation within one (1) Business Day of a Transaction being entered into, the Buyer shall send the Seller a Confirmation and Sections 2(ii), (iii) and (iv) shall apply mutatis mutandis, in relation to such Confirmation by replacing all reference to "Buyer" with references to "Seller" and vice versa. If any dispute shall arise as to whether an error exists in a Confirmation, the Parties shall in good faith make reasonable efforts to resolve the dispute, provided, notwithstanding the provisions in this Section 2(c), the phone conversation or broker screen transaction records (if applicable) made at the time a Transaction is entered into shall prevail over the related Confirmation in the event of any inconsistency between them. The failure to prepare and/or execute a Confirmation shall not affect the validity of a Transaction, in which case the terms agreed between the parties pursuant to Section 2(a) shall prevail. Subject to Section 2(c)(iv) on signature by both Parties, the Confirmation shall, save in the event of manifest error, prevail over any oral or written agreement in respect of the Transaction.

(d) **Calculations.** For each Calculation Period with respect to (i) a Contract for Difference, (1) if the Floating Price is greater than the Fixed Price for the Calculation Period, the Floating Price Payer shall pay to the Fixed Price Payer an amount equal to the Notional Quantity for that Calculation Period multiplied by the difference between the Floating Price and the Fixed Price, and (2) if the Floating Price is less than the Fixed Price for the Calculation Period, the Fixed Price Payer shall pay to the Floating Price Payer an amount equal to the Notional Quantity for that Calculation Period multiplied by the difference between the Fixed Price and the Floating Price. If, for any Settlement Period, the aggregate amount owed by the Floating Price Payer to the

Fixed Price Payer is greater than the aggregate amount owed by the Fixed Price Payer to the Floating Price Payer, then the Floating Price Payer shall pay the difference between such amounts to the Fixed Price Payer on the relevant Payment Date. If, for any Settlement Period, the aggregate amount owed by the Fixed Price Payer to the Floating Price Payer is greater than the aggregate amount owed by the Floating Price Payer to the Fixed Price Payer, then the Fixed Price Payer shall pay the difference between such amounts to the Floating Price Payer on the relevant Payment Date; and (ii) a **COMMODITY OPTION**, the Seller shall, (1) if the Commodity Option is a Call and the Floating Price is greater than the Strike Price for the Calculation Period, pay to the Buyer an amount equal to the Notional Quantity for that Calculation Period multiplied by the difference between the Floating Price and the Strike Price, or (2) if the Commodity Option is a Put and the Floating Price is less than the Strike Price for the Calculation Period, pay to the Buyer an amount equal to the Notional Quantity for that Calculation Period multiplied by the difference between the Strike Price and the Floating Price. Any amounts owed by the Seller to the Buyer for any Settlement Period is due and payable by the Seller to the Buyer on the relevant Payment Date.

(e) **Conditions Precedent.** Except as otherwise expressly provided in Sections 6 and 7, each payment obligation of each party under a Transaction is subject to (i) the condition precedent that no Event of Default or event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default with respect to the other party has occurred and is continuing, (ii) the condition precedent that no Early Termination Date or Accelerated Termination Date (as defined in Sections 6 and 7, respectively) in respect of the relevant Transaction has occurred or been effectively designated, (iii) the condition precedent that no Market Disruption Event in respect of the relevant Transaction has occurred and is continuing that is not otherwise resolved under the terms of Section 4, and (iv) each other applicable condition precedent to payment specified in this Agreement; provided, however, that the condition precedent set forth in (i) above does not apply to a payment owing by a party if the other party shall have satisfied in full all of its payment obligations under this Agreement and shall at the relevant time have no future payment obligations, whether absolute or contingent, under this Agreement.

(f) **Invoicing, Payment, Disputes and Account Details.** (i) The seller shall on or around the seventh (7th) Business Day of every calendar month send via electronic transmission to the buyer an invoice and corresponding netting statement with trade details for the relevant Settlement Period (the "Netting Statement"). In connection with such Netting Statement each Party shall state all amounts then owed between the Parties pursuant to each Transaction, including, without limitation, interest and other payments or credits owed between the Parties and the net amount due for payment in respect of each Transaction. (ii) Payments under this Agreement shall be made (subject to Sections 2(i) and 2(j)) without deduction, setoff or counterclaim in immediately available funds on or before the relevant Payment Date (or if not a Business Day, on the next Business Day) for value on that date in the place of the account specified in the Schedule (unless otherwise specified in the relevant Confirmation). If amounts are not paid when due, they shall bear interest daily until paid in full at the Interest Rate. (iii) If a Party in good faith disputes the accuracy of a Netting Statement, it shall on or before the Payment Date provide a written explanation of the basis for the dispute and shall pay the undisputed amount invoiced no later than the Payment Date. If any amount withheld under dispute is finally determined to have been due, such withheld amount shall, at the election of the owed party, be credited or paid to it within five (5) Business Days of such determination, along with interest accrued at the interest rate from and including the date such amount was due, to the other Party but excluding the date paid or credited. The Parties shall in good faith seek to settle the disputed amount as soon as reasonably possible. If the Parties are unable to settle the dispute then, after thirty (30) days from the date on which the notice of the dispute was given either Party may take such

action as permitted by this Agreement including resorting to the courts. (iv) If the Seller fails to issue a Netting Statement in accordance with (f)(i) then the Buyer may issue that Netting Statement to the Seller and, once issued that Netting Statement shall be treated as a Netting Statement issued by the Seller for the purposes of this Agreement. (v) Except as provided in this sub-clause (f), failure to issue a Netting Statement shall not affect the rights and obligations of the Parties under this Agreement and shall not be a material breach of this Agreement under Part 5(c)(vi). If any information required to prepare a Netting Statement is not available at the time the Netting Statement is prepared, then a Party may prepare that Netting Statement based on its reasonable estimate of that information. (vi) Any payment adjustment due to availability of information required to prepare the Netting Statement shall be made within five (5) Business Days from receipt of notice by a Party setting out the details giving rise to the payment adjustment together with interest calculated in accordance with the terms of this Agreement. (iv) Either party may change its account for receiving a payment by giving notice to the other party at least five (5) Business Days prior to the scheduled date for payment to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(g) **Contractual Currency.** Each payment under a Transaction shall be made in the Contractual Currency specified in the Confirmation or, if not so specified, in Euro.

(h) **Payment Netting.** If "Payment Netting" is specified in the Schedule as applying, then if on any date amounts would otherwise be payable in the same currency in respect of two or more Transactions, such amounts with respect to each party shall be aggregated and the party owing the greater aggregate amount shall pay to the other party the difference between the aggregate amounts owed.

