

Offshore Electricity Transmission: Updated Proposals for the Competitive Tender Process

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Annex 1 – Draft Template Pre-Qualification Document

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Target audience: All with an interest in renewable energy and offshore electricity transmission.

Overview:

We are working together with the Government to introduce a new regulatory regime for offshore electricity transmission. A key part of the proposals for this regime is that offshore electricity transmission licences would be granted on the basis of a competitive tender process. The Government has decided that Ofgem should manage this process.

This document updates our proposals for managing this competitive tender process. We are also consulting for the final time on the draft regulations that would provide the legislative framework to enable this process.

This annex contains our draft template Pre-Qualification document for the transitional regime.

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The Office of Gas and Electricity Markets

Offshore Electricity Transmission

**Pre-Qualification Document
2009 Transitional Tenders
Version 1.2**

IMPORTANT NOTICE

The Prequalification Document is issued by the Office of Gas and Electricity Markets ("Ofgem") pursuant to the Gas and Electricity Authority's powers under [section 6C] of the Electricity Act 1989, as amended, and section [] of the [insert tender regulations title].

The Prequalification Document has been prepared and issued to Applicants for their sole use and for the sole purpose of assisting them to make a written Prequalification Submission in accordance with Ofgem's requirements and is not intended to provide the basis of any investment decision. This Prequalification Document is not intended to be considered as an investment recommendation by Ofgem or by any of its advisers. Each person to whom this Prequalification Document is made available must make his own independent assessment of the Project(s) after making such investigation and taking such professional advice as they deem necessary.

The copyright in this Prequalification Document and information contained within it is vested in Ofgem and may not be reproduced, copied or stored in any medium without the prior written consent of Ofgem, other than for the purpose of making a Prequalification Submission or carrying out the Project.

Any Applicant who, in connection with a particular Project:

- (i) Offers or agrees to pay or give or does pay or give any sum of money, inducement or valuable consideration directly or indirectly to any officer of Ofgem, the GBSO, the Developer or any of their Related Parties for doing or having done or causing or having caused to be done any act or omission;
- (ii) Does anything which would constitute a breach of the Prevention of Corruption Acts 1889 to 1916;
- (iii) Canvasses Ofgem, the GBSO, the Developer or any of their Related Parties in connection with the Project; or
- (iv) Contacts any officer of Ofgem, the GBSO or the Developer prior to the selection of Applicants for the Qualification to Tender Stage about any aspect of the Project in a manner not permitted by the Prequalification Document (including without limitation a contact for the purposes of discussing the possible transfer of such officer to the employment of the Applicant for the purpose of the Project),

will be disqualified (without prejudice to any other remedies available to Ofgem and without prejudice to any criminal liability which such conduct by an Applicant may attract).

Applicants shall not undertake (or permit to be undertaken) at any time, whether at this stage, during the Qualification to Tender Stage, the ITT Stage or after the award of any Offshore Transmission Licence, any publicity activity with any section of the media in relation to any of the Projects other than with the prior written agreement of Ofgem. Such agreement shall extend to the content of any publicity. In this paragraph the word 'media' includes (without limitation) radio, television, newspapers, trade and specialist press, the internet and e-mail accessible by the public at large and the representatives of such media.

Where an Applicant intends to use sub-contractors it will be the responsibility of the Applicant to provide the sub-contractors with all necessary information, including (without limitation) in relation to the Prequalification Rules set out in this Prequalification Document.

Ofgem reserves the right to vary any element of the Tender Process, issue supplementary documentation or make additional arrangements at any time during the Tender Process to clarify any issue or amend any aspect of the Tender Process. All such supplementary documentation issued by Ofgem during the Tender Process will be deemed to form part of the Prequalification

Document to the extent indicated in the amendment. Ofgem may, at its absolute discretion, extend the Tender Process and postpone any submission date in the event of any such amendment.

Ofgem is not bound to accept any Bid ultimately made by Applicants.

It is the responsibility of each Applicant to ensure that they have all of the information they need to prepare their Prequalification Submission. While information provided by Ofgem and/or its Related Parties has been prepared in good faith, it does not purport to be comprehensive or to have been independently verified. Neither Ofgem nor any of its Related Parties makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the information provided. All such persons or entities expressly disclaim any and all liability (other than in respect of fraudulent misrepresentation) based on or relating to any such information or representations or warranties (express or implied) contained in, or errors or omissions from, the information or based on or relating to its use by the Applicant and/or any other third party.

Nothing in the Prequalification Document is intended to, or shall be deemed to, establish any partnership or joint venture between Ofgem and any Applicant.

Each Applicant will bear its own costs of participating in the Tender Process. Ofgem is under no obligation and does not agree to any liability to reimburse any Applicant, including without limitation any unsuccessful Applicant, for any costs, expenses, damages or losses incurred in connection with the Tender Process.

By accepting and participating in the Tender Process set out in the Prequalification Document each Applicant agrees to be bound by the rules and requirements set out in the Prequalification Document.

