



SHEPHERD+ WEDDERBURN

Final Version [] April 2007

Master Contract for Differences Agreement

Between

[Seller]

and

[Buyer]

Being a Directed Contract

CONTENTS

| Clause | Page No |
|--|----------------|
| 1. Definitions and Interpretation | 2 |
| 2. Commencement and Term | 3 |
| 3. Transactions and their Confirmation Procedure | 3 |
| 4. Representations and Warranties | 5 |
| 5. Payment Obligations and Contract Quantity Reduction | 7 |
| 6. Indexation | 7 |
| 7. Billing and Payment | 8 |
| 8. Confidentiality of Information | 11 |
| 9. Non-issuance of SMP | 12 |
| 10. Liability/Exposure Calculation and Payment Assurances | 13 |
| 11. Termination | 14 |
| 12. Disputes | 19 |
| 13. Governing Law and recourse to Courts of Competent Jurisdiction | 22 |
| 14. Taxes | 22 |
| 15. Assignment | 22 |
| 16. Notices | 23 |
| 17. General | 24 |
| | |
| Schedule 1 Definitions and Rounding | 27 |
| Part 1: Defined Terms | 27 |
| Part 2: Rounding rules | 34 |
| Schedule 2 Buyer and Seller Information | 35 |
| Schedule 3 Difference Payments | 36 |
| Schedule 4 Credit Exposure Calculation | 38 |
| Schedule 5 Examples of Difference Payment/Credit Exposure Calculations | 42 |
| Schedule 6 Confirmation Letter | 58 |
| Schedule 7 Letter of Credit | 60 |

THIS MASTER CONTRACT FOR DIFFERENCES AGREEMENT is made the ____ day of _____ 2007

BETWEEN:

- (1) The Party identified in Schedule 2 as the Seller; and
- (2) The Party identified in Schedule 2 as the Buyer.

RECITALS:

- (A) The Seller is a [statutory corporation][company] **[delete as appropriate]** organised under the laws of [Ireland] [Northern Ireland] **[delete as appropriate]** and is authorised to engage in, among other activities, the trading of electricity.
- (B) The Buyer is a [statutory corporation][company] **[delete as appropriate]** organised under the laws of **[insert appropriate jurisdiction]** and is authorised to engage in, among other activities, the trading of electricity.
- (C) The Single Electricity Market ("SEM") was developed initially by the Regulatory Authorities pursuant to a Memorandum of Understanding dated 23 August 2004.
- (D) The Regulatory Authorities' strategy to mitigate market power in the SEM involves the implementation of a suite of Directed Contracts of which this Agreement is one. Consequently the Seller has been directed by the Regulatory Authorities, to enter into this Agreement as a Directed Contract.

AGREEMENT:**1. Definitions and Interpretation**

- 1.1 Capitalised words and phrases used in this Agreement (including the Recitals hereto) have the meaning given to them in Part 1 of Schedule 1, unless the context requires otherwise.
- 1.2 Unless the context requires otherwise:
- 1.2.1 the singular includes the plural and vice versa;
 - 1.2.2 a reference to any gender includes a reference to all other genders;
 - 1.2.3 "persons" includes individuals, firms, corporations, unincorporated associations and statutory authorities and all references to persons shall include their successors and permitted assignees;
 - 1.2.4 a reference to any enactment, order, regulation, directive, code, licence or similar instrument includes all enactments or instruments made under it and any amendment, re-enactment or replacement of it;
 - 1.2.5 a reference to any contract or agreement includes any variation, amendment, or supplement to it;
 - 1.2.6 a reference to a clause is a reference to a clause in this Agreement;
 - 1.2.7 a reference to a Schedule, or to a Part of a Schedule, is a reference to a Schedule, or a Part of a Schedule, as the case may be, to this Agreement;
 - 1.2.8 a reference to time is a reference to time in [Ireland] [Northern Ireland] **[delete as appropriate]**;
 - 1.2.9 a reference to a year is a reference to a calendar year;
 - 1.2.10 "includes" and its variations are to be construed without limitation;
 - 1.2.11 clause headings, clause descriptions and examples are for convenience only and do not affect the interpretation of this Agreement; and
 - 1.2.12 schedules to this Agreement form an integral part of this Agreement as if they were incorporated in this Agreement and references to this Agreement shall, unless the context otherwise requires, be deemed to include the Schedules to this Agreement.
- 1.3 All data required for input into calculations in this Agreement shall be rounded to the number of decimal places shown in Part 2 of Schedule 1 before being used for the calculations. Results of

the calculations shall also be rounded as shown in the Schedule. Payments shall be rounded to the nearest [whole cent] [pence] **[delete as appropriate]**.

1.4 Nothing in this Agreement:

1.4.1 is intended to give, or shall give, either of the Parties any right to physical delivery of electricity; or

1.4.2 is intended to create, or shall create, in favour of either Party any legal or beneficial interest of any nature whatsoever in any of the plant, power station or other asset of the other Party.

2. Commencement and Term

2.1 Subject to Clause 2.2 below, this Agreement (including Clause 10.2 (Exposure Calculations and Payment Assurances)) enters into effect when both Parties have signed it and this Agreement continues until the end of the Settlement Day occurring on the Termination Date, unless terminated earlier pursuant to Clause 11 (Termination) or by agreement between the Parties and the Regulatory Authorities.

2.2 The provisions of Clauses 5 (Payment Obligations and Contract Quantity Reduction) and 7 (Billing and Payment) of this Agreement shall not enter into force between the Parties until 06:00 hours on the Go Live Date.

3. Transactions and their Confirmation Procedure

3.1 Transactions

3.1.1 The Parties have agreed that all Transactions will be governed by this Agreement.

3.1.2 All Transactions must be entered into during the Subscription Period (including any Supplemental Subscription Period).

3.1.3 All Transactions are entered into in reliance of the fact that this Agreement and all Confirmation Letters form a single agreement between the Parties.

3.1.4 If there is a conflict between the terms of a Transaction and the terms of this Agreement then the latter shall prevail for the purpose of the relevant Transaction.

3.2 **Agreement of a Transaction**

The Parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise).

3.3 **Exchange of Written Confirmation Letters**

3.3.1 Unless otherwise agreed, the Seller shall, in respect of each Transaction, send to the Buyer by facsimile a written confirmation, in the form set out in Schedule 6, of the Transaction (a "Confirmation Letter") recording the details of the Transaction within 2 Business Days of a Transaction having been entered into.

3.3.2 If the Buyer is so satisfied that the Confirmation Letter accurately reflects the terms of the Transaction, the Buyer shall return the Confirmation Letter duly signed on its behalf to the Seller within 2 Business Days of receipt of the Confirmation Letter.

3.3.3 If the Buyer is not so satisfied, the Buyer shall inform the Seller of any inaccuracies within 2 Business Days of receipt of the Confirmation Letter from the Seller. If the Seller agrees that the Confirmation Letter is inaccurate, the Seller shall issue a new Confirmation Letter and the provisions of Clauses 3.3.1 and 3.3.2 shall apply with all necessary changes.

3.3.4 If the Buyer has not received a Confirmation Letter from the Seller within 2 Business Days of a Transaction having been entered into, the Buyer shall send to the Seller a Confirmation Letter, and Clauses 3.3.2 and 3.3.3 shall apply in relation to that Confirmation Letter by replacing all references to "Buyer" with "Seller" and all references to "Seller" with "Buyer" in those clauses and by replacing the reference to "2 Business Days" with "4 Business Days".

3.3.5 Failure by either Party to send or return a Confirmation Letter shall not: (a) affect the validity or enforceability of any Transaction; or (b) be a material breach of this Agreement under Clause 11.1.4.

3.4 **Evidence of a Transaction**

3.4.1 The Parties consent to the recording of all telephone conversations between the Parties relating in whole or part to this Agreement including any Transaction. Each Party agrees to notify its employees or other relevant personnel of that consent and obtain their consent to that recording if required by law and agrees, to the extent

permitted by applicable law, that recordings may be submitted in evidence in any proceedings.

- 3.4.2 The evidence of the terms of a Transaction contained in recordings made under Clause 3.4.1 and in any undisputed Confirmation Letter shall prevail over other oral or written evidence.

4. Representations and Warranties

- 4.1 The Buyer and Seller make the representations and warranties in this Clause 4 throughout the Term which representations and warranties are deemed to be repeated by the Buyer and the Seller on each date on which the Transaction is entered into.
- 4.2 Each Party represents and warrants that:
- 4.2.1 **(Status)** it is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation (and, if relevant under those laws, in good standing);
- 4.2.2 **(Licence)** it holds an Electricity Licence;
- 4.2.3 **(Power)** it has the power and authority to (a) enter into and execute this Agreement and the Transactions, (b) to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver, (c) to perform its obligations under this Agreement, and has taken all necessary action to authorise that execution, delivery and performance;
- 4.2.4 **(No violation or conflict)** the execution, delivery and performance referred to in Clause 4.2.3 do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgement of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding or affecting it or any of its assets;
- 4.2.5 **(Required Authorisations)** all governmental and other licences, authorisations, permits, consents, contracts and other approvals (if any) that are required to enable it to fulfil any of its obligations under this Agreement have been obtained and are in full force and effect and all conditions of these authorisations have been complied with;
- 4.2.6 **(Obligations Binding)** its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective 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 (regardless of whether enforcement is sought in a proceeding in equity or at law)

- 4.2.7 **(No Event of Default)** no Event of Default, or event which with notice and/or lapse of time would constitute an Event of Default, has occurred with respect to it and is continuing and no such event would occur as a result of its entering into or performing its obligations under this Agreement;
- 4.2.8 **(No Litigation)** no litigation, arbitration, or administrative suit or proceeding at law or in equity or before any court, tribunal, government body, agency, official or arbitrator is pending, or, so far as it is aware, threatened against it which would, if adversely determined, result in a material adverse change in its financial condition or its ability to perform its obligations under this Agreement, or that is likely to affect the legality, validity or enforceability against it of this Agreement or its ability to perform its obligations under this Agreement;
- 4.2.9 **(No reliance)** it is not relying upon any representations of the other Party other than those expressly set out in this Agreement;
- 4.2.10 **(Principal)** it has entered into and executed this Agreement as principal (and not as agent or in any other capacity, fiduciary or otherwise);
- 4.2.11 **(Risk Assumption)** it has entered into this Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;
- 4.2.12 **(No advice)** the other Party is not acting as a fiduciary or an adviser for it, nor has the other Party given to it any advice, representation, assurance or guarantee as to the expected performance, benefit or result of this Agreement; and
- 4.2.13 **(Accurate Information)** all applicable information that is furnished in writing, if any, by or on behalf of it to the other Party and is identified for the purpose of this Clause 4 is, as of the date it is furnished to the other Party, true, accurate and complete in every material respect.