(i) **Specified Information.** Each party agrees, promptly upon request, to complete (accurately in a manner reasonably satisfactory to the other party), execute, arrange for any required certification of, and deliver to the other party or such government or taxing authority as such other party directs any form or document that may be required or reasonably requested in order to allow such other party to make or receive a payment under this Agreement without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate.

(j) **Tax.** If either party (hereinafter the "Tax Affected Party") is required at any time by the laws of any Relevant Jurisdiction to make any deduction or withholding for or on account of Tax in relation to any payment made or falling to be made by it under any Transaction, then the Tax Affected Party shall be required to increase the amount of its payment to the extent necessary to ensure that the amount received by the other party is not less than the amount it would have received had the deduction or withholding not been required, provided, however, that the other party shall not be entitled to require the Tax Affected Party to increase the amount of its payment in respect of any such withholding or deduction for or on account of Tax (i) unless the same is an Indemnifiable Tax or (ii) to the extent that the increase would not be required to be paid but for the failure by the other party to comply with or perform any reasonable request pursuant to Section 2(i).

3. REPRESENTATIONS

On the date hereof, on the date of entering into each Confirmation, and on the Trade Date of each Transaction, each of the Buyer and the Seller represents and warrants to the other with respect to itself, that (a) **(Authority)** (i) the execution, delivery and performance of this Agreement have been duly authorised by all necessary corporate or other organisation action on its part and that such execution, delivery and performance do not violate or conflict with any law applicable to it, any provisions of its constitutional documents, or any order or judgement of any court or other agency of government applicable to it, and (ii) this Agreement is its legally valid and binding obligation,

enforceable against it in accordance with its terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application); (b) **(No Reliance)** (i) the other party to this Agreement (1) is not acting as a fiduciary or financial, investment or commodity trading advisor for it, and (2) has not given to it (directly or indirectly through any other person) any assurance, guarantee or representation whatsoever as to the merits (either legal, regulatory, tax, commercial, financial, accounting or otherwise) of this Agreement or the expected performance or result of any Transaction; and (ii) in connection with the negotiation and execution of this Agreement and the entering into of each Transaction, (1) it is acting as a principal only (and not as an agent or in any other capacity, fiduciary or otherwise), (2) it is not relying upon any advice or representations (whether written or oral) of the other party other than the representations expressly set out in this Agreement, (3) it has made and will make its own decisions regarding the entering into of this Agreement and each Transaction based upon its own judgement and upon the advice from such professional advisors as it deemed, or will deem, necessary to consult, (4) all of its decisions regarding this Agreement have been the result of arm's-length negotiations between the parties, (5) it has a full understanding of all the terms, conditions and risks (economic and otherwise) of this Agreement and each Transaction and it is capable of assuming and willing to assume (financially and otherwise) those risks; and (6) all applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(6) pursuant to Part 4 in the Schedule is, as of the date of the information, true, accurate and complete in every material respect or, in the case of audited or unaudited financial statements or balance sheets, a fair representation of the financial condition of the relevant person; (c) **(Required Licensing and other Authorisations)** it has all governmental, regulatory and other authorisation, licenses, approvals and consents necessary for it legally to execute and perform its obligations under the Agreement and any Credit Support Document to which it is party; (d) **(Absence of Litigation)** There is not pending or to its knowledge threatened against it (or any Credit Support Provider, if applicable) any action suit or proceeding at law or in equity or before any court, tribunal governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or any Credit Support Document; and (e) **(Absence of Certain Events)**. No Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

4. MARKET DISRUPTION

If a Market Disruption Event has occurred and is continuing during any Calculation Period (each hereinafter an "**Affected Calculation Period**"), then the Floating Price for that Affected Calculation Period and each Affected Calculation Period following consecutively thereafter shall be determined in accordance with the SEMOpX Rules or Procedures (as applicable) ("**Alternative Floating Price Source**").

5. EVENTS OF DEFAULT AND TERMINATION EVENTS

(a) **Events of Default.** An event of default (hereinafter an "**Event of Default**") shall mean with respect to a party or, if applicable, any Credit Support Provider of such party any of the following: (a) **(Failure to Pay)** the failure by the party to make, when due, any payment required under this Agreement if such failure is not remedied within three (3) Business

Days after notice of such failure is given to the party; (b) **(Misrepresentation)** any representation or warranty made by the party in this Agreement shall prove to have been false or misleading in any material respect; (c) **(Breach of Agreement)** the breach by the party of any other covenant or agreement set out in this Agreement (other than the obligation to make payment) and such failure is not cured within thirty (30) Business Days after notice of such breach is given to the party; (d) **(Insolvency)** the occurrence of an Insolvency Event; (e) **(Merger)** the occurrence of a Merger Event; (f) **(Cross-default)** if "Cross-default" is specified in the Schedule as applying to the party, the occurrence or existence of a failure by the party or any Credit Support Provider of such party (individually or collectively) (i) in making one or more payments when due (whether at maturity, by acceleration, or otherwise and after giving effect to any applicable grace period) in an aggregate amount not less than the applicable Threshold Amount (as specified in the Schedule) under one or more agreements or instruments, or (ii) in the performance of, or the occurrence and continuance of any other event of default (however defined) under, one or more agreements or instruments, if such failure or event of default is not remedied within any applicable grace period and the effect of such failure or event of default is to cause such agreements or instruments in an aggregate amount not less than the applicable Threshold Amount to become, or becoming capable at such time of being declared, due prior to its expressed maturity; (g) **(Credit Support Default)** the failure by the party or any Credit Support Provider of such party to establish, maintain or renew any credit support provided for in any Credit Support Document or to comply with or perform any agreement or obligation thereunder if such failure is continuing after any applicable grace period has elapsed, or (h) any other agreement entered into between the parties in respect of a Specified Transaction is terminated. (b) **Termination Events** Notwithstanding Part 7, the occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party of a Force Majeure Event, Tax Event Upon Merger or an Additional Termination Event if such event is specified in the Schedule or any Confirmation as applying (wherein the Affected Party or Affected Parties will be as specified for such Additional Termination Event in the Schedule or such Confirmation.)