Ofgem requires all actual or potential conflicts of interest (including in particular those arising where a consortium member or adviser put forward by one Applicant is the same firm or company or is a member of the same group of companies as that put forward as a consortium member by another Applicant or is working or has worked for Ofgem on any of the Projects) to be resolved to Ofgem's satisfaction prior to the delivery of the Applicants' Prequalification Submission in response to the Prequalification Document. Failure to declare such conflicts and/or failure to address such conflicts to the reasonable satisfaction of Ofgem could result in an Applicant being disqualified.

The Prequalification Document does not constitute an invitation to tender ("ITT"). In due course, Ofgem expects to issue ITT Documentation for each Project. The Prequalification Document is designed to assist Applicants in deciding whether it wishes to prequalify for the Qualification to Tender Stage and subsequently the ITT Stage of any the Projects. ITT Documentation for a particular Project will be issued to those Applicants which successfully qualify for the ITT Stage of that Project on the basis of the processes and requirements set out in the Prequalification Document and Qualification to Tender Document.

Legal, technical and financial advisers are acting for Ofgem in relation to the Tender Process and will not regard any other person as their clients or be responsible to anyone other than Ofgem for providing the protections afforded to their clients, or for advising any other person on the Tender Process or any matter related to it.

CONTENTS

[To add]

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1. INTRODUCTION TO THE PROJECT AND TENDER PROCESS

1.1 Framework

[Note: It is intended that this section will set out a high level short summary of the regulatory framework for offshore electricity transmission.]

- 1.1.1 Primary Legislation
- 1.1.2 Secondary Legislation (e.g. the Tender Regulations)
- 1.1.3 Licences
- 1.1.4 Industry Codes and Technical Standards

1.2 Roles

[Note: It is intended that this section will set out a summary of the roles which the key parties will have in the Tender Process.]

- 1.2.1 Ofgem
- 1.2.2 GBSO
- 1.2.3 Developer

1.3 Overview of Project

[Note: An Applicant will be required to indicate which Project(s) it wishes to prequalify for in a tender round, and therefore project profiles containing high level information in respect of each Project will be made available. This section will set out where and how the Applicant may access the project profiles which will be available electronically. This information available will include:

- **High level information about each offshore project in the tender round (such as capacity and location);**
- **Ofgem's ex-ante cost assessment for each project in the tender round; and**
- **A high level overview of the prevailing industry legislation and governance requirements, including industry codes, technical standards and the offshore transmission licence.]**

1.4 Overview of Tender Process

1.4.1 Prequalification Stage

Each Applicant must submit its Prequalification Submission, including its response to the PQ, in accordance with the instructions set out in this Prequalification Document. Each Applicant is requested to indicate in its Prequalification Submission the Projects for which it wishes to bid. Ofgem will evaluate all complete and compliant Prequalification Submissions as described in paragraph 2.3 against a set of defined minimum thresholds. Successful Applicants will be those whose Prequalification Submission meets all the defined minimum thresholds. Ofgem will notify the Applicants of all those who have successfully prequalified to enter the Qualification to Tender Stage by publishing a long list of those Applicants who have met the necessary minimum thresholds.

1.4.2 Qualification to Tender Stage

All Applicants who meet the necessary minimum thresholds at the Prequalification Stage will be invited to enter the Qualification to Tender Stage. On entering a confidentiality agreement [in respect of each Project it wishes to

qualify for] to the satisfaction of Ofgem, the Applicants in the Qualification to Tender Stage will be given access to an information memorandum in respect of each such Project. The information memorandum for a Project will contain a detailed overview of that Project. Each Applicant must submit its Qualification to Tender Submission, including its response to the QTT Questionnaire, in respect of each Project it wishes to qualify for and in accordance with the instructions set out in the Qualification to Tender Document. Ofgem will evaluate all complete and compliant Qualification to Tender Submissions separately in respect of each Project and on the basis of a defined scoring methodology, as further described in the Qualification to Tender Document. The Applicants for a Project will be ranked in accordance with their scores, and Ofgem will invite the highest scoring Applicants to bid at the ITT Stage of that Project. [Ofgem intends to invite up to a maximum of 5 Bidders to bid at the ITT Stage of a Project.] Each Applicant will be informed of the outcome of Ofgem's evaluation and will be offered feedback on its Qualification to Tender Submission(s).

1.4.3 ITT and Responses

All Applicants who successfully qualify to tender (the "Bidders") for a Project will be invited to tender for that Project. The ITT Documentation setting out the Project requirements and ITT Rules for the Tender Process will be distributed to all Bidders who will be invited to submit their Compliant Bids for the Project by [date]. Ofgem will evaluate all complete Compliant Bids submitted and intends to select a Preferred Bidder following its evaluation. Each Bidder will be informed of the outcome of Ofgem's evaluation, and will be offered feedback on its Bid.