5. Payment Obligations and Contract Quantity Reduction

- 5.1 For each Transaction entered into, the Seller shall pay the Buyer, in respect of each Trading Period, any Difference Payment in respect of the Contract Quantity for that Trading Period that is payable by the Seller to the Buyer.
- 5.2 For each Transaction entered into, the Buyer shall pay the Seller, in respect of each Trading Period, any Difference Payment in respect of the Contract Quantity for that Trading Period that is payable by the Buyer to the Seller.
- 5.3 The Regulatory Authorities may direct the Parties (through the Seller) to reduce the Contract Quantity for one or more Transactions in advance of the start of relevant Quarters and, if appropriate, in advance of the relevant Months within a Quarter if there is a decrease in the load of the Buyer's Supply Customers in Ireland and Northern Ireland relative to that load determined by the Buyer's eligibility during the Subscription Period and the Supplemental Subscription Period. The Parties will implement such reduction to the Contract Quantity as directed for Transactions in respect of the relevant remaining Quarters and, if appropriate, in advance of the relevant remaining Months within a Quarter as specified by the Regulatory Authorities.
- 5.4 Payments under this Clause 5 shall be for all Transactions and shall be made in accordance with Clause 7 (Billing and Payment). This Clause 5 shall survive Termination of this Agreement.

6. Indexation

- 6.1 If any Index permanently ceases to be published then either Party may request in writing, amendments to this Agreement and the Parties shall negotiate in good faith to agree and will notify the Regulatory Authorities forthwith of:
- 6.1.1 a substitute index (which will then replace such Index as the relevant Index) or adjustments to the amounts derived from the agreed Index; and
- 6.1.2 any other consequential changes necessary to give effect to the substitute Index, which produces as nearly as possible the same result having regard to the commercial intention of the Parties at the time of entering into this Agreement and, to the extent possible, such that neither Party benefits (whether at the expense of the other Party or by way of windfall) nor suffers a detriment, or where some benefit or detriment is unavoidable, it is, in so far as possible, shared equally by the Parties.

- 6.2 If the Parties are unable to reach agreement under Clause 6.1, then, after 20 days from the date on which the written request was made, either Party may refer the matter for resolution by the Regulatory Authorities whose determination shall be final and binding upon the Parties
- 6.3 If in respect of any Index a correction to that Index is issued by a publisher of the Index during the Subscription Period (including the Supplemental Subscription Period) then the Strike Price shall be recalculated and substituted in the relevant Confirmation Letter(s). Any consequent payment due by a Party to the other Party must be made within 5 Business Days of delivery of the relevant invoice by the Party due to receive the payment. However, any claim for such a payment must be made by a Party within 30 days of the end of the Subscription Period (including the Supplemental Subscription Period).

7. Billing and Payment

7.1 Monthly Statement

On or before the 5th Business Day of the Month following each Month which is wholly or partly in the Term, the Seller shall in respect of each Month send to the Buyer a written statement ("Monthly Statement") showing for the preceding Month:

7.1.1 A summary for each Transaction, comprising:

- (i) the Product;
- (ii) the Strike Price;
- (iii) the average SMP in the Month for the Trading Periods applicable to the Product;
- (iv) the difference between the Strike Price and the average SMP;
- (v) the Contract Quantity for each Trading Period in that Month and what percentage (100% or 80%) of that Contract Quantity is used for calculation of the Difference Payment;
- (vi) the number of Trading Periods in the Month;
- (vii) the Difference Payment owing under the Transaction.
- (viii) any amount owing from one Party to the other in respect of the Transaction pursuant to any other clause in this Agreement;

7.1.2 the net amount payable from one Party to the other after taking into account all the matters set out above; and

7.1.3 if applicable, Value Added Tax ("VAT") for the Month.

7.2 **Payment Mechanics**

7.2.1 On the 10th Business Day of the Month in which the Monthly Statement is received by the Buyer or the 5th Business Day after receipt, whichever is the later (the "Due Date"), the Buyer or the Seller, as the case may be, shall pay to the other Party to whom it is due, the net amount payable in accordance with the Monthly Statement.

7.2.2 Payment shall be made by the Due Date in [Euro] [Sterling] **[delete as appropriate]** by direct bank transfer or equivalent transfer of immediately available funds to the Party to whom payment is due and to the credit of the account specified by that Party.

7.2.3 Where applicable, an amount equal to VAT payable to a Party shall not be required to be paid before the other Party provides it with an appropriate VAT invoice in relation to that amount. Each Party shall provide the other with any additional appropriate VAT invoices as required for the purposes of this Agreement.

7.3 **Disputed Payments**

7.3.1 If a Party disputes in good faith any sum shown in the Monthly Statement received by it, or notified in accordance with Clause 7.7.2, as being payable by that Party, it shall make payment of any undisputed amount to be paid by it (if any) on or before the Due Date and shall give notice of the amount in dispute and the reasons for the dispute to the other Party.

7.3.2 The Parties shall seek in good faith to settle the disputed amount as soon as reasonably possible. If the Parties are unable to settle the dispute then, after 30 days from the date on which the notice of the dispute was given, either Party, without prejudice to Clauses 12.2 to 12.5 (Disputes) which Clauses may be invoked if the Parties agree, may take such action as permitted by this Agreement including resorting to the courts.

7.3.3 Any adjustment payment required to be made in accordance with the resolution of a dispute shall be made within 3 Business Days of that resolution.

7.3.4 A Party shall not under any circumstances be entitled to initiate any dispute concerning any sum shown in, or which should have been shown in, a Monthly

Statement beyond the period allowed for the raising of a "Settlement Dispute" by a "Participant" as both terms are defined and referred to in the T&SC.

7.4 **Interest**

7.4.1 If a Party fails to pay to the other Party any amount due by the Due Date, interest shall be payable on that amount at an annual rate equal to the [Main Refinancing Operations Minimum Bid Rate published by the European Central Bank applicable from time to time] [the Official Bank Rate published by the Bank of England applicable from time to time] **[delete as appropriate]** plus 3% compounded Monthly from and including the Due Date to but excluding the date payment is made.

7.4.2 If, following the resolution of a dispute or otherwise to correct any overpayment or underpayment, one Party is required to pay an amount to the other Party, interest shall be payable on that amount at an annual rate equal to the base lending rate for [Main Refinancing Operations Minimum Bid Rate published by the European Central Bank applicable from time to time] [the Official Bank Rate published by the Bank of England applicable from time to time] **[delete as appropriate]** plus 1% compounded Monthly from the date when the amount should have been paid or was paid (as applicable) if the dispute, overpayment or underpayment had not occurred to, but excluding, the date payment is made.

7.4.3 If the rate in this clause ceases temporarily or permanently to be published then the Party owed money may substitute a rate which it considers, acting reasonably, to be equivalent to that rate published by the [European Central Bank] [Bank of England] **[delete as appropriate]**.

7.5 **Netting**

7.5.1 If on any date, amounts under Clauses 7.1.1 (viii) and 7.1.2 ("Statement Amounts") would otherwise be payable in the same currency by each Party to the other as a result of more than one Monthly Statement being issued then, on that date, each Party's obligation to make payment of any such amount will be automatically satisfied and discharged, and if the Statement Amount that would otherwise have been payable by one Party exceeds the Statement Amount that would otherwise have been payable by the other Party, it shall be replaced by an obligation upon the Party by

whom the larger Statement Amount would have been payable to pay to the other Party, the excess of the larger Statement Amount over the smaller Statement Amount.

7.6 Failure to Issue Monthly Statement

- 7.6.1 If the Seller fails to issue a Monthly Statement in accordance with Clause 7.1 (Monthly Statement), then the Buyer may issue that Monthly Statement to the Seller and, once issued, that Monthly Statement shall be treated as a Monthly Statement issued by the Seller for the purposes of this Agreement.
- 7.6.2 Except as provided in this Clause 7, failure to issue a Monthly 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 Clause 11.1.4.

7.7 No accurate Information

- 7.7.1 If any information required to prepare a Monthly Statement is not available at the time that Monthly Statement is prepared, then a Party may prepare that Monthly Statement based on its reasonable estimate of that information.
- 7.7.2 If arising from the issue of a Settlement Re-run Statement there is any change to the information used to prepare a Monthly Statement after that Monthly Statement is received or information that was estimated in order to prepare a Monthly Statement becomes available, then within one Month after the end of the Month in which the relevant Settlement Re-run Statement is issued either Party may, by notice to the other, require an adjustment payment to be made to reflect the changed or newly available information. The adjustment payment shall be made within 5 Business Days of receipt of the notice together with interest calculated in accordance with the terms of this Agreement.
- 7.7.3 This Clause 7 shall survive Termination of this Agreement.

8. Confidentiality of Information

- 8.1 The Parties shall treat each Transaction and all information provided under or in connection with this Agreement including Monthly Statements (together the "Confidential Information") as confidential and shall not disclose the Confidential Information without the prior written consent of the other Party, save that the consent shall not be required for disclosure:

- 8.1.1 to directors or employees of a Party and without prejudice to the requirements of its Electricity Licence, to any Affiliate, provided that they in turn are required by that Party to treat the Confidential Information as confidential in favour of the other Party on terms substantially the same as those set out in this Clause 8;
- 8.1.2 to persons professionally engaged by a Party, provided that they in turn are required by that Party to treat the Confidential Information as confidential in favour of the other Party on terms substantially the same as those set out in this Clause 8;
- 8.1.3 to the extent required by any government department or agency or regulatory authority having jurisdiction over that Party (including the Regulatory Authorities);
- 8.1.4 to any bank, other financial institution or rating agency to the extent required in relation to the financing of a Party's business activities, provided that the bank, or other financial institution or rating agency, as the case may be, is required by that Party to treat the Confidential Information as confidential in favour of the other Party on terms substantially the same as those set out in this Clause 8;
- 8.1.5 to the extent required by any applicable laws, judicial process or the rules and regulations of any recognised stock exchange;
- 8.1.6 to any intending assignee of the rights and interests of a Party under this Agreement or to a person intending to acquire an interest (direct or indirect) in a Party provided that the intending assignee or acquirer in turn is required to treat the Confidential Information as confidential in favour of the other Party on terms substantially the same as those set out in this Clause 8; or
- 8.1.7 to the extent that the Confidential Information is in or lawfully comes into the public domain other than by breach of this Clause 8.

9. Non-issuance of SMP

If, in respect of a Trading Period, the SMP is not issued at any time, then the Parties shall be relieved of their obligations under Clause 5 (Payment Obligations and Contract Quantity Reduction) for that Trading Period.

10. Liability/Exposure Calculation and Payment Assurances

10.1 No Consequential Loss

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.

10.2 Exposure Calculations and Payment Assurances

10.2.1 A Credit Exposure calculation will be made by the Seller for all Transactions on the eleventh Business Day of each Month. The Credit Exposure calculation will utilise the Forward Exposure methodology specified in Schedule 4.

10.2.2 If the Seller has a positive net Credit Exposure aggregated for its relevant Transactions, as calculated pursuant to Schedule 4, the Seller may, by facsimile sent prior to 17.00 hours on a Business Day, request the Buyer to provide the Margin in an amount equal to the Credit Exposure (a "Margin Call"). The Margin may be provided in the form of an Escrow Account or a Letter of Credit. The Margin requirement will be rounded up to the nearest €50,000 Euro or £35,000 Pounds Sterling.

10.2.3 If the Seller issuing the Margin request provides written notice of the Margin Call request, the Buyer shall provide the Margin not later than 17:00 hours on the third Business Day following the date that notice was served.

10.2.4 In the event that the Buyer fails to provide the Margin when due, then an Event of Default will be deemed to have occurred and the Seller will be entitled to the remedy set forth in Clause 11.4 (Termination Payment).

10.2.5 The Credit Exposure will be calculated and applied on the eleventh Business Day of each Month during the Term. If, between calculations of Credit Exposure on the eleventh Business Day of the Month, the Intra-Month Margin Call Threshold as defined in Schedule 4 is exceeded, then the Seller may, at its discretion, require a further Margin Call ("the Intra-Month Margin Call") in accordance with the Credit Exposure calculation set out in Schedule 4.