6. REMEDIES

If an Event of Default has occurred and is then continuing, the non-defaulting party (hereinafter the "**Non-defaulting Party**") may, by no more than twenty (20) days notice to the other party (hereinafter the "**Defaulting Party**") designate a day not earlier than the day such notice is effective as an early termination date (hereinafter an "**Early Termination Date**"). On an Early Termination Date, all obligations under all Transactions that would have been payable with respect to all Calculation Periods that would have ended after the Early Termination Date shall be terminated (whether or not the relevant Event of Default is then continuing), except for the obligations contained in this Section 6. Following the occurrence of an Early Termination Date, the Non-defaulting Party shall in good faith calculate its Gains, Losses and Costs resulting from the termination of the parties' obligations under all Transactions with respect to all Payment Dates which would have occurred after the Early Termination Date had the Early Termination Date not occurred. The Non-Defaulting Party shall then aggregate such Gains, Losses and Costs with respect to all such Transactions plus all Unpaid Amounts owed or owing by the parties into a single net amount and notify the Defaulting Party of the net amount owed or owing. If the Non-defaulting Party is owed such net amount, the Defaulting Party shall, within five (5) Business Days after receipt of such notice, pay the net amount to the Non-defaulting Party, which amount shall bear interest at the Interest Rate from the Early Termination Date until paid. If the Non-defaulting Party owes such net amount, the Non-defaulting Party shall not be required to make any payment to the Defaulting Party, unless the Early Termination Date has been designated or occurred by reason of an Insolvency Event (in which event the net amount owed by the Non-Defaulting Party shall be paid to the Defaulting Party within five (5) Business Days of the Early Termination Date and bear interest at the Interest Rate from the Early Termination

* Pending further clarification on Fallback procedures under the SEMOpX Rules (cf Section F.3) or Procedures (cf. Section F.3.3)

Date until paid). The parties acknowledge and agree that such net amount constitutes a reasonable pre-estimate of the amount of loss, and is not a penalty. No party shall be required to pay special, exemplary, punitive, incidental, consequential or indirect damages (whether or not arising from a party's negligence) to the other party pursuant to this Agreement for any reason, except to the extent that the payments required to be made pursuant to this Agreement are deemed to be such damages.

If "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence of an Insolvency Event (save for the Insolvency Event specified in (a) of the definition of term "Insolvency Event" in Section 11) with respect to such party (without the requirement of notice being served upon such party).

7. EVENTS OF CHANGE

(a) **Notice.** If an Event of Change shall occur, the Burdened Party in the case of a New Tax or either party in the case of an Illegality or Specification shall, promptly upon becoming aware of it, notify the other party of the occurrence of such Event of Change. After an Event of Change shall have occurred, and provided that such Event of Change is then continuing, upon at least two (2) Business Days, and not more than twenty (20) Business Days, notice to the other party, the Burdened Party in the case of a New Tax or either party in the case of an Illegality may designate in writing a Business Day as an accelerated termination date (hereinafter an "**Accelerated Termination Date**"), but only with respect to those Transactions that are affected by such Event of Change. During the period between the date on which notice of the Event of Change is received and the designated Accelerated Termination Date, both parties shall make reasonable efforts to avoid the situation so that the performance of this Agreement can continue with respect to those Transactions affected by the Event of Change; provided that this Section 7(a) will not impose on either party any obligation other than to negotiate in good faith to make arrangements that will not adversely affect such party.

(b) **Termination and Calculations.** On an Accelerated Termination Date, all obligations under all Transactions affected by the Event of Change that would have been payable with respect to all Calculation Periods that would have ended after the Accelerated Termination Date shall be terminated, except for the obligations contained in this Section 7. Following the occurrence of an Accelerated Termination Date, each party shall in good faith calculate its Gains, Losses and Costs resulting from the termination of the parties' obligations under all those Transactions affected by the Event of Change with respect to all Payment Dates which would have occurred after the Accelerated Termination Date had the Accelerated Termination Date not occurred. Each party shall then aggregate such Gains, Losses and Costs with respect to such Transactions into a single net amount (in each case hereinafter the "**Net Amount**") (expressed as a positive number if the party's Gains exceed its Losses and Costs and as a negative number if the party's Losses and Costs exceed its Gains). Upon request, each party agrees to provide to the other written notice, in reasonable detail, of its calculations (specifying each of its Costs, Gains, and Losses) and supporting documentation, if any.

(c) **Settlement.** Once the determination has been made in accordance with Section 7(b), then: (i) if the Payment Amount (as calculated below) is positive, the party with the higher Net Amount (hereinafter "**X**") shall pay the Payment Amount to the party with the lower Net Amount (hereinafter "**Y**"); and (ii) if the Payment Amount is negative, Y shall pay the absolute value of the Payment Amount to X. The Payment Amount shall equal (x) one half of the difference between the Net Amount of X and the Net Amount of Y plus (y) any Unpaid Amounts owed by X to Y minus (z) any Unpaid Amounts owed by Y to X. Such payment shall be made as promptly as practicable, but in any event no later than three (3) Business Days after the later of (i) the date

that the determination under Section 7(b) has been made and (ii) the Accelerated Termination Date. The intent of this Section 7 is to leave neither party with an unfair burden as a result of an Event of Change. It is agreed by the parties that if, during or prior to the implementation of the provisions of this Section 7, an Event of Default shall occur, then the Non-defaulting Party shall be entitled to designate an Early Termination Date, whereupon the implementation of the provisions of Section 6 shall supersede and replace the implementation of the provisions of this Section 7.

8. DISPUTES

Subject to Part 2(f) (Payment Disputes) and Part 4 (Market Disruption) each party shall use good faith and reasonable commercial efforts to informally resolve all disputes arising out of the implementation of this Agreement within 30 days of receipt of notification of a dispute by either Party. If the parties are unable to resolve the dispute then the dispute shall be escalated by issuing a written notice ("Expert Determination Notice") to the other Party requiring the dispute to be dealt with in accordance with the below:

- (i) The Parties shall seek to agree the identity of an Expert. If the Parties do not agree the identity of an Expert within 5 Business Days of notice then either Party may apply to the President of the Law Society of Ireland to nominate an Expert to determine the dispute requesting the nomination be made within 10 Business Days of receipt of application.
- (ii) The Parties shall jointly appoint the nominated or agreed Expert within 3 Business Days of the written agreement or receipt of a nomination pursuant to this sub-clause (i) failing which either Party may by written notice to the Expert and the other Party appoint the Expert.
- (iii) No person shall be appointed as an Expert in any dispute in respect of which that person has any personal financial or professional interest in the dispute except by prior written consent of the Parties and the Parties shall make appointments subject to the proposed Expert disclosing to the Parties any circumstance likely to create a presumption of bias or prevent a prompt resolution of the dispute.
- (iv) The Expert shall act as an expert not as an arbitrator. The Expert shall have the power to make determinations as he or she thinks fit including determinations as to the Parties' contractual rights and obligations and amounts owed by one Party to the other (including awarding of costs).
- (v) Where a dispute is referred to an Expert the procedures to be followed shall be as determined by the Expert subject only to the following:
 - a. Expert shall consult with Regulatory Authorities
 - b. Expert shall have power to determine requirements for hearings and form and timing of submissions
 - c. All written communications or submissions received by the Expert shall be made available to both Parties
 - d. Expert shall prepare preliminary determination to the Parties within 30 Business Days of appointment but no later than 90 Business Days after appointments; and
 - e. The Parties shall have the right to submit written comments on such preliminary determination within 7 Business Days of receipt. The Expert shall take into account such comments and shall issue final determination no later than 20 Business Days from receipt.