1.4.4 Optional BAFO

If Ofgem shortlists a number of Bidders as potential Preferred Bidders following the evaluation of the Bids, Ofgem may invite those shortlisted to further refine their Bids in a BAFO stage. This is an optional stage in the Tender Process and will only be included where Ofgem considers it would be helpful and/or beneficial to do so.

1.4.5 Preferred Bidder

Once a Preferred Bidder is selected there will be a short period of time during which the Preferred Bidder must demonstrate to Ofgem that it has the following arrangements in place:

- (A) Funding arrangements;
- (B) Legal consortium formation (if applicable), including constitution and shareholding arrangements;
- (C) Internal board and other approvals necessary;
- (D) Key subcontracting arrangements; and
- (E) Necessary land arrangements- both offshore and onshore.

These requirements will need to be demonstrated and any outstanding issues resolved to the satisfaction of the Authority before the award of the Offshore Transmission Licence can be made.

1.4.6 Financial Close/Licence Award

Once the Preferred Bidder has satisfied each of its requirements to the satisfaction of the Authority, financial close will be arranged.

[Note: This paragraph will summarise the process and key actions at this stage of the Tender Process. How financial close will in practice happen may depend on the type of funding involved.]

1.4.7 Responsibility for Meeting Costs of Tender Process

Each Applicant is responsible for its own costs of developing and submitting its Prequalification Submission, its Qualification to Tender Submission(s), and if selected as a Bidder, its Bid(s). Each Applicant and Bidder is also required to make prescribed non-refundable payments to Ofgem at the Prequalification Stage and ITT Stage respectively. For the avoidance of doubt, an Applicant/Bidder will be required to make payments to Ofgem in respect of each Tender Process it participates in. The successful Bidder will also be required to make a non-refundable payment to Ofgem on the award of an Offshore Transmission Licence.

The payments that will be required to be paid are as follows: (*indicative only at this stage*)

- Each Applicant will be required to pay Ofgem £5,000 at the Prequalification Stage;
- Each Bidder will be required to pay Ofgem £35,000 at the ITT Stage for each Project for which it wishes to submit a bid;
- Each preferred bidder will be required to pay Ofgem £150,000 when appointed;
- Each successful Bidder will be required to pay Ofgem £250,000 on the award of an Offshore Transmission Licence.

1.4.8 Timetable

Ofgem intends to follow the indicative timetable set out below:

[*insert timetable*]

2. INSTRUCTIONS TO APPLICANTS

2.1 Preliminary Requirements

2.1.1 Consortium Applicants

It is anticipated that in many cases, single organisations will make Prequalification Submissions. However, single organisations may consider that the resources, range and depth of skills required for a Project are such that they wish to collaborate to form a consortium, with a lead organisation or special purpose vehicle ultimately being issued the Offshore Transmission Licence. Consortium applications are equally welcome. Where a special purpose vehicle is proposed, Ofgem does not require the consortium to form that vehicle at this stage, although it will need to do so prior to the award of the Offshore Transmission Licence.

2.1.2 PQ

- (A) The PQ has been produced to enable Ofgem to evaluate the financial robustness, legal standing and managerial capabilities of the Applicant against defined minimum thresholds. Ofgem will also evaluate an Applicant's financial strength against the total investment the Applicant is proposing, and therefore the PQ also requires Applicants to indicate the Projects for which they wish to bid.
- (B) Ofgem anticipates that it may receive Prequalification Submissions both from single entities and from groups of entities which have joined together in consortium.
- (C) Questions in the PQ which are required to be completed by the Applicant should be answered by: in the case of an Applicant which is a single entity, that entity; and in the case of an Applicant which is a consortium, the lead member of that consortium.
- (D) Certain questions in the PQ are [identified as] only [being] relevant to consortium Bids. The lead member of the consortium should answer these questions on behalf of the consortium as a whole. [Also, certain information is required in respect of each consortium member and where this is the case this is specified.]
- (E) In respect of a Prequalification Submission by a consortium, the lead member of the consortium must ensure that information provided in respect of a particular consortium member is clearly identified as relating to that consortium member.
- (F) Ofgem recognises that in the case of a consortium not every consortium member will, for example, be able to provide examples of experience requested. Ofgem's evaluation will look at the capabilities of the consortium taken as a whole.
- (G) The PQ should be completed in English.

2.1.3 Clarification

Applicants may make requests to Ofgem for clarification on any aspect of the Prequalification Document. Any and all such requests must be submitted by Applicants to the Offshore Transmission Tender Co-ordinator via the Enquiry Form, which will be available on the Offshore Transmission electronic tendering portal

[www.ofgem.bravosolution.co.uk], no later than [date]. Applicants should not contact any other member of staff, representative or adviser of Ofgem without prior written approval from the Associate Director Offshore Transmission or the Head of Tenders and Transactions Offshore Transmission. Requests for such contact should be submitted to the Offshore Transmission Tender Co-ordinator via the Enquiry Form referred to in Appendix E.