- 10.2.6 Any Escrow Account or Letter of Credit for the benefit of the Seller in excess of the required Credit Exposure, as determined under the Credit Exposure calculation, will be deemed to be Surplus Margin. The Surplus Margin will be cancelled within two Business Days by the Seller upon receipt of a written request from the Buyer by facsimile sent prior to 17.00 hours on a Business Day.
- 10.2.7 For Margins provided by an Escrow Account, the Seller will satisfy its obligation to cancel the Surplus Margin by signing and transmitting by facsimile to the Buyer a notice indicating and agreeing to the new Margin amount. The Buyer will further instruct their issuing bank indicating the new Margin amount and copy that instruction to the Seller.
- 10.2.8 If Margin is a Letter of Credit then the Seller will notify the Buyer of the Surplus Margin, providing permission to the Buyer to cancel the Surplus Margin. The Buyer may then cancel the Surplus Margin. The Surplus Margin is deemed to be cancelled upon receipt by the Seller of a duly approved and executed replacement Letter of Credit.
- 10.2.9 In the event that the Seller fails to satisfy its obligation to cancel Surplus Margin when due in accordance with this clause, then an Event of Default will be deemed to have occurred and the Buyer will be entitled to the remedy set forth in Clause 11.4 (Termination Payment).

11. Termination

11.1 Event of Default

Event of Default means the occurrence at any time with respect to a Party (the "Defaulting Party") of any of the following events:

11.1.1 Insolvency

the Party:

- (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger);

- (ii) becomes insolvent or is unable to pay its debts as they become due or fails or admits in writing its inability generally to pay its debts as they become due;
- (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its examinership, winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, that proceeding or petition (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (ii) is not withdrawn, dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation of that proceeding or petition;
- (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (vi) seeks or becomes subject to the appointment of an administrator, examiner, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (vii) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and that secured party maintains possession, or that process is not withdrawn, dismissed, discharged, stayed or restrained, in each case within 30 days of that event;
- (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in Clauses 11.1.1 (i) to (vii) (inclusive); or

- (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts referred to in this Clause 11.1.1.

11.1.2 Representation or Warranty

Any representation or warranty made in this Agreement, or deemed to have been made or repeated, by a Party proves to have been false or materially misleading at the time it was made or was deemed to have been made;

11.1.3 Non-Payment

Subject to Clause 7.3 (Disputed Payments), a Party fails to pay any amount when due under this Agreement, and that failure is not remedied on or before the 3rd Business Day after the Non-Defaulting Party gives the Party notice of that failure;

11.1.4 Material Obligations

A Party fails to perform a material obligation under this Agreement (but other than an obligation referred to in Clause 11.1.3) and that failure is not remedied within 5 Business Days of the Non-Defaulting Party giving the Party notice of that failure;

11.1.5 Payment Assurances

The Buyer fails to provide the Margin or the Seller fails to return the Surplus Margin in accordance with Clause 10.2 (Exposure Calculations and Payment Assurances).

11.2 Termination Right

11.2.1 If, at any time, an Event of Default has occurred and is continuing, the Non-Defaulting Party may, designate a day as an early termination date (the "Early Termination Date") in respect of all outstanding Transactions between the Parties by giving not more than 20 days' notice to the Defaulting Party. This notice shall specify the relevant Event of Default. The Early Termination Date may not be earlier than the day the notice is effective.

11.2.2 The right under Clause 11.2.1 is in addition to any other remedies available under this Agreement or at law.

11.2.3 The notice of the Early Termination Date may be made by telephone if that notice is confirmed in writing within 2 Business Days.

11.3 Early Termination Date

- 11.3.1 If notice designating an Early Termination Date is given under Clause 11.2.1, the Early Termination Date will occur on the date so designated even if the circumstances giving rise to the Event of Default are no longer continuing.
- 11.3.2 Upon the effective designation of an Early Termination Date: (a) no further payments or compliance with Clause 7 will be required in respect of all Transactions; and (b) the amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Clause 11.4 (Termination Payment).

11.4 Termination Payment

- 11.4.1 On, or as soon as reasonably practicable after, the Early Termination Date, the Non-Defaulting Party shall in good faith calculate the termination payment (the "Termination Payment"), being the Loss for all Transactions.
- 11.4.2 "Loss" means an amount that the Non-Defaulting Party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with the termination of the Transactions, including any loss of bargain, cost of funding or, at the election of the Non-Defaulting Party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or re-establishing any related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment required to have been made and not made on or before the Early Termination Date. Loss does not include the Non-Defaulting Party's legal fees and out-of-pocket expenses. The Non-Defaulting Party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading traders in the wholesale electricity market in Ireland and Northern Ireland who are independent of the Parties. In addition the Seller (if it is the Non-Defaulting Party) may (but need not) rely on the formula in Part A of Schedule 4 to arrive at estimates of future SEM prices when determining its loss.
- 11.4.3 The Non-Defaulting Party shall notify the Defaulting Party of the Termination Payment including detailed support for the Termination Payment calculation.

- 11.4.4 A Party shall not be required to enter into replacement transactions in order to determine the Termination Payment.
- 11.4.5 If the Termination Payment is a positive number, the Defaulting Party shall pay the Termination Payment to the Non-Defaulting Party within 2 Business Days of delivery of invoice or notification of the Termination Payment amount (the "Termination Payment Date"), which amount shall bear interest calculated in accordance with Clause 7.4 (Interest). If any part of the Termination Payment is unpaid by the Termination Payment Date, the Non-Defaulting Party shall be entitled to draw down any Margin provided by the Defaulting Party under Clause 10.2 (Exposure Calculations and Payment Assurances) to the extent only of any shortfall in the Termination Payment.
- 11.4.6 If the Termination Payment is a negative number, the Non-Defaulting Party shall pay the Termination Payment to the Defaulting Party within 30 Business Days of the Termination Payment Date, which amount shall bear interest calculated in accordance with Clause 7.4 (Interest).
- 11.4.7
- (i) Non-Defaulting Party may, at its option, set off the Termination Payment against any or all other amounts owing (whether or not matured, contingent or invoiced) between the Parties under this Agreement or under any other agreements, instruments or undertakings between the Parties.
 - (ii) The right of set off shall be without prejudice and in addition to any right of set off, combination of accounts, lien, charge or other right to which any Party is at any time otherwise entitled (whether by operation of law, by contract or otherwise).
 - (iii) If an amount is unascertained, the Non-Defaulting Party may reasonably estimate the amount to be set off. The Parties shall make any adjustment payment required within 3 Business Days of the amount becoming ascertained.
- 11.4.8 Disputed amounts under this Clause 11.4 shall be paid by the Defaulting Party subject to refund with interest calculated in accordance with Clause 7.4 (Interest) if the dispute is resolved in favour of the Defaulting Party.

- 11.4.9 Termination of this Agreement shall not affect:
- (i) any rights or obligations which may have accrued prior to such termination; and
 - (ii) any rights or obligations of either Party under this Agreement which are expressly stated to continue beyond such termination.
- 11.4.10 Each Party acknowledges that payment obligations in Clause 11.4 are reasonable in light of the anticipated harm and difficulty of estimation or calculation of actual damages. Each Party waives the right to contest those payments as an unreasonable penalty or otherwise.

12. Disputes

- 12.1 (i) Subject to Clauses 6.2 (Indexation) and 7.3 (Disputed Payments), 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.
- (ii) Any dispute between the Parties under this Agreement shall be referred to a designated senior representative of each of the Parties, who shall seek to resolve the dispute.
- (iii) If such representatives can resolve the dispute, such resolution shall be reported in writing to and shall be binding upon the Parties.
- (iv) If such representatives cannot resolve the dispute within the 30 day period referred to above or a Party fails to appoint a representative within 10 days of written notice of the existence of a dispute, either Party may, proceed as set out below.
- 12.2 In accordance with Clause 12.1 (iv) 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 Clause 12.3.
- 12.3 Where an Expert Determination Notice is given in respect of a dispute it shall be determined in accordance with Clauses 12.3.1 to 12.3.8.
- 12.3.1 (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 an Expert Determination

Notice then either Party may apply to the [President of the Law Society of Ireland/Northern Ireland] **[delete as appropriate]** to nominate an Expert to determine the dispute requesting that the nomination be made within 10 Business Days of receipt of the 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 Clause 12.3.1, failing which either Party may, by written notice to the Expert and the other Party, appoint the Expert.

12.3.2 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 circumstances likely to create a presumption of bias or prevent a prompt resolution of the dispute.

12.3.3 The Expert shall act as an expert and 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 the awarding of costs).

12.3.4 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, which the Parties shall reflect in the Expert's terms of reference:

- (i) the Expert shall consult with the Regulatory Authorities;
- (ii) the Expert shall have the power to determine requirements for hearings and the form and timing of submissions (subject to any procedures agreed between the Parties and notified to the Expert);
- (iii) all written communications or submissions received by the Expert shall be made available to both Parties;
- (iv) the Expert shall prepare a preliminary determination and provide such preliminary determination, together with written reasons for the preliminary determination, to the Parties within 30 Business Days of appointment or by

such later date as the Expert may specify but no later than 90 Business Days after appointment; and

- (v) the Parties shall have the right to submit written comments on such preliminary determination within 7 Business Days of receipt. The Expert shall take account of such comments and shall be required to issue a final determination within 20 Business Days of the expiry of such 7 Business Day period.

12.3.5 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 the Parties shall make such payments on account of the Expert's costs as the Expert may reasonably require; and
- (ii) each Party shall bear its own cost and expenses, including those of all advisers, witnesses and employees retained by it.

12.3.6 The Parties shall comply with any determinations of an Expert in relation to the conduct of proceedings instituted pursuant to this Clause 12.

12.3.7 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 to the other ("Substitution Notice") require a substitute Expert to be appointed in accordance with the procedure specified in Clause 12.3.

For this purpose, Clause 12.3.1 shall be interpreted as if the words "a Substitution Notice" were included in place of "an Expert Determination Notice".

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

12.4 During the course of any Expert determination under this Clause 12:

- (i) the Parties shall continue to perform their respective obligations under this Agreement; and
- (ii) neither Party shall exercise any other remedies arising by virtue of the matters in dispute.

- 12.5 If as a result of any Expert determination the Parties are required to vary this Agreement (either through their actings and/or by written amendment) then the provisions of Clause 17.5 (Amendments) shall apply.

13. Governing Law and recourse to Courts of Competent Jurisdiction

- 13.1 This Agreement and any matter arising out of or relating to or in any way connected with its subject matter (including any Transaction) shall be interpreted, construed and governed by the laws of [Ireland] [Northern Ireland] [*jurisdiction to be that of Seller*].
- 13.2 Subject to the referral of any matter to an Expert under this Agreement, the Parties submit to the exclusive jurisdiction of the courts of [Ireland] [Northern Ireland] in connection with this Agreement (including any Transaction).

14. Taxes

Each Party shall be responsible for the discharge of any income, corporation or other relevant taxation of income or gain or liability arising out of any amount received by it from the other Party under this Agreement.

15. Assignment

- 15.1 Neither Party may, without the prior consent of the other Party and the Regulatory Authorities, assign or otherwise transfer this Agreement.
- 15.2 Either Party may assign its rights under this Agreement by way of security to or in favour of any bank or financial institution in relation to the financing of that Party's business activities.
- 15.3 A Party may assign all or any part of its interests in any Termination Payment payable to it from a Defaulting Party under Clause 11.4.1.

