

# BRITNED

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## **BritNed Access Rules**

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## SECTION A: PARTICIPATION

A1: BritNed is the operator of the Interconnector but it may commission a third party to operate the Auctions and/or the processes in relation to the Secondary Market and Nominations on its behalf.

### A2: Eligibility

A2.1 A person wishing to participate in any Auction and/or Secondary Market, and wishing to use Interconnector Capacity shall comply with this Rule A2 and agrees to be bound by and comply with these Rules.

A2.2 To be eligible to participate in the Auctions, the Secondary Market and the Nominations process, a person must satisfy the following Eligibility Conditions:

- (a) be a party to a BritNed Participant Agreement (see Rule A8);
- (b) not have had its eligibility to participate suspended under Rule E6.3 (unless it has been reinstated under Rule A3.1);
- (c) have provided payment security in accordance with Rule B7;
- (d) have given its Standing Data to BritNed in accordance with Rule A8.6;
- (e) have established its interface between its Participant System and Kingdom in accordance with Rule A9 to the reasonable satisfaction of BritNed;
- (f) be a party to the following agreements:
  - (i) a Use of System Interconnector Agreement with NGET and the Framework Agreement established under CUSC;
  - (ii) a Framework Agreement as defined in the Balancing and Settlement Code; and
  - (iii) a BRP agreement with the Dutch Transmission System Operator whether with full or trading acknowledgement.

A2.3 A Participant may not submit any Bid in an Auction and/or participate in the Secondary Market and/or, as the case may be, Nominate, until BritNed has provided the Participant with a notice (“Eligibility Notice”) stating that BritNed is satisfied that the Participant has complied with the requirements of Rule A2.2.

A2.4 The Participant shall immediately (and in any case before submitting any Bid in an Auction and/or participating in the Secondary Market and/or, as the case

may be, Nominating) acknowledge receipt of the Eligibility Notice by e-mail to BritNed and upon receipt the Eligibility Notice will take effect.

- A2.5 Once the Eligibility Notice is effective, the Participant is eligible to participate in Auctions and the Secondary Market and/or, as the case may be, to make Nominations in accordance with Rule A2.3.

A3: Suspension and Reinstatement

- A3.1 A Participant, in receipt of a notice under Rule E6.3, is prohibited from submitting Bids in any Auction and/or participating in the Secondary Market and/or, as the case may be, from Nominating, from the date its eligibility is suspended until BritNed acknowledges receipt of a further Eligibility Notice.

A4: Regulatory and legal requirements

- A4.1 It is the responsibility of each Participant to ensure that it has complied with all requirements, including Applicable Laws and the requirements of any Competent Authority, and obtained all necessary authorisations in connection with its participation in Auctions and its use of Interconnector Capacity.

A5: Costs of participation

- A5.1 All Participants will participate in Auctions and/or the Secondary Market, and/or will Nominate at their own cost, expense and risk. BritNed will not be liable to any person (including Participants) for any cost, claim, or expense of any Participant in connection with the Participant participating in Auctions, Secondary Market and/or Nominations process.

A6: Participant Forum

- A6.1 BritNed will from time to time, and at least twice per year, invite Participants to meet with BritNed to discuss future Auctions and the commercial and operational aspects in relation to the Interconnector. Details of those who may attend the meetings, the agenda and location will be notified by BritNed within a reasonable time before the meeting.

A7: Collusion

- A7.1 There must be no collusion by any Participant with any other Participant and Participants must not otherwise seek improperly to influence the outcome of any Auction. As a result of evidence of collusive or other improper behaviour which might be considered as unlawful, BritNed will refer the matter to the relevant Competent Authorities or jurisdictions and, upon decision of the Competent Authority or jurisdiction that the Participant's behaviour is unlawful, may disqualify the relevant Bids.