Subject to any award of costs, including legal costs, by the Expert in its final determination: (i) the Expert's costs shall be borne equally by the Parties and (ii) each Party shall bear its own costs and expenses.

The Parties shall comply with any determinations of an Expert. In the event that an Expert becomes unwilling or unable to act in relation to a dispute or fails to make a determination within the timescales required by this Agreement, then either Party may by written notice require a substitute Expert to be appointed in accordance with the procedure in this Part 8.

The determination of the Expert in relation to a dispute shall be final, conclusive and binding upon the Parties.

9. GOVERNING LAW AND JURISDICTION

(a) **Governing Law.** This Agreement is governed by, and shall be construed in accordance with, the laws of Ireland without reference to any choice or conflict of law principle that would result in the application of another law.

(b) **Jurisdiction.** Subject to the referral of any matter to an Expert, under this Agreement (including any Transaction) in accordance with the Subscription Rules, each party irrevocably submits for the purposes of or in connection with this Agreement to the exclusive jurisdiction of the courts of Ireland.

10. DOCUMENTS

Concurrently with the execution and delivery of this Agreement and any Credit Support Documents (or at any later date specified in the Schedule), each party shall furnish to the other party the documents specified in the Schedule, if any, in a form and substance satisfactory to the other party.

11. MISCELLANEOUS

(a) **Entire Agreement and Counterparts.** This Agreement contains and constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior oral or written communications or agreements relating thereto. This Agreement may be executed in counterparts (including by facsimile), each of which when executed and delivered shall be deemed to be an original instrument and all of which when taken together shall constitute one and the same agreement.

(b) **Notices.** Any notice or other communication in respect of this Agreement may be given during the recipient's normal business hours by hand delivery (effective upon delivery), certified or registered mail (airmail if overseas) or the equivalent (effective upon the date of delivery or attempted delivery (according to return receipt)), or electronic messaging system (effective upon receipt) to the address or number or in accordance with the electronic messaging system details specified in the Schedule (or as may be subsequently designated by effective notice).

(c) **Expenses.** Any party in default under this Agreement shall reimburse the other party, on demand, for actual, reasonable out-of-pocket expenses (and any interest thereon at the Interest Rate), including, without limitation, reasonable legal fees and expenses incurred by the other party during the occurrence and continuation of such default in connection with the enforcement of, or the preservation of, its rights in respect of this Agreement.

(d) **Survival.** Except to the extent otherwise provided in Section 6 and 7 as to certain payment obligations terminated under a Transaction that has been terminated, the obligations of the parties under this Agreement shall survive the termination of any Transaction.

(e) **Remedies Cumulative.** Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.

(f) **Binding Effect and Transfer.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Neither party shall have the power to transfer (whether by way of security or otherwise) all or any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably

withheld or delayed, and any purported transfer in breach of this Section 10(f) shall be void and of no force and effect. Notwithstanding the foregoing, however, a party shall be entitled to transfer (i) this Agreement to an Affiliate of an equivalent or greater creditworthiness, provided that such Affiliate is incorporated in the same jurisdiction as the assigning and transferring party provided that the obligations under this Agreement of the proposed transferee are supported in a manner satisfactory to the other party, and (ii) any part of its interest in any amount payable to it from a Defaulting Party pursuant to Section 6.

(g) **Stamp Taxes.** Each party agrees with the other that, so long as either party has or may have any obligation under this Master Agreement that it will pay any stamp, registration, documentation or similar tax (hereinafter a "Stamp Tax") levied or imposed upon it or in respect of its execution or performance of this Agreement by a jurisdiction in which it is incorporated, organised, managed and/or controlled, or considered to have its seat, or in which a branch or office through which it is acting for the purpose of this Agreement is located (hereinafter a "Stamp Tax Jurisdiction") and will indemnify the other party against any Stamp Tax levied or imposed upon the other party or in respect of the other party's execution or performance of this Agreement by any Stamp Tax Jurisdiction which is not also a Stamp Tax Jurisdiction with respect to that other party.

(h) **Confidentiality.** Except as specifically provided in this Agreement, neither party shall without the prior written consent of the other Party disclose the existence or the terms of this Agreement or any Credit Support Document to any third party other than to its or its Affiliates' employees, directors, officers, agents, advisors, counsel, lenders or other providers of funds who agree to comply with the provisions of this Section 10(h) in respect of such disclosure. Each party undertakes to use its reasonable endeavours to enforce such compliance. Notwithstanding the foregoing, however, where, in a party's reasonable opinion, a disclosure of the type referred to in this Section 10(h) is required by law, a rule of a stock exchange on which its shares (or those of an Affiliate to it) are listed or traded, or a governmental authority or other authority with relevant powers, the party shall be entitled to make the disclosure. The disclosing party shall notify the other party about any such disclosure as soon as practicable.

(i) **Liability.** Except to the extent included in any amounts to be paid under any termination payment, neither Party shall be liable to the other, whether in contract, tort (including negligence and breach of duty) or otherwise at law, for any loss of use, profits, contracts, production, revenue or for business interruption or for any consequential or indirect loss or damage of whatsoever nature and howsoever arising.

(j) **Recording of Conversations.** Subject to any specific consent required by applicable law, each party (i) consents to the recording of all telephone conversations between the trading, marketing and other relevant personnel in connection with this Agreement or any potential Transaction, with or without the use of a warning tone, (ii) agrees to obtain any necessary consent of, and give any necessary notices of such recordings to, its relevant personnel, and (iii) agrees, to the extent permitted by applicable law, that recordings may be submitted in evidence in any Proceedings related to this Agreement or any potential Transaction under this Agreement.

(k) **Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction in respect of any Transaction shall, as to such Transaction, be ineffective to the extent of such prohibition or unenforceability but without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction or in respect of any other Transaction, unless such severance shall substantially impair the benefits of the remaining portions of this Agreement to, or changes the reciprocal obligations of, either of the parties. The parties hereto shall endeavour in good faith negotiations to replace the prohibited or unenforceable provision with a

valid provision the economic effect of which comes as close as possible to that of the prohibited or unenforceable provision as expressed in this Agreement. Otherwise the matter shall be resolved as a dispute.

(l) **Electronic Confirmations.** Where a Transaction is confirmed by means of an electronic messaging system that the parties have elected to use to confirm such Transaction such confirmation will constitute a "Confirmation" as referred to in this Agreement.