16. Notices

- 16.1 Except where expressly provided otherwise in this Agreement, any notice or other written communication authorised or required by this Agreement to be given or sent by either Party to the other (a "Communication") shall be in writing and signed by a duly authorised representative of the sender.
- 16.2 Communications shall either be personally delivered or be sent by pre-paid registered post (airmail if overseas), facsimile or e-mail.
- 16.3 Communications shall be sent to the address, facsimile number or e-mail specified for the receiving Party in Schedule 2 and shall be marked to the attention of the individual named in Schedule 2. Either Party may, by written notice to the other, change its contact details given in Schedule 2.
- 16.4 Communications delivered in accordance with Clause 16.2 and Clause 16.3 are taken to have been effective as follows:
- 16.4.1 If delivered by hand, on the Business Day of delivery or on the 1st Business Day after the date of delivery if delivered on a day other than a Business Day;
 - 16.4.2 if sent by first class post, on the 2nd Business Day after the day of posting or, if sent from one country to another, on the 5th Business Day after the day of posting;
 - 16.4.3 if sent by facsimile transmission and a valid transmission report confirming good receipt is generated, on the day of transmission if transmitted before 1800 hours on a Business Day or otherwise on the 1st Business Day after transmission;
 - 16.4.4 in the case of e-mail when the e-mail enters the receiving Party's IT system.
- 16.5 In proving service of the Communication, it shall be sufficient to show that delivery by hand was made or that the envelope containing the Communication was properly addressed and posted by pre-paid registered post or that the facsimile was despatched and a confirmatory transmission report received or that the sender of the e-mail received an acknowledgment from the receiving Party's IT system.

17. General

17.1 Severability

17.1.1 Any provision of this Agreement which is or becomes illegal, invalid or unenforceable, shall be deemed to be deleted to the extent of the illegality, invalidity or unenforceability, and the remaining provisions (and that provision, to the extent not so deleted) shall remain in full force and effect.

17.1.2 In the circumstances contemplated by this Clause 17.1, the Parties shall negotiate in good faith to agree a mutually satisfactory provision to be substituted for the provision affected which as nearly as possible gives effect to their intentions and their legal and commercial objectives as expressed in this Agreement. Otherwise the matter shall be resolved as a dispute.

17.2 Enforcement of judgements

Each Party agrees that a finding or conclusion of an Expert, determination by an Expert in accordance with Clause 12 (Disputes), or a judgement in any proceedings brought or pertaining to this Agreement in the courts of [Ireland] [Northern Ireland] **[delete as appropriate]** shall be conclusive and binding upon each Party and may be enforced in the courts of any other jurisdiction.

17.3 Further assurances

Each Party agrees to do and must procure that each of its employees and agents does all such things and executes all such deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to this Agreement and the rights and obligations of the Parties under it.

17.4 Waiver

17.4.1 No delay by or omission of either Party in exercising any right, power, privilege or remedy under this Agreement shall operate to impair such right, power, privilege or remedy or be construed as a waiver of that right, power, privilege or remedy.

17.4.2 Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or further exercise of that right, power, privilege or remedy or the exercise of any other right, power, privilege or remedy.

17.4.3 No waiver of any breach of this Agreement shall (unless expressly agreed in writing) be construed as a waiver of a future breach of the same term or as authorising the continuation of the particular breach.

17.5 Amendments

This Agreement can be amended only by written agreement between the Parties signed by their duly authorised representatives and will be subject to the prior written approval of the Regulatory Authorities.

17.6 Entire agreement

17.6.1 This Agreement constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes and extinguishes any representations previously given or made other than those included in this Agreement.

17.6.2 Each Party acknowledges and agrees that on entering into this Agreement it does not rely on, and shall have no remedy in respect of, any warranty, representation, undertaking or assurance (whether negligently or innocently made) of any person other than as expressly set out in this Agreement as a representation, and that liability in respect of any such warranty, representation, undertaking or assurance is expressly excluded.

17.6.3 Nothing in this clause limits or excludes any liability for fraud in relation to any such representation, warranty, undertaking or assurance.

17.7 Conflict

If there is any inconsistency between a provision in this Agreement (for this purpose excluding the Schedules) and a provision in a Schedule, the provision in this Agreement prevails to the extent of the inconsistency.

17.8 Relationship

17.8.1 This 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.

17.8.2 Neither the 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.

17.9 Third Party Beneficiaries

17.9.1 Where rights are granted to the Regulatory Authorities pursuant to this Agreement, the Parties confirm and acknowledge that Regulatory Authorities shall be entitled to enforce the rights granted to them under this Agreement.

17.9.2 Except where set out in Clause 17.9.1 this Agreement shall not be construed as granting rights to or creating any duty to, or standard of care with reference to, or any liability to any person who is not a Party.

Signed by

.....

.....PRINT NAME

Duly authorised for and on behalf of the Seller

In the presence of:

..... (Witness)

..... (Address)

.....

Date

Signed by

.....

.....PRINT NAME

Duly authorised for and on behalf of the Buyer

In the presence of:

..... (Witness)

..... (Address)

.....

Date

SCHEDULE 1
DEFINITIONS AND ROUNDING

Part 1: Defined Terms

The following are defined terms used in this Agreement:

| | |
|-----------------------------------|---|
| "Affiliate" | means in relation to any Party, any holding company or subsidiary or any subsidiary of a holding company of the relevant Party, in each case within the meaning of section 155 of the Companies Act 1963 (Ireland) where the applicable law to this Agreement is the law of Ireland, and section 4 of the Companies (Northern Ireland) Order 1986 (Northern Ireland) where the applicable law to this Agreement is the law of Northern Ireland; |
| "Agreement" | means this Master Contract for Differences Agreement, including all Schedules, between the Buyer and Seller named in Schedule 2; |
| "Baseload" | has the meaning given in Schedule 6; |
| "Business Day" | means a weekday (other than a Saturday or Sunday) which is not a public holiday or bank holiday in Ireland or Northern Ireland;; |
| "Buyer" | means the Party identified as such in Schedule 2; |
| "CER" | has the meaning given in the Trading and Settlement Code; |
| "Communication" | has the meaning given in Clause 16.1; |
| "Confidential Information" | means as defined in Clause 8; |
| "Confirmation Letter" | means as per Schedule 6 and as set out in Clause 3.3; |
| "Contract Quantity" | means, at any time and in respect of any Transaction, is the contracted volume for that Transaction as specified in the Confirmation Letter for that Transaction; |

| | |
|--|---|
| "Credit Exposure" | has the meaning given in Schedule 4; |
| "Defaulting Party" | has the meaning given in Clause 11; |
| "Difference Payment" | means the payment referred to in Clause 5.1 and calculated under Schedule 3; |
| "Directed Contracts" | means the contracts of that title designated by the Regulatory Authorities of which this Agreement is one; |
| "Dollar-Euro Foreign Exchange Rate" | means the rate at which US Dollars can be converted into Euro as published daily by the European Central Bank; |
| "Due Date" | has the meaning given in Clause 7.2; |
| "Early Termination" | means the termination of this Agreement prior to the Termination Date, pursuant to Clause 11; |
| "Early Termination Date" | means the date of Early Termination referred to in Clause 11.3.1; |
| "Electricity Licence" | means in Ireland or Northern Ireland an electricity generation licence or an electricity supply licence, transmission system operation licence, distribution system operator licence or transmission system owner licence (as the context may require) granted by the Regulatory Authorities; |
| "Escrow Account" | means a deposit account at a bank in [Ireland] [Northern Ireland] which complies with the following criteria: <ol style="list-style-type: none">1. is in the joint names of the Seller and the Buyer;2. the Buyer and Seller have irrevocably instructed the bank to make payments to the Seller against the sole signature of the Seller;3. the bank has agreed that the amounts standing to the credit of the account may not be set off or otherwise applied by the bank in respect of any indebtedness of the Buyer or any other person owing to the bank; and4. amounts standing to the credit of the account will not be |

paid to the Buyer or varied without the prior written agreement of the Seller.

"Euro" and "€"

means the single currency of participating Member States of the European Union and which is the lawful currency of Ireland;

"Event of Default"

has the meaning set out in Clause 11.1;

"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;

"Expert Determination Notice"

has the meaning set out in Clause 12.2;

"Forward Carbon Price"

means the weighted-average price (in Euro per tonne) published by the London Energy Brokers Association on their website (www.leba.org.uk) or any successor website for a given calendar year. The calendar price for a given year will apply to all quarters falling within that year;

"Forward Coal Price"

means the average price (in US dollars per tonne) for quarterly Forward Coal API2 swap transactions as reported daily in "Argus Coal Daily International". The API 2 index reflects the price for physical coal including cost, insurance and freight at Amsterdam, Rotterdam or Antwerp. If no price is available from "Argus Coal Daily International" for a given quarter, the price for the most recent quarter will be used;

"Forward Exposure"

has the meaning given in Schedule 4;

"Forward Natural Gas Price"

means the price (in pence Sterling per therm) for quarterly Intercontinental Exchange Natural Gas Futures as reported in "European Spot Gas Markets" published by Heren Energy. The Natural Gas Future is a Futures contract that is based on the price of natural gas delivered within UK

natural gas grid at the National Balancing Point. If Heren Energy publishes prices for monthly futures and does not publish a quarterly futures price, the quarterly price will be obtained by taking an arithmetic average of the monthly prices for months falling within that quarter.

"Forward Low Sulphur Fuel Oil Price"

means the midpoint quarterly price (in US dollars per barrel) for swap transactions for 1% free on board fuel oil cargoes in Northwest Europe ("NWE"), as reported by Platts "Forward Curve Oil". If Platts reports monthly prices for the quarter and does not report a quarterly price, the quarterly price will be obtained by taking an arithmetic average of the monthly prices for months falling within that quarter. If no price is available from Platts for a given quarter, the price for the most recent preceding quarter will be used.

"Forward Gasoil Price"

for pricing periods prior to January 2008 means the midpoint quarterly price (in US dollars per metric tonne) for swap transactions for 0.2% Gasoil cargoes in NWE including cost, insurance and freight, as reported by Platts "Forward Curve Oil". For pricing periods including and subsequent to January 2009, Forward Gasoil Price means the midpoint quarterly price for swap transactions for 0.1% Gasoil CIF cargoes in NEW, as reported by Platts *Forward Curve Oil*. If Platts reports monthly prices for the quarter and does not publish quarterly prices, the quarterly price will be obtained by taking an arithmetic average of the monthly prices for months falling within the quarter. If no price is available from Platts for a given quarter, the price for the most recent preceding quarter will be used.