A8: BritNed Participant Agreement

- A8.1 Any person (“Applicant”) may apply to enter into a BPA by submitting a completed Application Form to BritNed together with all the appropriate information and documents required by the Application Form.
- A8.2 The Applicant must complete one Application Form only and can only enter into one BPA at any one time. The form of the Application Form and the requirements for its completion shall be specified by BritNed from time to time and as a minimum will require the Participant to identify itself and provide its contact details and names of authorised representatives as well as its agreement to participate in Auctions at their own cost and expense. These documents shall apply until terminated in accordance with the terms of these Rules and may be amended from time to time.
- A8.3 Once the Applicant has submitted an Application Form and sent the relevant information required under this Rule A8, the Applicant shall sign the BPA and send it in triplicate to BritNed. BritNed will return one copy of the BPA executed by them to the Applicant within 20 Business Days of the BPA being received. Execution of the BPA by BritNed will not waive any Eligibility Condition and does not itself confer Eligibility or indicate compliance with any other Eligibility Condition.
- A8.4 BritNed may ask an Applicant to provide additional or outstanding information reasonably required to enable BritNed to execute the BPA (for example if the Applicant fails to include all necessary information with its Application Form). In such case, the 20 Business Days referred to in Rule A8.3 ceases to run from the date of the request until the information is provided.
- A8.5 BritNed may refuse to enter into a BPA with an Applicant if:
- (a) BritNed has previously terminated a BPA with the Applicant pursuant to Rule E6.7 as a result of a failure by the Participant (as it was at the time) to pay any amount owed under or in connection with these Rules and the Participant has not paid all amounts owed by it to BritNed in connection with that termination;
  - (b) the act of the Applicant causes BritNed to breach any condition of the BritNed Interconnector Licence; or
  - (c) the act of the Applicant causes BritNed to breach any condition of the Dutch or British Electricity laws or regulations.
- A8.6 Applicants and Participants must provide BritNed with the data and information in Schedule 3 (“Standing Data”) before they are eligible to participate in any Auction. Initially, the information will be provided by Participants in their Application Forms.
- A8.7 An Applicant or a Participant must notify BritNed if there is any change to the Standing Data at least 10 Business Days before the change comes into effect

and, where that is not possible, as soon as practicable after the Participant becomes aware of the change.

- A8.8 An Applicant or Participant must notify BritNed if it does not consent to BritNed publishing its name as Unit Holder for the facilitation of the Secondary Market.
- A8.9 Each Participant must ensure that all data and other information that it provides to BritNed pursuant to these Rules (including information in its Application Form) is and remains accurate and complete in all material respects and must promptly notify BritNed of any change.

#### A9: Participant Systems

- A9.1 Each Participant must establish and maintain, at its own cost, its own Participant Systems. BritNed shall have no liability in the event that the Participant's System fails, for any reason, to communicate with Kingdom.
- A9.2 BritNed will give Participants the information (including updates as applicable) reasonably necessary to enable Participant Systems to interface with Kingdom.
- A9.3 Each Participant must demonstrate to the reasonable satisfaction of BritNed its ability to exchange information with Kingdom before being eligible to participate in the Auctions, the Secondary Market and the Nominations process.
- A9.4 BritNed shall endeavour, where possible, to give access to Participants to a Kingdom test platform to test their interfaces.
- A9.5 BritNed may from time to time, where reasonably necessary for the purpose of protecting the security and authenticity of communications under these Rules, including those between Kingdom and Participant Systems, establish communication protocols and standards with which Participants must comply.
- A9.6 Participants accept that data sent to Kingdom is binding, and that Participants are fully responsible for those individuals who have access to Kingdom on behalf of the Participant.
- A9.7 Standard Training for the use of Kingdom is available to the Participant upon request to BritNed. BritNed will discuss with the Participant the training required in order to determine the nature and extent of such request. When the scope of the required training is agreed, BritNed will use reasonable endeavours to organise such Standard Training to commence within 10 Business Days of such agreement. Standard Training for the use of Kingdom is available to the Participants free of charge.