(m) **Set-off.** In the event of an occurrence of an Early Termination Date, if the Defaulting Party would be owed a net amount under Section 6, the Non-defaulting Party shall be entitled, at its option and in its discretion, to set off against such amount any amount(s) (hereinafter the "Other Agreement Amount") payable (whether at such time or in the future or upon the occurrence of a contingency) by the Defaulting Party to the Non-defaulting Party under this Agreement or any other agreements, instruments or undertakings between the Defaulting and the Non-defaulting Party. The Non-Defaulting Party will give notice to the Defaulting Party of any set-off effected under this sub-clause (m).

For this purpose, either the net amount owed to the Defaulting Party or the Other Agreement Amount (or the relevant portion of such amounts) may be converted by the Non-defaulting Party into the currency which the other is denominated at the rate of exchange at which such party would be able, acting in a reasonable manner in good faith, to purchase the relevant amount of such currency.

If an obligation is unascertained, the Non-defaulting Party may in good faith estimate that obligation and set-off in respect of the estimate, subject to the Non-defaulting Party accounting to the Defaulting Party when the obligation is ascertained.

Nothing in this sub-clause (m) shall be effective to create a charge or other security interest. This sub-clause (m) shall be without prejudice and in addition to any right to set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

(n) **Relationship.** (i) This Master Agreement shall not be interpreted or construed to create any joint venture, agency or partnership between the Parties or to impose any partnership obligation or liability on either Party; and (ii) Neither Party shall have any right, power or authority to enter into any agreement or undertaking for or act on behalf of, or to act as or be the agent or representative, or otherwise to bind the other Party.

(o) **Third Party Beneficiaries.** This Agreement shall not be construed as granting right to or creating any duty to or standard of care with reference to or any liability to any person who is not a Party except where rights are granted to the Regulatory Authorities pursuant to this Agreement, the Parties confirm and acknowledge that the Regulatory Authorities shall be entitled to enforce those rights granted to them under this Agreement.

(p) **No Fault Termination.** This Agreement shall remain in effect unless terminated by agreement with the Regulatory Authorities or on expiry of 30 (thirty) days written notice of termination by Party A or by replacement or material change to the Order or I-SEM (including by way of changes to the T&SC) such termination to take effect no sooner than the end of the relevant Settlement Period(s) of all Transaction(s) entered into between the Parties prior to the notice of termination being given by Party A.

12. DEFINITIONS

As used in this Agreement:

The terms "Alternative Floating Price Source", "Buyer", "Calculation Period", "Contractual Currency", "Exercise Period", "Fixed Price", "Fixed Price Payer", "Floating Price", "Floating Price Payer",

"Floating Price Source", "Notional Quantity", "Seller", "Settlement Period" and "Strike Price" have the meanings given such terms in the relevant Confirmation or Subscription Rules (where applicable). A term or expression defined in this Agreement includes both the singular and the plural.

"1992 Act" means the Financial Transactions of Certain Companies and Other Bodies Act, 1992.

"Affected Party" has the meaning specified in Part 5(h)

"Affiliate" means in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For the purposes of this definition, "control", when used with respect to a person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the term "controlled" has a meaning correlative to the foregoing.

"Business Day" means a day on which commercial banks are open for business generally (a) in relation to any payment to be made under this Agreement, in all of the places where the parties' respective accounts are located as specified in the Schedule and (b) in relation to any other obligation under this Agreement, in all of the cities where the parties' respective addresses for notices and communications are located as specified in the Schedule.

"Call" means an Option entitling the Buyer to receive a cash payment from the Seller for those Calculation Periods where the Floating Price exceeds the Strike Price.

"Change of Control" means in respect of a party, if any owner as set out in the Schedule ceases to own directly or indirectly at least the percentage of the voting or controlling shares of the party or parties as set out in the Schedule "the Shareholding Threshold".

"Commodity Option" means a European style of commodity option which is automatically exercised on the relevant Calculation Period(s) as specified in the Confirmation.

"Contract for Difference" means a Transaction in which the Floating Price Payer is obliged to make a cash payment to the Fixed Price Payer for those Calculation Periods where the Floating Price exceeds the Fixed Price and the Fixed Price Payer is obliged to make a cash payment to the Floating Price Payer for those Calculation Periods where the Fixed Price exceeds the Floating Price.

"Costs" means, with respect to a party, the Termination Currency Equivalent to brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred by such a party either in terminating any arrangement by which it had hedged its obligations or entering into new arrangements which replace a terminated Transaction.

"Credit Support Documents" means any guarantee, letter of credit, agreement or other instrument that is specified as such in this Agreement reasonably acceptable to the requesting Party in accordance with the Subscription Rules.

"Credit Support Provider" has the meaning, if any, specified in the Schedule.

"Effective Time" means the time specified as such in the Confirmation for a Transaction, which is the time at which the first Calculation Period of the Transaction commences.

EURIBOR means:

(a) the applicable Screen Rate; or

(b) if no Screen Rate is available and the payee does not specify another page or service displaying the appropriate rate) the arithmetic mean of the rates (rounded upwards to four (4) decimal places) as supplied to the payee at its request quoted by not less than two (2) major banks in the Euro-zone interbank market to leading banks in the European interbank market

in either case as of the relevant time on the relevant day in accordance with market practice in the European Interbank market for the offering of deposits in Euro for one (1) month

"Event of Change" means the enactment, promulgation, execution, or ratification of, or any change in or amendment to, any law, rule, or regulation (or the application or interpretation of any law, rule, or regulation) that occurs after the Trade Date of a Transaction (as defined in the relevant Confirmation) which would result in (a) the imposition of a withholding tax in a material amount (a **"New Tax"**) by any government or taxing authority upon the making of payments (other than payments of interest) hereunder by a party (the **"Burdened Party"**) with respect to such Transaction; or (b) the performance of any obligation of either of the parties or, if applicable, any Credit Support Provider of such parties under the Agreement being unlawful (an **"Illegality"**).

"Event of Default" has the meaning specified in Section 5 and, if applicable, in the Schedule.

"Expert" means in relation to a dispute, an independent expert experienced and skilled and so far as possible, an acknowledged expert) in the field that is the subject of the dispute

"Expiration Time" means the time specified as such in the Confirmation for a Transaction, which is the time at which the last Calculation Period of the Transaction ends.