"Fuel Price Index or Indices"

refers to one or more of the following: the Forward Coal

Price, Forward Natural Gas Price, Forward Low Sulphur Fuel Oil Price, Forward Gasoil Price and the Forward Carbon Price;

| | |
|--|--|
| "Go Live Date" | means 1 November 2007 or any alternative date specified by the Regulatory Authorities and any other relevant government body in Northern Ireland;; |
| "Index" | means any of the Fuel Price Indices used in Schedule 4 to calculate Forward Exposure; |
| "Intra-Month Margin Call" | has the meaning given in Clause 10.2.5; |
| "Intra-Month Margin Call Threshold" | has the meaning given in Schedule 4; |
| "Letter of Credit" | means a document in the agreed form or in substantially the agreed form as set out in Schedule 7; |
| "Loss" | has the meaning given in Clause 11.4.2; |
| "Margin" | means either a Letter of Credit or funds standing to the credit of an Escrow Account required to be provided by the Buyer to the Seller to cover the Seller's Credit Exposure pursuant to Clause 10.2; |
| "Margin Call" | has the meaning given in Clause 10.2.2; |
| "Mid-Merit" | has the meaning given in Schedule 6; |
| "Month" | means a period beginning at 00:00 hours on the first day of a calendar month and ending at 24:00 hours on the last day of the calendar month and "Monthly" shall be construed accordingly; |
| "Monthly Statement" | has the meaning given in Clause 7.1; |
| "NIAUR" | has the meaning given in the Trading and Settlement Code; |
| "Non-Defaulting Party" | means the Party who is not the Defaulting Party; |
| "Party" | means the Buyer or Seller (as the case may be) and their respective permitted legal successors and assigns and "Parties" means both of them; |

| | |
|--|--|
| "Peak" | has the meaning given in Schedule 6; |
| "Pounds Sterling," "Sterling" and "£" | mean the lawful currency of the United Kingdom; |
| "Product" | means any of Baseload, Mid-Merit or Peak; |
| "Quarter" | means any of the following periods: November to December 2007; January to March 2008; April to June 2008 and July to September 2008; |
| "Receivables" | has the meaning given in Schedule 4; |
| "Regulatory Authorities" | means the NIAUR and CER or either one of them as the context admits or requires; |
| "Seller" | means the Party identified as such in Schedule 2; |
| "Settlement Day" | has the meaning given in the Trading and Settlement Code; |
| "Settlement Re-run Statement" | has the meaning given in the Trading and Settlement Code; |
| "SEM or Single Electricity Market" | means the arrangements for wholesale trading of electricity on the island of Ireland through a compulsory pool proposed by the Regulatory Authorities and referred to in the Trading and Settlement Code; |
| "SMP" | has the meaning given in the Trading and Settlement Code; |
| "Statement Amounts" | has the meaning given in Clause 7.5.1; |
| "Sterling-Euro Foreign Exchange rate" | means the rate at which Sterling can be converted into Euro as published daily by the European Central Bank ; |
| "Strike Price" | means for a Transaction, the price set by the Regulatory Authorities and expressed in Euro/MWh or Sterling/MWh as applicable and included on the Transaction's Confirmation Letter in Schedule 6. This price is exclusive of applicable taxes; |
| "Subscription Period" | means the period of time established by the Regulatory Authorities for the Parties to enter into Transactions under |

| | |
|---|--|
| | this Agreement and " Supplemental Subscription Period " means any additional period of time so established; |
| " Substitution Notice " | has the meaning given in Clause 12.3.7; |
| " Supply Customers " | means those retail customers in Ireland and/or Northern Ireland who have elected the Buyer as their electricity provider; |
| " Surplus Margin " | means the Letter of Credit or Escrow Account amounts provided by the Buyer in excess of the Credit Exposure; |
| " Tax " | means any tax, levy, impost, duty, charge, assessment or fee of any nature that is imposed by any Government or any taxing authority; |
| " Term " | means with respect to this Agreement, the period commencing on the date this Agreement comes into effect in accordance with Clause 2.1 and continuing until the date determined under Clause 2.1 or until it is terminated in accordance with its terms (if sooner); |
| " Termination Date " | means 30 September 2008; |
| " Termination Payment " | has the meaning given in Clause 11.4.1; |
| " Termination Payment Date " | has the meaning given in Clause 11.4.5; |
| " 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 including any replacement of that code (whether by way of regulation or other instrument); |
| " Trading Period " | has the meaning given in the Trading and Settlement Code; |
| " Transaction " | means any transaction relating to electricity (including an agreement with respect to the transaction) entered into by the Parties pursuant to this Agreement; and |
| " VAT " | has the meaning given in Clause 7.1.3 |

Part 2: Rounding rules

The following are the rounding rules.

| Variables Measured in | Decimal places |
|-----------------------|----------------|
| MW | 3 |
| MWh | 3 |
| € or £ | 2 |
| €/MWh or £/MWh | 2 |
| €/GJ £/GJ | 2 |

SCHEDULE 2
BUYER AND SELLER INFORMATION

Buyer Information

Name of Buyer:

Address of Buyer:

Notices

Address:

Facsimile:

For the attention of (position):

Telephone:

E-mail:

Seller Information

Name of Seller:

Address of Seller:

Notices

Address:

Facsimile:

For the attention of (position):

Telephone:

E-mail:

SCHEDULE 3
DIFFERENCE PAYMENTS

A. Strike Price

The Strike Price for a Transaction is as specified in that Transaction's Confirmation Letter. The Strike Price for a Transaction may vary by Quarter. The Strike Price applied in a given Trading Period, in order to calculate the Difference Payment for that Trading Period, shall be the Strike Price for the Quarter in which the Trading Period falls.

B. SMP Reference Price

The SMP is the reference price for each Trading Period and is used to calculate Difference Payments.

C. Difference Payment due to Seller

For each Transaction, the Difference Payment due to Seller ("DPS") for a Trading Period is calculated as follows:

$$DPS_{tp} = 0.50 * \text{Max} (0, (SP_{tp} - SMP_{tp}) * Q_{tp})$$

where:

SMP_{tp} is the SMP in [€/MWh]/[£/MWh] for the Trading Period;

SP_{tp} is the Strike Price in [€/MWh]/[£/MWh] for that Transaction applicable to the Trading Period;

and

Q_{tp} is the Contract Quantity (in MW) for that Transaction applicable to the Trading Period.

By way of non-binding illustrative example for the above calculation, say:

$$SMP_{tp} = 46 \text{ (€/MWh or £/MWh)}$$

$$SP_{tp} = 50 \text{ (€/MWh or £/MWh)}$$

$$Q_{tp} = 5\text{MW},$$

then the Difference Payment due to the Seller will be: $0.5 * \text{Max} (0, (50-46) * 5) = 10$ (€/MWh or £/MWh).

D. Difference Payment due to Buyer

For each Transaction, the Difference Payment due to Buyer (“DPB”) for a Trading Period is calculated as follows:

$$DPB_{tp} = 0.50 * \text{Max} (0, (SMP_{tp} - SP_{tp}) * Q_{tp})$$

where:

SMP_{tp} is the SMP in [€/MWh] [£/MWh] for the Trading Period;

SP_{tp} is the Strike Price in [€/MWh] [£/MWh] for the Trading Period; and

Q_{tp} is the Contract Quantity (in MW) for that Transaction applicable to the Trading Period.

By way of non-binding illustrative example for the above calculation, say:

$$SMP_{tp} = 55 \text{ (€/MWh or £/MWh)}$$

$$SP_{tp} = 50 \text{ (€/MWh or £/MWh)}$$

$$Q_{tp} = 5 \text{ MW,}$$

then the Difference Payment due to the Buyer will be: $0.5 * \text{Max} (0, (55-50)*5) = 12.5 \text{ (€/MWh or £/MWh)}$

SCHEDULE 4

CREDIT EXPOSURE CALCULATION

The Credit Exposure will be calculated to be equal to the sum of:

- "Forward Exposure" – the aggregate net Forward Exposure for all Transactions under this Agreement; and
- "Receivables" – the aggregate net amounts owing for Difference Payments incurred but not yet paid for all Transactions under this Agreement.

If the calculation of Credit Exposure above yields a net positive amount for the Seller, then the Seller shall have the right to call for Margin pursuant to Clause 10.2 (Exposure Calculations and Payment Assurances).

The methodology by which Forward Exposure and Receivables shall be calculated is specified in detail below using the Dollar-Euro Foreign Exchange Rate and the Sterling Euro Foreign Exchange Rate.

A. Forward Exposure Definition

On any given Business Day, Forward Exposure is intended to reflect the expected Difference Payments to be paid to a Party during the remaining Term of this Agreement and is calculated as follows:

For each Transaction and for each Quarter and Product type during the remaining Term:

$$\text{Forward Exposure to the Seller} = (\text{SP}_q - 0.85 * \text{ESTSEM}_{p,q}) * Q * \text{Hours}_{p,q}$$

where:

SP_q is the Strike Price in [€/MWh]/[£/MWh] for that Transaction for that Quarter.

$\text{ESTSEM}_{p,q}$ is an estimate of the average SEM price in €/MWh or £/MWh for that Quarter and for the Product that corresponds to the Transaction, calculated as set out below;

Q is the Contract Quantity (in MW) for that Transaction;

Hours p,q is the number of hours for a given Product in a given Quarter, as specified in the table below.

| <u>Quarter</u> | <u>Baseload</u> | <u>Mid-merit (business days)</u> | <u>Mid-merit (non-business days)</u> | <u>Peak</u> |
|---|-----------------|----------------------------------|--------------------------------------|--------------|
| <u>Q4 2007</u> <u>(November – December 2007)</u> | <u>1,464.0</u> | <u>635.5</u> | <u>310.0</u> | <u>213.5</u> |
| <u>Q1 2008</u> | <u>2,183.0</u> | <u>945.5</u> | <u>465.0</u> | <u>318.5</u> |
| <u>Q2 2008</u> | <u>2,184.0</u> | <u>961.0</u> | <u>449.5</u> | <u>0.0</u> |
| <u>Q3 2008</u> | <u>2,208.0</u> | <u>992.0</u> | <u>434.0</u> | <u>0.0</u> |

By way of a non-binding illustrative example of a Forward Exposure calculation by the Seller, say

$$SP_q = 55$$

$$ESTSEM_{p,q} = 55.8$$

$$Q = 5MW$$

$$Hours_{p,q} = 318.5$$

Then the Forward Exposure to the Seller for that Quarter will be: $(55 - 0.85 * 55.8) * 5 * 318.5 = 12,055.23$

For each Transaction, Forward Exposure is aggregated across all remaining Quarters in the Term to arrive at a Forward Exposure value for that Transaction. Forward Exposure is then aggregated across Transactions to arrive at an aggregate net Forward Exposure for all Transactions to be used in the calculation of Credit Exposure.

Any negative Forward Exposure amounts will offset positive Forward Exposure amounts in the calculation of Forward Exposure for a Transaction and in the calculation of net aggregate Forward Exposure for all Transactions.