2.1.4 Consortium Changes

It is anticipated that where an Applicant is a consortium, that consortium may wish to adjust its configuration and/or membership or a single entity Applicant may wish to form a consortium between the Prequalification Stage and submitting a Qualification to Tender Submission for the Qualification to Tender Stage. Applicants may propose such changes and where they do Ofgem will reassess [certain] [all the] prequalification criteria at the Qualification to Tender Stage.

2.2 Prequalification Submission

2.2.1 Deadline and Address for Prequalification Submission

The Prequalification submission will be made securely via the Offshore Transmission electronic tendering portal. The Prequalification submission must be fully submitted via the portal no later than [time] on [date].

In addition [two] CD-ROM electronic copies of each Prequalification submission must be packaged [insert packing details] and sent by [courier] to be delivered to the following address no later than [time] on [date]:

Offshore Transmission Tender Co-ordinator
Ofgem - London
9 Millbank, London,
SW1P 3GE

To be deemed compliant with the submission deadline the Applicants must submit their Prequalification submission via both the electronic tendering portal and separately in CD-ROM version in accordance with this paragraph. Failure to submit Prequalification submission in accordance with these requirements will result in exclusion from the tender.

Ofgem reserves the right to request the submission by Applicants of any or all parts of their Prequalification submission in hard copy format, provided Ofgem make this request no later than 4 weeks prior to the Prequalification submission deadline.

2.2.2 Detailed Instructions on Form and Contents of Prequalification Submission

Electronic submission of Prequalification Submission via the Electronic Tendering Portal will be in [PDF/Microsoft Word] format, except where explicitly requested in specific formats.

[Note: the detailed requirements and submission instructions for the Electronic Tendering Portal will be included here once the details are finalised and confirmed by Ofgem, as well as being available via the portal itself.

The electronic copies of Prequalification Submission in CD-ROM format should be provided on a single CD-ROM holding files in [PDF][Microsoft Word] format.

Each CD-ROM is to be contained in a hard case package. Both the CD-ROM and the casing are to be clearly labelled with the following:

- (A) Name of the Project
- (B) Name of the Applicant
- (C) The legal address of the Applicant
- (D) Date of Submission

Both electronic copies of Prequalification Submissions should be in English and contain the following:

- (A) A completed PQ in the form set out at Appendix B to this Prequalification Document;
- (B) A completed Applicant's Checklist in the form set out at Appendix C to this Prequalification Document;
- (C) A non-refundable payment of £5,000.

[Note: Any materials required to be included in the Prequalification Submission will be specified here.]

No other documents or information should be submitted with the completed Prequalification Submission.

2.2.3 Process for Amending Prequalification Submission

Ofgem will rely on the information provided by Applicants in their Prequalification Submissions (including but not limited to information concerning the members and structure of their consortia where relevant). If, at any time after the submission of the Prequalification Submission and before Ofgem publishes the long list of those Applicants who have prequalified for the Qualification to Tender Stage, there are any material or proposed changes to the information provided by the Applicant, the Applicant must advise Ofgem as soon as is reasonably practicable. For the avoidance of doubt, where an Applicant informs Ofgem of any such material or proposed change, Ofgem shall be entitled to evaluate or re-evaluate that Applicant's Prequalification Submission in light of that material or proposed change, and determine whether to proceed with that Applicant's Prequalification Submission, or whether to exclude that Applicant from the Tender Process as a result of the change. Where the Applicant fails to inform Ofgem of any change to the information provided by the Applicant, Ofgem reserves the right to re-evaluate that Applicant's Prequalification Submission and/or to exclude that Applicant from the Tender Process.

2.3 Prequalification Evaluation

2.3.1 Ofgem's Right to Seek Clarification/Further Information from Applicants

Following receipt of the Prequalification Submissions, Ofgem will undertake a completeness check. If Ofgem identifies any omissions from the information required to be provided by an Applicant it will notify the relevant Applicant and give that Applicant 48 hours to rectify the omission. Ofgem may also invite Applicants to clarify their Prequalification Submission at anytime.

2.3.2 Evaluation Process

- (A) Identification of Compliant Submissions

A Prequalification Submission will only be deemed a Compliant Submission if it includes all of the materials and fulfils all of the requirements set out in the Applicants' Checklist at Appendix C.

(B) Evaluation Criteria

Applicants must demonstrate that they meet defined minimum thresholds (i.e. on a pass/fail basis) in respect of the following financial and non-financial criteria:

Financial Criteria

- (1) Economic and financial standing, including an assessment of the financial robustness of the Applicant and the Applicant's understanding of investment economics;
- (2) Net assets test in respect of those Applicants who intend to fund the Project(s) on balance sheet, involving a measurement of the Applicant's total net assets and comparing it to the total indicative RAV of the Projects nominated by the Applicant.