"Force Majeure Event" After giving effect to any applicable provision, disruption fallback or remedy specified in, or pursuant to, the relevant Confirmation or elsewhere in this Agreement, by reason of force majeure or act of state occurring after a Transaction is entered into, on any day; such party (which will be the Affected Party) or any Credit Support Provider of such party is prevented from performing any absolute or contingent obligation to make a payment or delivery in respect of such Transaction, from receiving a payment or delivery in respect of such Transaction or from complying with any other material provision of this Agreement relating to such Transaction (or would be so prevented if such payment delivery or compliance were required on that day) or it becomes impossible or impracticable for such party (or any Credit Support Provider as appropriate) so to perform, receive or comply (or it would be impossible or impracticable for such party (or any Credit Support Provider as appropriate) so to perform, receive or comply if such payment, delivery or compliance were required on that day) so long as the force majeure or act of state is beyond the control of such party (or Credit Support Provider as appropriate) and such party or Credit Support Provider could not, after using all reasonable efforts (which will not require such party or Credit Support Provider to incur a loss, other than immaterial, incidental expenses), overcome such prevention, impossibility or impracticability.

"Gain" means, with respect to a party, the Termination Currency Equivalent to the present value of the economic benefit, if any, (exclusive of Costs) to it resulting from the termination of its obligations with respect to a terminated Transaction or a group of terminated Transactions, determined in a commercially reasonable manner. A party shall determine its Gain as of the relevant Early Termination Date or Accelerated Termination Date or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party should, where practicable, determine its Gain by reference to quotations of relevant rates or prices from one or more leading dealers (independent of the party) in the relevant market. Gains

shall specifically exclude any gains of the terminating party incurred due to back-to-back hedging or trading positions already taken with any third parties with respect to any terminated Transactions(s) under this Agreement

"Impaired Ability to Perform" means where specified as an Additional Termination Event in the Schedule or Confirmation for the relevant Transaction if in the reasonable and good faith opinion of the requesting Party the ability of the other Party to perform its obligations under this Agreement or any Credit Support Document as the case may be is materially impaired and such party fails to provide performance assurance in a form reasonably acceptable to the requesting Party within three (3) Business Days of such request..

"Indemnifiable Tax" means any Tax, other than a Tax that would not be imposed in respect of a payment made under this Agreement but for a present or former connection between the jurisdiction of the government or taxing authority imposing such Tax and the recipient of such payment or a person related to such recipient.

"Insolvency Event" means, with respect to any party, any of the following: (a) the party or, if applicable, any Credit Support Provider of such party is insolvent, or generally does not or is not able to pay its debts as they become due, or admits in writing its inability to pay its debts generally as they become due; (b) the party or any Credit Support Provider of such party applies for, consents to the appointment of or has appointed for it a receiver, custodian, conservator, trustee, liquidator, administrator, or other similar official for itself or for all or a substantial part of its property, makes a general assignment for the benefit of its creditors, commences a proceeding under applicable bankruptcy or insolvency law or other law for the relief of debtors, files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganisation, reconstruction, winding-up, or composition or readjustment of debts; (c) the party or any Credit Support Provider of such party consents to the dissolution or winding up of its affairs (other than pursuant to a consolidation, amalgamation, or merger); (d) the party or any Credit Support Provider of such party takes any corporate or other appropriate organisational action to authorise any of the actions described in sub-clauses (a), (b) or (c) above; or (e) any involuntary bankruptcy, reorganisation, debt arrangement, or other proceeding under any applicable bankruptcy, insolvency or other similar law for the relief of debtors or any dissolution or liquidation proceeding is instituted against the party or any Credit Support Provider of such party, or any material event comparable to any of the foregoing occurs, and such proceeding is consented to or acquiesced in by the party or the Credit Support Provider (as the case may be) or has not been stayed, withdrawn or dismissed within thirty (30) days of the institution thereof, or an order for relief against the party or any Credit Support Provider of such party is entered under applicable bankruptcy law or other law for the relief of debtors.

"Interest Rate" has the meaning specified in the Schedule.

"Loss" means, with respect to a party, the Termination Currency Equivalent to the present value of the economic loss, if any, (exclusive of Costs) to it resulting from the termination of its obligations with respect to a terminated Transaction or a group of terminated Transactions, determined in a commercially reasonable manner. A party shall determine its Loss as of the relevant Early Termination Date or Accelerated Termination Date or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party should, where practicable, determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers (independent of the party) in the relevant market. Loss shall specifically exclude any losses of the terminating party incurred due to back-to-back hedging or trading positions already taken with any third parties with respect to any terminated Transactions(s) under this Agreement.

"Market Disruption Event" means, with respect to a Floating Price Source, any of the following events: (a) the failure of the Floating Price Source to announce or publish information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading on the exchange or market (e.g. SEMOpx) acting as the Floating Price Source (the **"Exchange"**); (c) the temporary or permanent discontinuance or unavailability of any relevant Floating Price Source; (d) the temporary or permanent closing of the Exchange acting as the Floating Price Source; (e) the imposition of trading limits by the Exchange such that there are limits on the range within which the price of the relevant commodity may fluctuate and the closing or settlement price of such commodity on such day is at the upper or lower limit of that range; or (f) a material change in the formula for or the method of determining the Floating Price.

"Material Reason" means each of the Events of Default and Termination Events specified in Part 5 herein.

"Merger Event" means, with respect to a party or, if applicable, any Credit Support Provider of such party (in each case, the **"Affected Party"**), the consolidation or amalgamation with, merger with or into, or transfer of all or substantially all of its assets to, another entity and (a) at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of the Affected Party under the Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party or (b) the creditworthiness of the resulting, surviving or transferee entity is materially weaker, in the reasonable opinion of the other party, than that of the Affected Party, immediately prior to such event.

For the purpose of the foregoing, solely in respect of Party A "materially weaker" means (i) where beneficial ownership of Party A by the Irish State falls below 50% and the credit rating of the long-term senior unsecured debt (unsupported by third party credit enhancement) of Party A or its Credit Support Provider (as the case may be falls below BBB- (or, where the Credit Support Provider is a bank or financial institution, below A-) by S&P or below Baa3 (or where the Credit Support Provider is a bank or financial institution, below A3 by Moody's), the lower of which shall apply and (ii) Change of Control.

For this purpose, Change of Control means where beneficial ownership of Party A by the Irish State falls below 50% and the credit rating of the long-term senior unsecured debt (unsupported by third party credit enhancement) of Party A or its Credit Support Provider (as the case may be falls below BBB- (or, where the Credit Support Provider is a bank or financial institution, below A-) by S&P or below Baa3 (or where the Credit Support Provider is a bank or financial institution, below A3 by Moody's), the lower of which shall apply.

"Merger without Assumption" means The party or its Credit Support Provider of such party consolidates or amalgamates with or into or transfers all or substantially all its assets to or reorganises reincorporates or reconstitutes into or as another entity and at the time of such consolidation amalgamation merger transfer reorganisation, reincorporation reconstitution: (1) the resulting surviving entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party; or (2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting surviving or transferee entity of its obligations under this Agreement.

"Moody's" means Moody's Investors Services, Inc. or any successor thereto.