Estimated Future SEM Price

The Parties agree to use (i) the formula below and (ii) the Dollar-Euro Foreign Exchange Rate and the Sterling-Euro Foreign Exchange Rate, to arrive at an estimate of the average SEM price for each type of Product in each remaining Quarter during the Term.

$$ESTSEM_{p,q} = \alpha_{p,q} + (\beta_{p,q} * COAL_q) + (\gamma_{p,q} * NG_q) + (\delta_{p,q} * LSFO_q) + (\epsilon_{p,q} * GO_q) + (\zeta_{p,q} * C_q)$$

Where:

ESTSEM_{p,q} = Estimated Average SEM Price for a Product and for a Quarter

$\alpha_{p,q}$ = is a formula constant for a Product and for a Quarter

$\beta_{p,q}$, $\gamma_{p,q}$, $\delta_{p,q}$, $\epsilon_{p,q}$, and $\zeta_{p,q}$ are formula coefficients for a Product and for a Quarter

COAL_q is the Forward Coal Price for the Quarter

NG_q is the Forward Natural Gas Price for the Quarter

LSFO_q is the Forward Low Sulphur Fuel Oil Price for the Quarter

GO_q is the Forward Gasoil Price for the Quarter

C_q is the Forward Carbon Price for the Quarter

The Parties agree that the coefficients in the table below shall be used to develop the estimated average SEM price for each type of Product in each remaining Quarter during the Term.

| | <u>Baseload</u> | | | | | | <u>Mid-merit</u> | | | | | | <u>Peak</u> | | | | | |
|---|-----------------|---------|----------|----------|------------|---------|------------------|---------|----------|----------|------------|---------|-------------|---------|----------|----------|------------|---------|
| | α | β | γ | δ | ϵ | ζ | α | β | γ | δ | ϵ | ζ | α | β | γ | δ | ϵ | ζ |
| <u>Q4</u> <u>2007</u> <u>(11/07</u> = <u>12/07)</u> | | | | | | | | | | | | | | | | | | |
| <u>Q1</u> <u>2008</u> | | | | | | | | | | | | | | | | | | |
| <u>Q2</u> <u>2008</u> | | | | | | | | | | | | | | | | | | |
| <u>Q3</u> <u>2008</u> | | | | | | | | | | | | | | | | | | |

B. Receivables

Receivables owing to a Party shall be (i) the amounts invoiced, but not yet paid and (ii) amounts incurred, but not yet invoiced. The net aggregate amount owing for all Transactions will be used

as the Receivables amount in the calculation of Credit Exposure. Negative amounts (i.e., amounts payable) will offset positive amounts in the calculation of Receivables.

C. Intra-Month Margin Call Threshold

The Seller may require an Intra-Month Margin Call to be made if at any time the amount of Margin lodged by the Seller is less than the Intra-Month Margin Call Threshold, where the Intra-Month Margin Call Threshold is defined as:

$$\text{Receivables} + (\text{SP}_q - \text{ESTSEM}_{p,q} + 0.03\text{ESTSEMM}_{p,q}) * Q * \text{Hours}_{p,q}$$

Where:

Receivables has the meaning given to it in Part B of this Schedule

SP_q , $\text{ESTSEM}_{p,q}$, Q and $\text{Hours}_{p,q}$ have the meaning given to them in Part A of this Schedule

$\text{ESTSEMM}_{p,q}$ was the value of $\text{ESTSEM}_{p,q}$ when the last monthly credit calculation was made

At any time, in the event that the Intra-Month Margin Call Threshold is breached, the Seller may recalculate the Credit Exposure Calculation set out in this Schedule, and make a Margin Call consistent with this revised calculation.

SCHEDULE 5

EXAMPLES OF DIFFERENCE PAYMENT/CREDIT EXPOSURE CALCULATIONS

A. Example of Difference Payments

A non-binding illustrative example is set out using Baseload, Mid-Merit and Peak Transactions.

This illustrative calculation of Difference Payments is shown for 1 November 2007, assuming that the half-hour SMPs are as follows:

| Trading Period | Start Time | SMP | | Trading Period | Start Time | SMP |
|----------------|------------|-----|--|----------------|------------|-----|
| 1 | 0:00 | 46 | | 25 | 12:00 | 50 |
| 2 | 0:30 | 41 | | 26 | 12:30 | 60 |
| 3 | 1:00 | 41 | | 27 | 13:00 | 47 |
| 4 | 1:30 | 54 | | 28 | 13:30 | 40 |
| 5 | 2:00 | 53 | | 29 | 14:00 | 59 |
| 6 | 2:30 | 58 | | 30 | 14:30 | 41 |
| 7 | 3:00 | 52 | | 31 | 15:00 | 44 |
| 8 | 3:30 | 58 | | 32 | 15:30 | 49 |
| 9 | 4:00 | 55 | | 33 | 16:00 | 57 |
| 10 | 4:30 | 48 | | 34 | 16:30 | 55 |
| 11 | 5:00 | 48 | | 35 | 17:00 | 40 |
| 12 | 5:30 | 56 | | 36 | 17:30 | 57 |
| 13 | 6:00 | 48 | | 37 | 18:00 | 46 |
| 14 | 6:30 | 49 | | 38 | 18:30 | 40 |
| 15 | 7:00 | 50 | | 39 | 19:00 | 56 |
| 16 | 7:30 | 40 | | 40 | 19:30 | 55 |
| 17 | 8:00 | 54 | | 41 | 20:00 | 41 |
| 18 | 8:30 | 51 | | 42 | 20:30 | 45 |
| 19 | 9:00 | 60 | | 43 | 21:00 | 44 |
| 20 | 9:30 | 44 | | 44 | 21:30 | 53 |
| 21 | 10:00 | 44 | | 45 | 22:00 | 60 |

| Trading Period | Start Time | SMP | | Trading Period | Start Time | SMP |
|----------------|------------|-----|--|----------------|------------|-----|
| 22 | 10:30 | 51 | | 46 | 22:30 | 44 |
| 23 | 11:00 | 41 | | 47 | 23:00 | 51 |
| 24 | 11:30 | 52 | | 48 | 23:30 | 55 |

This example of the Difference Payments assumes that there are three Transactions governed by the Agreement. These Transactions have the following terms:

| Baseload Transaction Trade Date 15/06/2007 | | |
|--|---------------------------------|------------------------|
| Trading Period Falling in Quarter | Strike Price [€/MWh] [£/MWh] | Contract Quantity (MW) |
| Q4 2007 (11/07 – 12/07) | 50 | 5 |
| Q1 2008 | 50 | 5 |
| Q2 2008 | 50 | 5 |
| Q3 2008 | 50 | 5 |

| Mid-merit Transaction Trade Date 15/06/2007 | | |
|---|---------------------------------|------------------------|
| Trading Period Falling in Quarter | Strike Price [€/MWh] [£/MWh] | Contract Quantity (MW) |
| Q4 2007 (11/07 – 12/07) | 55 | 5 |
| Q1 2008 | 55 | 5 |
| Q2 2008 | 55 | 5 |
| Q3 2008 | 55 | 5 |

| Peak Transaction Trade Date 15/06/2007 | | |
|---|---------------------------------|------------------------|
| Trading Period Falling in Quarter | Strike Price [€/MWh] [£/MWh] | Contract Quantity (MW) |
| Q4 2007 (11/07 – 12/07) | 60 | 5 |
| Q1 2008 | 60 | 5 |
| Q2 2008 | NA | NA |
| Q3 2008 | NA | NA |

The Difference Payments by Trading Period for the Baseload Transaction are shown below.

| Trading Period | SMP | Strike Price | Difference Payment €/MWh or £/MWh (Buyer to Seller) | Difference Payment €/MWh or £/MWh (Seller to Buyer) | MWh = MW * 0.5 | Difference Payment € or £ (Buyer to Seller) | Difference Payment € or £ (Seller to Buyer) |
|----------------|-----|--------------|--|--|----------------------|--|--|
| 1 | 46 | 50 | 4 | 0 | 2.5 | 10 | 0 |
| 2 | 41 | 50 | 9 | 0 | 2.5 | 22.5 | 0 |
| 3 | 41 | 50 | 9 | 0 | 2.5 | 22.5 | 0 |
| 4 | 54 | 50 | 0 | 4 | 2.5 | 0 | 10 |
| 5 | 53 | 50 | 0 | 3 | 2.5 | 0 | 7.5 |
| 6 | 58 | 50 | 0 | 8 | 2.5 | 0 | 20 |
| 7 | 52 | 50 | 0 | 2 | 2.5 | 0 | 5 |
| 8 | 58 | 50 | 0 | 8 | 2.5 | 0 | 20 |
| 9 | 55 | 50 | 0 | 5 | 2.5 | 0 | 12.5 |
| 10 | 48 | 50 | 2 | 0 | 2.5 | 5 | 0 |
| 11 | 48 | 50 | 2 | 0 | 2.5 | 5 | 0 |
| 12 | 56 | 50 | 0 | 6 | 2.5 | 0 | 15 |
| 13 | 48 | 50 | 2 | 0 | 2.5 | 5 | 0 |
| 14 | 49 | 50 | 1 | 0 | 2.5 | 2.5 | 0 |
| 15 | 50 | 50 | 0 | 0 | 2.5 | 0 | 0 |

| Trading Period | SMP | Strike Price | Difference Payment €/MWh or £/MWh (Buyer to Seller) | Difference Payment €/MWh or £/MWh (Seller to Buyer) | MWh = MW * 0.5 | Difference Payment € or £ (Buyer to Seller) | Difference Payment € or £ (Seller to Buyer) |
|----------------|-----|--------------|---|---|----------------|---|---|
| 16 | 40 | 50 | 10 | 0 | 2.5 | 25 | 0 |
| 17 | 54 | 50 | 0 | 4 | 2.5 | 0 | 10 |
| 18 | 51 | 50 | 0 | 1 | 2.5 | 0 | 2.5 |
| 19 | 60 | 50 | 0 | 10 | 2.5 | 0 | 25 |
| 20 | 44 | 50 | 6 | 0 | 2.5 | 15 | 0 |
| 21 | 44 | 50 | 6 | 0 | 2.5 | 15 | 0 |
| 22 | 51 | 50 | 0 | 1 | 2.5 | 0 | 2.5 |
| 23 | 41 | 50 | 9 | 0 | 2.5 | 22.5 | 0 |
| 24 | 52 | 50 | 0 | 2 | 2.5 | 0 | 5 |
| 25 | 50 | 50 | 0 | 0 | 2.5 | 0 | 0 |
| 26 | 60 | 50 | 0 | 10 | 2.5 | 0 | 25 |
| 27 | 47 | 50 | 3 | 0 | 2.5 | 7.5 | 0 |
| 28 | 40 | 50 | 10 | 0 | 2.5 | 25 | 0 |
| 29 | 59 | 50 | 0 | 9 | 2.5 | 0 | 22.5 |
| 30 | 41 | 50 | 9 | 0 | 2.5 | 22.5 | 0 |
| 31 | 44 | 50 | 6 | 0 | 2.5 | 15 | 0 |
| 32 | 49 | 50 | 1 | 0 | 2.5 | 2.5 | 0 |
| 33 | 57 | 50 | 0 | 7 | 2.5 | 0 | 17.5 |
| 34 | 55 | 50 | 0 | 5 | 2.5 | 0 | 12.5 |
| 35 | 40 | 50 | 10 | 0 | 2.5 | 25 | 0 |
| 36 | 57 | 50 | 0 | 7 | 2.5 | 0 | 17.5 |
| 37 | 46 | 50 | 4 | 0 | 2.5 | 10 | 0 |
| 38 | 40 | 50 | 10 | 0 | 2.5 | 25 | 0 |
| 39 | 56 | 50 | 0 | 6 | 2.5 | 0 | 15 |
| 40 | 55 | 50 | 0 | 5 | 2.5 | 0 | 12.5 |
| 41 | 41 | 50 | 9 | 0 | 2.5 | 22.5 | 0 |

| Trading Period | SMP | Strike Price | Difference Payment €/MWh or £/MWh (Buyer to Seller) | Difference Payment €/MWh or £/MWh (Seller to Buyer) | MWh = MW * 0.5 | Difference Payment € or £ (Buyer to Seller) | Difference Payment € or £ (Seller to Buyer) |
|--|-----|--------------|---|---|----------------|---|---|
| 42 | 45 | 50 | 5 | 0 | 2.5 | 12.5 | 0 |
| 43 | 44 | 50 | 6 | 0 | 2.5 | 15 | 0 |
| 44 | 53 | 50 | 0 | 3 | 2.5 | 0 | 7.5 |
| 45 | 60 | 50 | 0 | 10 | 2.5 | 0 | 25 |
| 46 | 44 | 50 | 6 | 0 | 2.5 | 15 | 0 |
| 47 | 51 | 50 | 0 | 1 | 2.5 | 0 | 2.5 |
| 48 | 55 | 50 | 0 | 5 | 2.5 | 0 | 12.5 |
| Total | | | | | | 347.5 | 305 |
| Net Difference Payment for Baseload Transaction for 1/11/07: | | | | | | | |
| Buyer to Seller | | | | | | 42.5 | |