[Note: Ofgem proposes that the total net asset worth must be greater than or equal to 120% of the total indicative RAV of the Projects. This is set out in more detail in Appendix 8 of the consultation document.]

- (3) Ability to raise finance in respect of those Applicants who intend to seek external funding, including an assessment of the Applicant's track record of raising finance and ability to raise the necessary finance for the total investment required for the Projects nominated by the Applicants;

[Note: This test is explained in more detail in Appendix 8 of the consultation document.]

Non-Financial Criteria

- (4) Legal compliance, including an assessment of the Applicant's compliance with relevant regulations and identification and assessment of potential conflict issues;
- (5) Management and operational capability, including an assessment of the Applicant's expertise in infrastructure management for assets of a similar size and complexity to the Project(s), the Applicant's capability for operating the OFTO, stakeholder management experience and delivery assurance;
- (6) Health and safety capability, including an assessment of the Applicant's understanding of the key Health & Safety requirements (including policies and experience).

[Note: Appendix 8 of the consultation document contains a full explanation of Ofgem's proposed evaluation criteria at the PQ Stage.]

2.3.3 Prequalifying Applicants to enter the Qualification to Tender Stage

- (A) The objective of the evaluation process is to assess the Prequalification Submissions in order to identify all the Applicants that meet each of the

defined minimum thresholds and may therefore enter the Qualification to Tender Stage.

- (B) Prequalification Submissions will be checked against the criteria for Compliant Submissions. Prequalification Submissions which satisfy the criteria for Compliant Submissions will proceed to the next evaluation stage as described in paragraph 2.3.3(C) below. Subject to paragraph 2.3.1 above, an Applicant whose Prequalification Submission does not satisfy the criteria for Compliant Submissions will have its Prequalification Submission rejected and such Prequalification Submission will not be considered at the next evaluation stage.
- (C) Compliant Submissions will then be evaluated against the evaluation criteria, as set out in paragraph 2.3.2(B), on a pass/fail basis. All Applicants that meet each of the defined minimum thresholds will prequalify to take part in the Qualification to Tender Stage.
- (D) Ofgem will notify the Applicants of the outcome of the evaluation by publishing a long list of those Applicants who have met all the minimum thresholds.
- (E) Successful Applicants will be required to enter into a confidentiality agreement before proceeding to the Qualification to Tender Stage of any Project.

2.4 **Exclusion/Unsuccessful Applicants**

2.4.1 Circumstances for Excluding Applicants from Tender Process

Ofgem reserves the right:

- (A) To reject any Prequalification Submission that, in Ofgem's opinion, fails to comply with the requirements for Prequalification Submissions set out in the Prequalification Document; and/or
- (B) To exclude any Applicant that fails to comply with the Prequalification Rules,

But Ofgem shall not be obliged to reject any such Prequalification Submissions or exclude any such Applicants in such circumstances.

2.4.2 Consequences of Exclusion/an Unsuccessful Applicant

In the event that an Applicant is excluded from the Tender Process, or a Prequalification Submission is unsuccessful, the relevant Applicant will not be invited to participate in the Qualification to Tender Stage of any Project;

2.5 **Confidentiality and the Freedom of Information Act 2000**

2.5.1 Potential Application of the FOIA to Information Provided by Applicants

- (A) The FOIA provides a general right of access to all information held by public authorities. Ofgem is subject to the FOIA.
- (B) Applicants are invited to identify which parts, if any, of the Prequalification Submission are provided to Ofgem in confidence and provide reasons why they consider the information is eligible for exemption under the FOIA and should be kept confidential.
- (C) Although Ofgem is not under any obligation to consult with an Applicant in relation to requests for information made under the FOIA, Ofgem will

endeavour to inform the relevant Applicant of requests wherever it is reasonably practicable to do so. However, all decisions about disclosure of information will be made at the sole discretion of Ofgem regardless of whether or not an Applicant has identified any information as being in its opinion, eligible for exemption.

- (D) For further information and guidance, Applicants' attention is drawn to the Lord Chancellor's Code of Practice issued under section 45 of the FOIA (see <http://www.dca.gov.uk/foi/codesprac.htm>).

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APPENDIX A: GLOSSARY

"**Applicant**" means an entity that submits a Prequalification Submission and/or a Qualification to Tender Submission;

"**Applicant's Checklist**" the checklist for Applicants at Appendix C to the Prequalification Document;

"**Authority**" means the Gas and Electricity Markets Authority;

"**BAFO**" means the best and final offer that may be requested by Ofgem from some or all of the Bidders;

"**Bid**" means each bid submitted to Ofgem in response to the ITT Documentation;

"**Bidder(s)**" means an entity invited to submit a Bid to Ofgem in response to the ITT Documentation, or in the case of a Bid which is accepted and in pursuance of which an Offshore Transmission Licence is granted, the Offshore Transmission Licensee;

"**Compliant Bid**" means a Bid that fulfils the criteria set out in the ITT Documentation;