"Payment Date" means, with respect to each Transaction, unless

otherwise specified in the relevant Confirmation, on or before the twelfth (12th) Business Day after the expiry of the relevant Settlement Period, provided that if the Payment Date is an Accelerated Termination Date or an Early Termination Date, as the case may be, the Payment Date with respect thereto shall be the date on which amounts are payable pursuant to Section 6 or Section 7, as applicable.

"Put" means an Option entitling the Buyer to receive a cash payment from the Seller for those Calculation Periods where the Strike Price exceeds the Floating Price.

"Regulatory Authorities" means the NIAUR and CER (each as defined in the Trading and Settlement Code), or either one or them as the context admits or requires.

"Screen Rate" means the percentage rate per annum interest rates for euro deposits offered in the euro-zone determined by the Banking Federation of the European Union for the relevant period, and displayed on Reuter's page EURIBOR01. If the agreed page is replaced or service ceases to be available, the payee may specify another page or service displaying the appropriate rate.

SEMOpx Rules and Procedures refers to the terms on which SEMOpx as the exchange operator is to carry out its duties and on which Exchange Members are to trade.

For this purpose, "SEMOpx", "Exchange Members" and "Exchange" shall have the meanings specified in each of the SEMOpx Rules published 30 June 2017 and SEMOpx Operating Procedures DAM, IDA, IDC (Draft 05/05/17) as may be amended, modified or replaced from time to time.

Settlement Period means, each calendar month in the period between Effective Time and Expiration Time (inclusive) as set out in the Confirmation.

"Specified Transaction" means any transaction (including an agreement with respect thereto) now existing or hereafter entered into between the Parties to this Agreement which is a Commodities trading or Commodities derivative transaction (or any other similar transaction (including any option with respect to any such transaction). For this purpose "Commodities" means any tangible or intangible commodity of any type or description (including without limitation, electric power, electric power capacity, natural gas, natural gas liquids, natural gas storage capacity, heating oil, other petroleum by products, fuels, green certificates or emission allowances.

"Specification" means, the specification dated 12 September 2014 (as amended from time to time) and any of the requirements issued by the Minister for Finance of the Republic of Ireland in accordance with the 1992 Act.

"S&P" means Standard and Poor's Ratings Group, a division of McGraw Hill or any successor thereto.

"Subscription Rules" means The SEM Committee ESB Power Generation Directed Contract Subscription Rules Version 2 [DDMM2017] as may be replaced, amended, modified or supplemented from time to time.

"Tax" means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including any increase in the rate thereof and any interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment made under this Agreement, other than a stamp, registration, documentation or similar tax.

"Tax Event Upon Merger" The party (the "Burdened Party" on the next succeeding Settlement Period will either (1) be required to pay an

additional amount in respect of an Indemnifiable Tax or (2) receive a payment from which an amount has been deducted or withheld for or on account of any Tax in respect of which the other party is not required to pay an additional amount, in either case as a result of a party consolidating or amalgamating with or merging with or into or transferring all or substantially all its assets (or any substantial part of the assets comprising the business conducted by it as of the date of this Agreement) to or reorganising reincorporating or reconstituting into or as another entity (which will be the Affected Party) where such action does not constitute a Merger Without Assumption.

"**Termination Currency**" means the currency specified in the Schedule or, if not so specified, EURO.

"**Termination Currency Equivalent**" means, in respect of any amount denominated in the Termination Currency, such Termination Currency amount and, in respect of any amount denominated in a currency other than the Termination Currency (the "**Other Currency**"), the amount in the Termination Currency determined by the party making the relevant determination as being required to purchase such amount of such Other Currency as at the relevant Early Termination Date or Accelerated Early Termination Date, as the case may be, with the Termination Currency at the rate equal to the spot exchange rate of the foreign exchange agent (selected as provided below) for the purchase of such Other Currency with the Termination Currency at or about 11:00 a.m. (in the city in which such foreign exchange agent is located) on such date as would be customary for the determination of such rate for the purchase of such Other Currency for value on the relevant Early Termination Date or Accelerated Early Termination Date, as the case may be. The foreign exchange agent shall, in the event of early termination, be selected in good faith by the Non-defaulting Party and otherwise shall be agreed by the parties.

"**Trading and Settlement Code**" or "**T&SC**" means the code of that name which sets out the rules and procedures for an electricity trading and settlement system for the SEM and any successor(s) or replacement(s) thereto (whether by way or regulation or other instrument)

"**Unpaid Amounts**" means the Termination Currency Equivalent to any unpaid amount or amounts in respect of terminated Transactions that became due and payable (or would have become due and payable but for Section 2(e)) on or before any Accelerated Termination Date or Early Termination Date, as the case may be, and which remain unpaid at such Accelerated Termination Date or Early Termination Date.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement on the respective dates specified below, but with effect as from the date first above written.

Electricity Supply Board

(Name of Party A)

By: _____

Name: []

Title: []

Date: []

By: _____

Name: []

Title: []

Date: []

[XXXX]

(Name of Party B)

By: _____

Name: []

Title: []

Date: []

By: _____

Name: []

Title: []

Date: []

SCHEDULE
to the
Contracts for Differences (being a directed Contract)
Financial Energy Master Agreement

dated []

between Electricity Supply Board ("Party A) and [XXX] ("Party B").

Part 1. Payment Netting.

The "Payment Netting" provisions of Section 2(h) shall apply.

Part 2. Termination Provisions.

- (a) The "Automatic Early Termination" provision of Section 6 shall not apply to Party A and shall not apply to Party B.
- (b) The "Cross-default" provisions of Section 5(f) shall not apply to Party A and shall not apply to Party B.
- (c) The "Termination Currency" means EUR (Euro)
- (d) **Additional Termination Events.** The following shall constitute an Additional Termination Event under Part 5(b) of the Master Agreement (for the purpose of which the respective party shall be the sole Affected Party and all Transactions shall be Affected Transactions):

Authorised Counterparty. Party B ceases to be an authorised counterparty with which Party A is entitled to do business pursuant to the Specification for which purpose, each of Party A and Party B shall be the Affected Party.