The Difference Payments by Trading Period for the Mid-Merit Transaction are shown below.

| Trading Period | SMP | Strike Price | Difference Payment €/MWh or £/MWh (Buyer to Seller) | Difference Payment €/MWh or £/MWh (Seller to Buyer) | MWh = MW * 0.5 | Difference Payment € or £ (Buyer to Seller) | Difference Payment € or £ (Seller to Buyer) |
|----------------|-----|--------------|---|---|----------------|---|---|
| 1 | 46 | NA | NA | NA | NA | NA | NA |
| 2 | 41 | NA | NA | NA | NA | NA | NA |
| 3 | 41 | NA | NA | NA | NA | NA | NA |
| 4 | 54 | NA | NA | NA | NA | NA | NA |
| 5 | 53 | NA | NA | NA | NA | NA | NA |
| 6 | 58 | NA | NA | NA | NA | NA | NA |
| 7 | 52 | NA | NA | NA | NA | NA | NA |
| 8 | 58 | NA | NA | NA | NA | NA | NA |
| 9 | 55 | NA | NA | NA | NA | NA | NA |
| 10 | 48 | NA | NA | NA | NA | NA | NA |
| 11 | 48 | NA | NA | NA | NA | NA | NA |

| Trading Period | SMP | Strike Price | Difference Payment €/MWh or £/MWh (Buyer to Seller) | Difference Payment €/MWh or £/MWh (Seller to Buyer) | MWh = MW * 0.5 | Difference Payment € or £ (Buyer to Seller) | Difference Payment € or £ (Seller to Buyer) |
|----------------|-----|--------------|---|---|----------------|---|---|
| 12 | 56 | NA | NA | NA | NA | NA | NA |
| 13 | 48 | NA | NA | NA | NA | NA | NA |
| 14 | 49 | NA | NA | NA | NA | NA | NA |
| 15 | 50 | NA | NA | NA | NA | NA | NA |
| 16 | 40 | 55 | 15 | 0 | 2.5 | 37.5 | 0 |
| 17 | 54 | 55 | 1 | 0 | 2.5 | 2.5 | 0 |
| 18 | 51 | 55 | 4 | 0 | 2.5 | 10 | 0 |
| 19 | 60 | 55 | 0 | 5 | 2.5 | 0 | 12.5 |
| 20 | 44 | 55 | 11 | 0 | 2.5 | 27.5 | 0 |
| 21 | 44 | 55 | 11 | 0 | 2.5 | 27.5 | 0 |
| 22 | 51 | 55 | 4 | 0 | 2.5 | 10 | 0 |
| 23 | 41 | 55 | 14 | 0 | 2.5 | 35 | 0 |
| 24 | 52 | 55 | 3 | 0 | 2.5 | 7.5 | 0 |
| 25 | 50 | 55 | 5 | 0 | 2.5 | 12.5 | 0 |
| 26 | 60 | 55 | 0 | 5 | 2.5 | 0 | 12.5 |
| 27 | 47 | 55 | 8 | 0 | 2.5 | 20 | 0 |
| 28 | 40 | 55 | 15 | 0 | 2.5 | 37.5 | 0 |
| 29 | 59 | 55 | 0 | 4 | 2.5 | 0 | 10 |
| 30 | 41 | 55 | 14 | 0 | 2.5 | 35 | 0 |
| 31 | 44 | 55 | 11 | 0 | 2.5 | 27.5 | 0 |
| 32 | 49 | 55 | 6 | 0 | 2.5 | 15 | 0 |
| 33 | 57 | 55 | 0 | 2 | 2.5 | 0 | 5 |
| 34 | 55 | 55 | 0 | 0 | 2.5 | 0 | 0 |
| 35 | 40 | 55 | 15 | 0 | 2.5 | 37.5 | 0 |
| 36 | 57 | 55 | 0 | 2 | 2.5 | 0 | 5 |
| 37 | 46 | 55 | 9 | 0 | 2.5 | 22.5 | 0 |

| Trading Period | SMP | Strike Price | Difference Payment €/MWh or £/MWh (Buyer to Seller) | Difference Payment €/MWh or £/MWh (Seller to Buyer) | MWh = MW * 0.5 | Difference Payment € or £ (Buyer to Seller) | Difference Payment € or £ (Seller to Buyer) |
|--|-----|--------------|---|---|----------------|---|---|
| 38 | 40 | 55 | 15 | 0 | 2.5 | 37.5 | 0 |
| 39 | 56 | 55 | 0 | 1 | 2.5 | 0 | 2.5 |
| 40 | 55 | 55 | 0 | 0 | 2.5 | 0 | 0 |
| 41 | 41 | 55 | 14 | 0 | 2.5 | 35 | 0 |
| 42 | 45 | 55 | 10 | 0 | 2.5 | 25 | 0 |
| 43 | 44 | 55 | 11 | 0 | 2.5 | 27.5 | 0 |
| 44 | 53 | 55 | 2 | 0 | 2.5 | 5 | 0 |
| 45 | 60 | 55 | 0 | 5 | 2.5 | 0 | 12.5 |
| 46 | 44 | 55 | 11 | 0 | 2.5 | 27.5 | 0 |
| 47 | 51 | NA | NA | NA | NA | NA | NA |
| 48 | 55 | NA | NA | NA | NA | NA | NA |
| Total | | | | | | 522.5 | 60 |
| Net Difference Payment for Mid-merit Transaction for 1/11/07: Buyer to Seller | | | | | | 462.5 | |

The Difference Payments by Trading Period for the Peak Transaction are shown below.

| Trading Period | SMP | Strike Price | Difference Payment €/MWh or £/MWh (Buyer to Seller) | Difference Payment €/MWh or £/MWh (Seller to Buyer) | MWh = MW * 0.5 | Difference Payment € or £ (Buyer to Seller) | Difference Payment € or £ (Seller to Buyer) |
|----------------|-----|--------------|---|---|----------------|---|---|
| 1 | 46 | NA | NA | NA | NA | NA | NA |
| 2 | 41 | NA | NA | NA | NA | NA | NA |
| 3 | 41 | NA | NA | NA | NA | NA | NA |
| 4 | 54 | NA | NA | NA | NA | NA | NA |
| 5 | 53 | NA | NA | NA | NA | NA | NA |
| 6 | 58 | NA | NA | NA | NA | NA | NA |
| 7 | 52 | NA | NA | NA | NA | NA | NA |
| 8 | 58 | NA | NA | NA | NA | NA | NA |
| 9 | 55 | NA | NA | NA | NA | NA | NA |
| 10 | 48 | NA | NA | NA | NA | NA | NA |
| 11 | 48 | NA | NA | NA | NA | NA | NA |
| 12 | 56 | NA | NA | NA | NA | NA | NA |
| 13 | 48 | NA | NA | NA | NA | NA | NA |
| 14 | 49 | NA | NA | NA | NA | NA | NA |
| 15 | 50 | NA | NA | NA | NA | NA | NA |
| 16 | 40 | NA | NA | NA | NA | NA | NA |
| 17 | 54 | NA | NA | NA | NA | NA | NA |
| 18 | 51 | NA | NA | NA | NA | NA | NA |
| 19 | 60 | NA | NA | NA | NA | NA | NA |
| 20 | 44 | NA | NA | NA | NA | NA | NA |
| 21 | 44 | NA | NA | NA | NA | NA | NA |
| 22 | 51 | NA | NA | NA | NA | NA | NA |
| 23 | 41 | NA | NA | NA | NA | NA | NA |
| 24 | 52 | NA | NA | NA | NA | NA | NA |

| Trading Period | SMP | Strike Price | Difference Payment €/MWh or £/MWh (Buyer to Seller) | Difference Payment €/MWh or £/MWh (Seller to Buyer) | MWh = MW * 0.5 | Difference Payment € or £ (Buyer to Seller) | Difference Payment € or £ (Seller to Buyer) |
|----------------|-----|--------------|---|---|----------------|---|---|
| 25 | 50 | NA | NA | NA | NA | NA | NA |
| 26 | 60 | NA | NA | NA | NA | NA | NA |
| 27 | 47 | NA | NA | NA | NA | NA | NA |
| 28 | 40 | NA | NA | NA | NA | NA | NA |
| 29 | 49 | NA | NA | NA | NA | NA | NA |
| 30 | 41 | NA | NA | NA | NA | NA | NA |
| 31 | 44 | NA | NA | NA | NA | NA | NA |
| 32 | 49 | NA | NA | NA | NA | NA | NA |
| 33 | 57 | NA | NA | NA | NA | NA | NA |
| 34 | 55 | 60 | 5 | 0 | 2,5 | 12.5 | 0 |
| 35 | 40 | 60 | 20 | 0 | 2.5 | 50 | 0 |
| 36 | 57 | 60 | 3 | 0 | 2.5 | 7.5 | 0 |
| 37 | 46 | 60 | 14 | 0 | 2.5 | 35 | 0 |
| 38 | 40 | 60 | 20 | 0 | 2.5 | 50 | 0 |
| 39 | 56 | 60 | 4 | 0 | 2.5 | 10 | 0 |
| 40 | 55 | 60 | 5 | 0 | 2.5 | 12.5 | 0 |
| 41 | 41 | NA | NA | NA | NA | NA | NA |
| 42 | 45 | NA | NA | NA | NA | NA | NA |
| 43 | 44 | NA | NA | NA | NA | NA | NA |
| 44 | 53 | NA | NA | NA | NA | NA | NA |
| 45 | 60 | NA | NA | NA | NA | NA | NA |
| 46 | 44 | NA | NA | NA | NA | NA | NA |
| 47 | 51 | NA | NA | NA | NA | NA | NA |
| 48 | 55 | NA | NA | NA | NA | NA | NA |
| Total | | | | | | 177.5 | 0 |

| Trading Period | SMP | Strike Price | Difference Payment €/MWh or £/MWh (Buyer to Seller) | Difference Payment €/MWh or £/MWh (Seller to Buyer) | MWh = MW * 0.5 | Difference Payment € or £ (Buyer to Seller) | Difference Payment € or £ (Seller to Buyer) |
|---|-----|--------------|---|---|----------------|---|---|
| Net Difference Payment for Peak Transaction for 1/11/07: Buyer to Seller | | | | | | 177.5 | |

Aggregate Difference Payment Due for 1/11/2007

| | Net Difference Payment Buyer to Seller 1/11/07 |
|---------------------|--|
| Baseload | 42.5 |
| Mid-merit | 462.5 |
| Peak | 177.5 |
| Aggregate Net Value | 682.5 |

B. Example of Credit Exposure

A non-binding illustrative example of the calculation of the Credit Exposure is set out below. It assumes three transactions, as specified in the tables below.

| Baseload Transaction Trade Date 15/06/2007 | | |
|---|---|---|
| Trading Period Falling in Quarter | Strike Price [€/MWh] [£/MWh] | Contract Quantity (MW) |
| Q4 2007 (11/07 – 12/07) | 50 | 5 |
| Q1 2008 | 50 | 5 |
| Q2 2008 | 50 | 5 |
| Q3 2008 | 50 | 5 |

| Mid-merit Transaction Trade Date 15/06/2007 | | |
|--|---|---|
| Trading Period Falling in Quarter | Strike Price [€/MWh] [£/MWh] | Contract Quantity (MW) |
| Q4 2007 (11/07 – 12/07) | 55 | 5 |
| Q1 2008 | 55 | 5 |
| Q2 2008 | 55 | 5 |
| Q3 2008 | 55 | 5 |

| Peak Transaction Trade Date 15/06/2007 | | |
|---|---------------------------------|---------------------------|
| Trading Period Falling in Quarter | Strike Price [€/MWh] [£/MWh] | Contract Quantity (MW) |
| Q4 2007 (11/07 – 12/07) | 60 | 5 |
| Q1 2008 | 60 | 5 |
| Q2 2008 | NA | NA |
| Q3 2008 | NA | NA |

This example shows the Credit Exposure calculation as of 15 October 2007. Since this Credit Exposure assessment is made prior to the date on which Difference Payments begin, there are no Receivables.