"**Compliant Submission(s)**" means a Prequalification Submission that includes all of the materials and fulfils all of the requirements set out in the Applicants' Checklist at Appendix C;

"**Electricity Act**" means the Electricity Act 1989 as amended from time to time;

"**Developer**" means the person falling within sub-sections 6D(2)(a) and (4) of the Electricity Act who intends to develop an offshore generating station which has triggered the commencement of a Tender Process;

"**FOIA**" means the Freedom of Information Act 2000;

"**GBSO**" means National Grid Electricity Transmission plc, which acts as the system operator for the GB Transmission System pursuant to the terms of its Transmission Licence;

"**GB Transmission System**" means the system consisting (wholly or mainly) of high voltage electric lines owned or operated by Transmission Licensees and used for the transmission of electricity from one generating station to a sub-station or to another generating station or between sub-stations or to or from any inter-connector and includes any electrical plant or meters owned or operated by any Transmission Licensee in connection with the transmission of electricity;

"**Government**" means Her Majesty's Government in the United Kingdom;

"**ITT Documentation**" means, in respect of a particular Project, the document, including all appendices, annexes, schedules and other documents related thereto which will be delivered to each Bidder invited to Bid for that Project;

"**ITT Rules**" means the rules that each Bidder must comply with during the Tender Process from the ITT Stage onwards as detailed in the ITT Documentation;

"**ITT Stage**" means the period starting from the distribution of the ITT Documentation to Bidders by Ofgem, and including Bid preparation, submission and evaluation, and ending when either a Preferred Bidder is selected or BAFO documentation is distributed;

"**Licence Award**" means the grant of the Offshore Transmission Licence by Ofgem to the successful Bidder;

"**Offshore Transmission Licence**" means a licence granted pursuant to section 6(1)(b) of the Electricity Act in relation to the transmission of electricity offshore, where offshore means:

- (a) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea;

(b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964 and/or section 84(4) of the Energy Act 2004

and includes the Renewable Energy Zone and "**Offshore Transmission Licensee**" means the holder of an Offshore Transmission Licence "

"**Ofgem**" means the Office of Gas and Electricity Markets Authority;

"**OFTO**" means the owner of an offshore transmission system and the holder of a related Offshore Transmission Licence;

"**PQ**" means the prequalification questionnaire required to be completed and included with each Prequalification Submission;

"**Preferred Bidder**" means the Bidder determined by Ofgem, in its sole discretion and following its evaluation of the Bids received (including any BAFO submissions requested), as the Bidder it intends to award the Offshore Transmission Licence to in relation to the Tender Process;

"**Prequalification Document**" means this document prepared and issued by Ofgem pursuant to the Authority's powers under section [6C] of the [Electricity Act], and section [] of the [*insert tender regulations title*] for the purposes of prequalifying Applicants to the ITT Stage of the Projects;

"**Prequalification Rules**" means the rules that each Applicant must comply with during the Prequalification Stage of the Tender Process as detailed in the Prequalification Document;

"**Prequalification Stage**" means the period of a Tender Process starting from the publication of the Prequalification Document, including the preparation, submission and evaluation of Prequalification Submissions and ending once Ofgem has published the long list of Applicants who have prequalified for the Qualification to Tender Stage.

"**Prequalification Submission(s)**" means a Applicant's response to the Prequalification Document in the form and in compliance with the Prequalification Rules;

"**Project(s)**" means the management and operation of the offshore transmission system in respect of any of [*insert names of each Project in tender round*];

"**QTT Questionnaire**" means the qualification to tender questionnaire to be completed and included with each Qualification to Tender Submission;

"**Qualification to Tender Document**" means the document prepared and issued by Ofgem pursuant to the Authority's powers under section [6C] of the [Electricity Act], and section [] of the [*insert tender regulations title*] for the purposes of prequalifying Applicants to the ITT Stage of the Projects;

"**Qualification to Tender Rules**" means the rules that each Applicant must comply with during the Qualification to Tender Stage of the Tender Process as detailed in the Qualification to Tender Document;

"**Qualification to Tender Stage**" means the period of a Tender Process starting from Ofgem publishing the long list of Applicants who have pre-qualified, including the preparation, submission and evaluation of QTT Submissions and ending once Ofgem has notified the Applicants of its selection of Bidders for the Projects;

"**Qualification to Tender Submission**" means a Applicant's response to the Qualification to Tender Document in the form and in compliance with the Qualification to Tender Rules;

"**RAV**" means a regulated asset valuation calculated in accordance with Part 9 Clause 21 of the Tender Regulations;

"Related Party" or **"Related Parties"** means employees, officers, directors, stakeholders and suppliers of the associated party;

"Renewable Energy Zone" means the area designated as such under section 84(4) of the Energy Act 2004;

"Tender Process" means the competitive process run by Ofgem in order to identify a suitable entity to be awarded the Offshore Transmission Licence in relation to a particular Project;

"Tender Regulations" means [];

"Transmission Licence" means a licence issued under section 6(1)(b) of the Electricity Act.