Part 3. Agreement to Deliver Documents

For purpose of Section 10, the following documents are to be delivered:-

Party required to deliver document	Form/Document/Certificate	Date by which to be delivered	Covered by Section 3(6)
Party B	A copy of Party B's or as applicable, Party B's Credit Support Provider's most recent annual report containing consolidated financial statements, prepared in accordance with accounting principles that are generally accepted for institutions of its type in the jurisdiction of its organization and certified by independent public accountants	To the extent not publicly available or on [www.xxx] as soon as available and in any event within 120 days after the end of the fiscal year of Party B	Yes
Party A and Party B	Evidence of (i) the authority of Party A and Party B and as applicable, of Party A's and Party B's Credit Support Provider, to enter into this Agreement any Credit Support Document specified in Part 8(a) of this Schedule, (ii) the authority of persons authorised to sign this Agreement on behalf of Party A and Party B and as applicable, Party A's and Party B's Credit Support Provider reasonably satisfactory to Party A and Party B respectively, (iii) a list of such Party's traders authorised to enter into Transactions contemplated under this Agreement in a form reasonably satisfactory to the other party and as may be amended from time to time; and (iv) a list of such Party's signatories authorised to sign any Confirmation enter into hereunder	Upon execution of this Agreement or upon reasonable request of a Party from time to time.	Yes
Party A	A copy of the Specification	To the extent not publicly available on www.esb.ie as soon as practicable following execution of the Agreement (if required)	No
Party B	Counterparty Dealing Mandate in accordance with the Subscription Rules	Upon execution of the Agreement or upon reasonable request from time to time	
Party B	Any additional information as may be required from time to time	Upon reasonable request	No

Part 4. Notices and Communications.

Address for notices and communications to Party A:-	Address for notices and communications to Party B:-
For the purposes of Sections 5,6 and 7 under this Agreement: ESB Two Gateway East Wall Rd D03 A995 Ireland	For the purposes of Sections 5,6 and 7 under this Agreement: [COUNTERPARTY [ADDRESS]
Attn.: Commercial & Origination Manager Tlf +(0) 353 1 702 6092	Attn. : [] Tlf+[]
Facsimile No.: +353 702 8073	Email: []
Email: [TO BE ADVISED]	Electronic Mail Address: []
Confirmations and Invoices:	Confirmations and Invoices:
Address: Same as above	Address: []
Attn: Back Office Commodities Manager: Marie Connolly	Attn: []
Telephone: +353 (0)1702 7498 Email:ETR_Settlements@esb.ie	Tlf: [] Email: []

Part 5. Payment Account Details

Account Details for Party A:-	Account Details for Party B:-
EUR Account [] []	EUR Account Financial Institution: [] IBAN: []
Swift Code: []	Swift Code: []
GBP Account:: [] [] Swift: []	GBP Account:: Financial Institution: [] IBAN: [] Swift:[]
VAT No. 8F52100V Jurisdiction: Republic of Ireland	VAT No. [] Jurisdiction[]
LEI No:635400UFHDIQCDZ6JK11	LEI No[]

Part 6. Interest Rate

"Interest Rate" means, with respect to payments to be made:

the Interest Rate shall be the one month EURIBOR interest rate for 11:00am on the Due Date plus 1% (one per cent) per annum.

All interest accruing under this Agreement shall be immediately due and payable.

Part 7. Credit Support Documents and Credit Support Provider(s).

(a) **Credit Support Documents.** Details of any Credit Support Documents:

Party A shall provide Party B with the following Credit Support documents: N/A

Party B shall provide Party A with the following Credit Support Documents: any such parent company guarantee(s), letter of credit, cash collateral or such other credit support document(s) (and any substitute or replacement thereof on materially similar terms) as may be provided from time to time to Party B in respect of Party A's obligations under this Agreement in a form reasonably acceptable to Party A in accordance with the Subscription Rules.

(b) **Credit Support Provider.** Credit Support Provider means in relation to Party A:

Party A: N/A

Party B: any provider of a Credit Support Document reasonably acceptable to Party A in accordance with the Subscription Rules.

Part 8. **Other Provisions.**

- (a) **Calculation Agent.** Party A shall be the Calculation Agent.
- (b) **Inconsistency.** Section 1(b) of the Agreement shall apply, provided that the Confirmation shall not amend Sections 5 and 6 unless the parties otherwise expressly agree.
- (c) **Amendments.** No term or provision of this Agreement shall be amended, modified, altered, waived or supplemented except in a writing signed by both Parties and will be subject to the prior written approval of the Regulatory Authorities.
- (d) Section 3 of this Agreement shall be amended to include the following sub-clauses as additional representation(s):
 - 1) **Eligible Contract Participant.** Each party represents to the other party that (a) it is an "eligible contract participant" (which representation will be deemed to be repeated by each party on each date on which a Transaction is entered into) as defined under CBI Regulation [XXX][†]; and (b) if registered in the United Kingdom, it is a person to whom an unapproved financial promotion can be directed at pursuant to article 49 of the FSMA Act 2000 as may be amended modified replaced or supplemented from time to time, and (c) it regularly enters into similar agreements for the trading of electricity and Contracts for Difference as contemplated by the Agreement and does so on a professional basis in connection with its principal line of business and may be reasonably characterised as a professional market party.
 - 2) **NonSpeculation –**
 - a. Each of Party A and Party B are entering into the Transactions under this Agreement for the purposes of managing its borrowings and investments, hedging its underlying assets and liabilities or in connection with a line of business, and not for the purpose of speculation. This representation is deemed repeated on each date on which a Transaction is entered into; and
 - b. Solely in respect of Party A, the purpose or one of the purposes for which it enters into a relevant Transaction is for a purpose specified in Section 2(1)(a) of the 1992 Act and the Specification effecting such Transactions have been complied with.
 - 3) **Other Transactions** It understands and acknowledges that the other party may, either in connection with entering into a Transaction or from time to time thereafter, engage in open market transactions that are designed to hedge or reduce the risks incurred by it in connection with such Transaction and that the effect of such open market transactions may be to affect or reduce the value of such Transaction.
- (e) **EMIR Port Rec Protocol**[‡] The parties agree that with effect from the date of this Agreement, the terms of the ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol ("EMIR Port Rec Protocol"), as published by the International Swaps and Derivatives Association, Inc., shall apply to this Agreement as if the parties had adhered to the EMIR Port Red Protocol, with (1) Party A adhering as a Portfolio Data Sending Entity and a party that may use a Third Party Service Provider with Dublin specified as the location for its Local Business Days for the purposes of the EMIR Port Rec Protocol, and Portfolio Data, Notice of a discrepancy and Dispute Notices sent to email address: **ESB_Settlement@esb.ie**; and (2) Party B adhering as a Portfolio Data Receiving Entity and a party that may use a Third Party Service Provider with **[PLEASE SPECIFY]** specified as the location for its Local Business Days for the purposes of the EMIR Port Rec Protocol, and Portfolio Data, Notice of a discrepancy and Dispute Notices sent to email address: **[PLEASE PROVIDE]**

IN WITNESS WHEREOF, the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

ELECTRICITY SUPPLY BOARD

[XXX]

Name: []
Title: []
Date: []

Name: []
Title: []
Date: []

*

[†] Pending CBI guidance (cf CBI Consultation Paper 107)

[‡] For purposes of the EMIR PortRec Protocol, ESB ("Party A") is the Portfolio Data Sending Entity