For the Forward Exposure calculation, the example assumes that the ESTSEM for each Quarter is as follows:

| Quarter | Baseload ESTSEM on 15/10/07 (€/MWh or £/MWh) | Mid-merit ESTSEM on 15/10/07 (€/MWh or £/MWh) | Peak ESTSEM on 15/10/07 (€/MWh or £/MWh) |
|----------------------------|--|---|--|
| Q4 2007 (11/07 – 12/07) | 51 | 53 | 58 |
| Q1 2008 | 51 | 53 | 58 |
| Q2 2008 | 51 | 53 | NA |
| Q3 2008 | 51 | 53 | NA |

As specified in Schedule 4, the Forward Exposure to the Seller is defined as:

$$\text{Forward Exposure to the Seller} = (SP_q - 0.85 * \text{ESTSEM}_{p,q}) * Q * \text{Hours}_{p,q}$$

The table below illustrates the per MWh exposure (i.e., $SP_q - 0.85 * \text{ESTSEM}_{p,q}$) for the Seller for each Transaction for each Quarter.

| Baseload | | | |
|-------------------------------|-------|---------------------------|-------------------------|
| Quarter | SP | 0.85 * ESTSEM 15/10/07 | (SP - 0.85 * ESTSEM) |
| Q4 2007 (11/07 – 12/07) | 50.00 | 43.35 | 6.65 |
| Q1 2008 | 50.00 | 43.35 | 6.65 |
| Q2 2008 | 50.00 | 43.35 | 6.65 |
| Q3 2008 | 50.00 | 43.35 | 6.65 |

| Mid-merit | | | |
|-------------------------------|-------|---------------------------|-------------------------|
| Quarter | SP | 0.85 * ESTSEM 15/10/07 | (SP - 0.85 * ESTSEM) |
| Q4 2007 (11/07 – 12/07) | 55.00 | 45.05 | 9.95 |
| Q1 2008 | 55.00 | 45.05 | 9.95 |
| Q2 2008 | 55.00 | 45.05 | 9.95 |
| Q3 2008 | 55.00 | 45.05 | 9.95 |

| Peak | | | |
|-------------------------------|-------|---------------------------|-------------------------|
| Quarter | SP | 0.85 * ESTSEM 15/10/07 | (SP - 0.85 * ESTSEM) |
| Q4 2007 (11/07 – 12/07) | 60.00 | 49.30 | 10.70 |
| Q1 2008 | 60.00 | 49.30 | 10.70 |
| Q2 2008 | NA | NA | NA |
| Q3 2008 | NA | NA | NA |

The tables below illustrate the MWh quantities that would be applied to the Quarterly per MWh exposure amounts to arrive at the Forward Exposure for each Transaction for each Quarter.

| Baseload | | | |
|-------------------------|----------|------|-----------|
| Quarter | Hours | MW | Total MWh |
| Q4 2007 (11/07 - 12/07) | 1,464.00 | 5.00 | 7,320.00 |
| Q1 2008 | 2,183.00 | 5.00 | 10,915.00 |
| Q2 2008 | 2,184.00 | 5.00 | 10,920.00 |
| Q3 2008 | 2,208.00 | 5.00 | 11,040.00 |

| Mid-merit | | | | |
|-------------------------|-----------------------|---------------------------|------|-----------|
| Quarter | Business Days (Hours) | Non-Business Days (Hours) | MW | Total MWh |
| Q4 2007 (11/07 - 12/07) | 635.50 | 310 | 5.00 | 4,417.50 |
| Q1 2008 | 945.50 | 465 | 5.00 | 6,587.50 |
| Q2 2008 | 961.00 | 449.5 | 5.00 | 6,603.00 |
| Q3 2008 | 992.00 | 434 | 5.00 | 6,696.00 |

| Peak | | | |
|-------------------------|--------|------|-----------|
| Quarter | Hours | MW | Total MWh |
| Q4 2007 (11/07 - 12/07) | 213.50 | 5.00 | 1,067.50 |
| Q1 2008 | 318.50 | 5.00 | 1,592.50 |
| Q2 2008 | NA | NA | NA |
| Q3 2008 | NA | NA | NA |

The table below summarizes the Forward Exposure for each transaction for each Quarter.

| Baseload | | | |
|-----------------------------------|---|-----------|---------------------------------|
| Quarter | 15/10/07 €/MWh or £/MWh Exposure | MWh | € or £ Exposure to Seller |
| Q4 2007 (11/07 - 12/07) | 6.65 | 7,320.00 | 48,678.00 |
| Q1 2008 | 6.65 | 10,915.00 | 72,584.75 |
| Q2 2008 | 6.65 | 10,920.00 | 72,618.00 |
| Q3 2008 | 6.65 | 11,040.00 | 73,416.00 |
| Exposure for Baseload transaction | | | 267,296.75 |

| Mid-merit | | | |
|------------------------------------|---|----------|---------------------------------|
| Quarter | 15/10/07 €/MWh or £/MWh Exposure | MWh | € or £ Exposure to Seller |
| Q4 2007 (11/07 - 12/07) | 9.95 | 4,417.50 | 43,954.13 |
| Q1 2008 | 9.95 | 6,587.50 | 65,545.63 |
| Q2 2008 | 9.95 | 6,603.00 | 65,699.85 |
| Q3 2008 | 9.95 | 6,696.00 | 66,625.20 |
| Exposure for Mid-merit transaction | | | 241,824.80 |

| Peak | | | |
|-------------------------------|---|----------|---------------------------------|
| Quarter | 15/10/07 €/MWh or £/MWh Exposure | MWh | € or £ Exposure to Seller |
| Q4 2007 (11/07 - 12/07) | 10.70 | 1,067.50 | 11,422.25 |
| Q1 2008 | 10.70 | 1,592.50 | 17,039.75 |
| Q2 2008 | NA | NA | NA |
| Q3 2008 | NA | NA | NA |
| Exposure for Peak transaction | | | 28,462.00 |

| Summary of Forward Exposure | |
|--|------------|
| Baseload transaction exposure | 267,296.75 |
| Midmerit transaction exposure | 241,824.80 |
| Peak transaction exposure | 28,462.00 |
| Total Forward Exposure to Seller (€ or £) | 537,583.55 |

SCHEDULE 6
CONFIRMATION LETTER

(To be typed on letterhead of Seller)

This confirmation letter shall confirm the Transaction agreed to onbetween
..... (Buyer) and(Seller).

This Confirmation Letter is being provided pursuant to and in accordance with the Master Contract for Differences Agreement dated between Buyer and Seller, and constitutes part of and is subject to the terms and provisions of such Master Contract for Differences Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Contract for Differences Agreement.

Product: *[tick only one]*

Baseload – For Trading Periods at the Contract Quantity arising in all hours.

Mid-merit – For Trading Periods at the Contract Quantity during the hours beginning at 07:30 and ending at 23:00 on Business Days and for Trading Periods on days that are not Business Days at 80% of the Contract Quantity.

Peak – For Trading Periods arising during the hours beginning at 16:30 and ending at 20:00 on all days during, October, November, December, January, February and March at the Contract Quantity.

Contract Quantity and Strike Price: The Contract Quantity and Strike Price for this Transaction are set out below.

| Trading Period Falling in Quarter | Strike Price [€/MWh] [£/MWh] | Contract Quantity (MW) |
|-----------------------------------|---------------------------------|---------------------------|
| Q4 2007 (11/07 – 12/07) | | |
| Q1 2008 | | |
| Q2 2008 | | |
| Q3 2008 | | |

[Seller]

Name: _____
 Title: _____
 Phone No: _____
 Fax: _____

Signature: _____
 Date: _____

[Buyer]

Name: _____
 Title: _____
 Phone No: _____
 Fax: _____

Signature: _____
 Date: _____

SCHEDULE 7

LETTER OF CREDIT

**EURO/STERLING IRREVOCABLE STANDBY LETTER OF CREDIT
TEMPLATE**

Issuing bank:

Beneficiary:

Dear Sirs,

We hereby issue our irrevocable Standby Letter of Credit No. by order of (applicant), for a maximum total amount of **[insert amount of Margin Call]** EUR/Sterling..... (in words.....) which expires at our counters on [insert date] subject to extension as described below.

This irrevocable Standby Letter of Credit is available by payment at sight against presentation of the following document:

A Beneficiary statement worded as follows:

"The Seller under the Master Contract for Difference Agreement [dated()] (the "Beneficiary") hereby states that [insert applicant's name] is a "Defaulting Party" as defined under that Agreement in default of its financial trading commitments and as a result we hereby claim[insert amount being claimed] under Standby Letter of Credit number..... issued by[insert name of Issuing Bank]. Payment in respect of this claim shall be effected immediately to [insert relevant account details]. We confirm that the signatory(ies) to this statement are empowered to sign and make this claim on behalf of the Beneficiary."

Additional conditions:

(A) Partial drawings are allowed.

(B) It is a condition of this Standby Letter of Credit that its expiration date shall be automatically extended from its initial expiration date, or any extended expiration date, for successive one year periods unless we notify you at least ninety but not more than one hundred twenty days prior to the then current expiration date, sent by a nationally recognised next business day courier or delivery service to you at your address stated above (or such other address as an authorised officer of your organisation notifies in writing) that we elect not to extend this Standby Letter of Credit for such additional one year period.

(C) The Beneficiary's statement must be made on original letterhead paper of the Beneficiary and signed on its behalf.

Provided such notice is received by us no later than 14.00 hrs on any weekday on which banks are open for business in Dublin or Belfast, we shall make payment under this Standby Letter of Credit for same day value on that day in accordance with such notice.

All bank charges are for the account of the applicant.

Except where otherwise expressly stated, this Standby Letter of Credit is subject to the International Standby Practices (ISP98), International Chamber of Commerce Publication No. 590, according to the latest version on the date of the issuance of this Standby Letter of Credit.

We hereby waive any right to set off against any amounts payable under this Standby Letter of Credit any claims we may have against the Beneficiary.

[GOVERNING LAW AS APPLICABLE]

Yours faithfully,
Issuing Bank

.....