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APPENDIX B: PREQUALIFICATION QUESTIONNAIRE

**The Office of Gas and Electricity
Markets
Offshore Electricity Transmission**

Prequalification Questionnaire

INTRODUCTION AND INSTRUCTIONS

Ofgem Reference Number – [insert details]

The PQ contains 6 sections.

Bid Compliance

Section A requests the Applicant to state the Projects for which it wishes to prequalify.

Section B requests the Applicant to confirm the ownership structure for the OFTO, specifically identifying any potential conflicts of interest.

Financial Information

Section C requests evidence to demonstrate adequate financial standing.

Section D requests evidence to demonstrate a track record of raising finance.

Non-Financial Information

Section E requests information on proposed compliance with relevant regulations and potential conflict issues.

Section F requests evidence to demonstrate a suitable management capability for operating the OFTO, demonstrating infrastructure management experience, [stakeholder management experience] and delivery assurance. This includes evidence to demonstrate an understanding of Health & Safety requirements and capacity to deliver.

A. Projects for which the Applicant wishes to prequalify

The Applicant should specify which of the following Projects it wishes to prequalify for.

[Note: A list of all the Projects in the tender round will be listed here. The list of Projects identified by the Applicant will remain confidential to Ofgem and will not be published as part of the long list at the conclusion of the PQ stage.]

B. General Information

This section requests evidence to demonstrate a suitable ownership structure for the OFTO, demonstrating that there is an efficient and legally robust decision-making process for the management of the proposed organisation, specifically identifying any potential conflicts of interest.

- B1 Name of the Applicant. In the case of an application by a consortium the Applicant is the organisation that will act as the lead consortium member. The names of the other consortium members should also be provided.
- B2 Name and contact details for the principal contact for the Applicant (including name, postal address, telephone, fax and e-mail address). Where the address provided is not an address in Great Britain, provide an address in Great Britain for service of documents.
- B3 State whether the Applicant is a public limited company, private limited company, overseas company, other body corporate, partnership, unincorporated association, sole trader or other entity (and in the last case give particulars of the legal status).
- B4 Where the Applicant is a body corporate, state the jurisdiction in which it is incorporated, its date of incorporation, its registered office and its registered number (or equivalent).
- B5 Where the Applicant is a body corporate, state the full names and home addresses of its current directors (including any shadow directors within the meaning of section 251 of the Companies Act 2006) or, where applicable, the corresponding officers.
- B6 Where the Applicant is a body corporate, state the name and registered office of any immediate and ultimate holding company of the Applicant and its current directors, and the name and registered or principal office of any parent undertaking (within the meaning of section 1162 of the Companies Act 2006).
- B7 Where the Applicant is neither a body corporate nor a sole trader, the name(s) and address(es) of the person or persons in whom effective control of the Applicant rests.
- B8 Where any person (other than a person whose name is given in response to question B5 or question B6) holds 20 per cent or more of any class of shares of an Applicant, the name and address of each such person, specifying in each case the number of shares so held and the percentage of the aggregate number of shares of that class represented thereby.
- B9 Give particulars of any licences under the Electricity Act or Gas Act 1986 held, or applied for (whether or not successfully) or intended to be applied for by the Applicant and, so far as is known to the Applicant by any Related Party.
- B10 Confirm that, and set out how, the organisation structure of the proposed licensee will be compliant with the relevant ring fencing provisions in the Offshore Transmission Licence.
- B11 Provide details of the Applicant's legal, financial, technical, communications or other key professional advisers in relation to the Project.
- B12 The Applicant must provide evidence [in the form set out in Appendix] that they are of good standing.

C. Financial and Economic Information

This section requests evidence to demonstrate adequate financial standing.

- C1 Provide copies of the previous three financial years' audited accounts, or for the period that is available if trading for less than three years.
- C2 Provide details of the Applicant's turnover relating to [*number*] projects/investments of comparable scale or structure in essential public infrastructure or regulated assets for the previous three financial years (or for the period that is available if trading for less than three years).
- C3 Provide details of the Applicant's Profit & Loss and cash flow relating to [*number*] projects/investments of comparable scale or structure in essential public infrastructure or regulated assets, for the previous three financial years (or for the period that is available if trading for less than three years).
- C4 If any Applicant's most recent audited balance sheet is more than ten months out of date, please include a copy of the chairman's half-yearly statement (if available) and a statement signed by the director responsible for financial matters setting out any known significant changes in the current financial position from the last available audited balance sheet.
- C5 Provide a statement, as at the date of the Applicant's most recent annual report and accounts of any contingent liability or loss (where not otherwise reported) that would require disclosure in accordance with International Accounting Standard 10.
- C6 Confirm whether it is proposed that the obligations of the Applicant in relation to the Project will be guaranteed by another entity, such as its ultimate holding company, and if so please also provide the information requested in questions C1 to C5 above in relation to that entity.
- C7 Provide details of the Applicant's public liability insurance and professional liability or indemnity insurance. The evidence should include the name of the insurers, policy numbers, expiry date, and limits for any one accident and the excesses under the policy.
- C8 Where the Applicant proposes to fund the Project(s) on balance sheet, provide evidence to demonstrate that the net assets of the Applicant are equal to or more than 120% of the indicative RAV of the totality of the Project(s) the Applicant has nominated in Section A.

