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**Re: Offshore Electricity Transmission: Consultation on Draft Model Sale and Purchase Agreement and Draft Data Room Guidelines for Transitional Tenders**

Dear Richard,

Thank you for the opportunity to provide feedback on the draft Model Sale and Purchase Agreement along with the draft Data Room Guidelines. Our comments are confined to the SPA and are generic in nature as we expect to specifically negotiate acceptable terms and conditions in relation to each of our transitional projects. We note that the draft Data Room guidelines recognise that the information that will be provided will depend on each individual project's circumstances.

The model Sale and Purchase Agreement has been drafted as the sale and purchase of a business as a going concern. This does not seem appropriate for the sale of the offshore transmission assets. There is no intention that the assets will be run as a separate business prior to the sale. The agreement should merely provide for the sale of the assets and transfer of associated contracts, including related land rights and consents.

The basis for valuing the transmission assets is the cost the Vendor has incurred economically and efficiently in developing the assets. There is no reflection of the fact that the ownership and operation of the assets should be profitable. The balance of the warranties and representations provided by the Vendor to the Purchaser is therefore inequitable with the sale and transfer of assets as opposed to the sale of a business as a going concern. We expect warranties and representations provided by the Vendor to depend on and be limited to the specific warranties, representations and associated limitations of liability that have been obtained from third party contractors.

The restrictions on Vendor activities before completion will not be applicable if the wind farm is operational at Go Live. Where the project is being constructed the proposed activities may not be practicable, for example, consulting with the Purchaser in the

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exercise of any discretion under the Key Contracts or enabling access for inspections and testing.

There should be an opportunity to make further disclosures at the point of completion. This is essential to capture the exact position at the point of transfer. This may have implications on the timing for completion of the contract.

We look forward to discussing with you in more detail the project specific SPA's and in particular addressing the terms for the Developer to undertake operations and maintenance activities on behalf of the OFTO.

Yours sincerely

Guy Phillips  
Senior Project Developer