D. Experience of Raising Finance

This section requests evidence to demonstrate a track record of raising finance.

- D1 Where external financing is proposed, provide evidence of the following:
- (1) That the Applicant has either (i) net assets of at least 100% of its Projected Equity Spend¹ or (ii) has a proven track record of raising equity totalling at least 100% of its projected Equity Spend in the last 5 years; and
 - (2) That the Applicant has a proven track record in the last 5 years of either (i) raising debt totalling at least 100% of its Projected Debt Spend² or (ii) investing in infrastructure assets or businesses with existing debt totalling at least 100% of its Projected Debt Spend, or (iii) a comfort letter from an A- rated financial institution stating their belief in the ability of the Applicant to raise the Projected Debt Spend.
- D2 Where external financing is proposed, please give details of the Applicant's experience of raising the finance required in comparable scale or structure of infrastructure projects.

¹ Ofgem proposes that Applicants will be required to define the proportion of the proposed total indicative RAV for the Projects nominated in Section A that they intend to finance through equity. Further detail on this is set out in Appendix 8 of the consultation document.

² Ofgem proposes that Applicants will be required to define the proportion of the proposed total indicative RAV for the Projects nominated in Section A that they intend to finance through debt. Further detail on this is set out in Appendix 8 of the consultation document.

E. Compliance with Relevant Regulations and Potential Conflict Issues

This section requests information on proposed compliance with relevant regulations and potential conflict issues.

- E1 Identify any potential conflicts of interest that may arise if the Applicant were selected.
- E2 Provide details of any court actions and/or industrial tribunal hearings in which the Applicant has been involved over the last three years.
- E3 Provide details of any material pending and/or threatened court actions and/or industrial tribunal hearings against the Applicant.
- E4 Provide details of any actual, pending or threatened regulatory enforcement action taken against the Applicant in any sector.
- E5 Either (i) give particulars of any and all criminal convictions of all individuals related to the Applicant for whom any details are required in the responses to questions in section B of this PQ (other than for offences under the Road Traffic Offenders Act 1988 or convictions in respect of which the person has become rehabilitated under the Rehabilitation of Offenders Act 1974) or (ii) provide a statement that there are no relevant convictions.
- E6 To the extent not already covered, during the last six years, have any prosecutions been instigated or threatened, cautions given, notices served or other action taken against the Applicant or individuals related to the Applicant for whom any details are required in the responses to questions in section B of this PQ for contraventions of environmental legislation (including town and country planning legislation)? If yes, please provide details (including in the case of prosecutions details of charges, dates and venues of hearings, verdicts of the court and penalties, if found guilty).

F. Operational and Management Capability and Experience

The section requests evidence to demonstrate a suitable management capability for operating the OFTO, demonstrating infrastructure management experience, [stakeholder management experience] and delivery assurance.

- F1 Provide a description of the Applicant's or relevant consortium members' experience obtained in the past five years in infrastructure ownership and management.
- F3 Provide details of any contracts to which the Applicant or relevant consortium members or sub-contractors are a party with a contract value in excess of £[] million where:
- There has been a failure to properly perform the services;
 - There has been a claim for damages;
 - Damages or performance deductions have been recovered or deducted, in either case only where the aggregate amount exceeds £[]; or
 - The contract has been terminated for default.

This statement should only take account of incidents in the past five years.

- F4 Provide details of the Applicant's or consortium's stakeholder management experience, including, but not limited to:
- Government agencies;
 - Regulatory authorities; and
 - Community groups.
- F6 Provide copies of the Applicant's or relevant consortium members' health and safety policy including general statement, organisational responsibilities and arrangements in the form of written safety codes of practice and safety instructions.
- F7 Have the Applicant or relevant consortium members been accredited under an accreditation scheme in relation to their proposed roles? If yes, please state which part(s) and supply a copy of the accreditation.
- F8 Provide details of any environmental and/or sustainability policy that the Applicant or relevant consortium members have adopted (including copies of any main policy documents).

[Note: As part of the non-financial criteria, applicants would be required to provide sufficient information at this stage to demonstrate that it would meet the minimum legal requirements required of all licensees. These would mirror the requirements set out in the Licence Application Regulations for licences granted under sections 6A and 6B of the Electricity Act 1989. Demonstration of these requirements would be important to ensure applications for all types of licence are treated on an equal basis].

APPENDIX C: APPLICANT'S CHECKLIST