## **SECTION B: FINANCIAL MATTERS**

## B1: Payments

- B1.1 Each Participant must pay BritNed the Unit Prices for all Unit Quantities acquired even if all or some of the Units have been Resold or Capacity Transferred as set out in Rule D3, D4 and D5, or if the Participant does not use the corresponding Interconnector Capacity.
- B1.2 All prices and payments referred to in Rule B1 are indicated and shall be paid in euros, except for the Transmission Pass-Through Charge described in paragraph B1.3.
- B1.3 Each Unit Holder must, in addition to the payment of Units, pay the Transmission Pass-Through Charges and the Dutch Imbalance Charge in relation to the Interconnector. The basis of the Transmission Pass-Through Charges and Dutch Imbalance Charge is described in BritNed's annual charging methodology statement. BritNed will invoice separately for the Transmission Pass-Through Charge and Dutch Imbalance Charge. The Transmission Pass-Through Charge must be paid in pounds sterling to the bank account notified in the invoice and the Dutch imbalance Charge must be paid in Euros to the bank notified in the invoice.

## B2: Invoices

- B2.1 No later than the eleventh Business Day of each month, BritNed shall send by post (or by any other means as indicated from time to time by BritNed) to the Participant an invoice or credit note stating:
- (a) the monthly instalments payable by the Participant in respect of the portion related to month M+1 of Medium Term Units, the Product Period of which is equal or greater than one month, and the allocation of which will have taken place before the 3<sup>rd</sup> Business Day of month M. The monthly instalment payable is calculated as the product of the Unit Quantity and the Unit Price across the total Product Period, pro rated by one month over the total number of months in the Product Period, rounded down to the nearest Euro cent for each monthly instalment, with the balance in the last monthly instalment. For example, a Unit with Product Period of a calendar year allocated before the 3<sup>rd</sup> Business Day of December will be invoiced in twelve (12) monthly instalments, starting in December and ending in November of the following year;
  - (b) the monthly instalments payable by the Participant in respect of the portion related to month M of Medium Term Units, the Product Period of which is equal or greater than one month, and the allocation of which will have taken place after or on the 3<sup>rd</sup> Business Day of month M-1. The monthly instalment payable is calculated according to the same rule as in Rule B2.1(a);

- (c) the amount payable by the Participant in respect of Units, the Product Period of which is less than one (1) month and starts in month M-1, calculated as the product of the Unit Quantity and the Unit Price;
- (d) the monthly instalments payable by BritNed to the Participant in respect of the portion related to month M+1 of Units Resold in Medium Term Auctions, the Product Period of which is equal or greater than one month, and the allocation of which will have taken place before the 3rd Business Day of month M. The monthly instalment receivable is calculated as the product of the Resold Unit Quantity and the Unit Resale Price, prorated by one month over the total number of months in the Product Period, rounded down to the nearest Euro cent for each monthly instalment, with the balance in the last monthly instalment. For example the Resale of a Unit having a Product Period from January to March is credited in 3 monthly instalments, starting in December the year before and ending in February;
- (e) the monthly instalments payable by BritNed to the Participant in respect of the portion related to month M of Units Resold in Medium Term Auctions, the Product Period of which is equal or greater than one month, and the Resale of which will have taken place after or on the 3rd Business Day of month M-1. The monthly instalment receivable is calculated according to the same rule as in Rule B2.1(d);
- (f) the amount payable by BritNed in respect of the Units Resold in Auctions, the Product Period of which is less than one month and starts M-1, calculated as the product of the Resold Unit Quantity and the Unit Resale Price;
- (g) the amount payable by BritNed in respect of Unused Units (as set out in Rule D6), and in respect of Contract Days within M-1, calculated as the product of the Unused Unit Quantity and the compensation as defined in Rule D6;
- (h) where practicable, the notification of the portion related to month M-1 of the Units subject to Capacity Transfer by or to the Participant;
- (i) any amounts payable or credits due to the Participant by BritNed under Rule D9 (Curtailed Reconciliation);
- (j) any amount payable by the Participant to BritNed for any training requested by the Participants, in addition to the Standard Training provided to the use of Kingdom pursuant to Rule A9.7;
- (k) any Taxes payable by the Participant or BritNed in respect of amounts in the invoice;
- (l) the total amounts payable by the Participant to BritNed under that invoice (or receivable by the Participant from BritNed under that credit note); and



(m) any other information required to be included in the invoice under English or Dutch law.

- B2.2 Where an invoice issued by BritNed does not contain full background data for the derivation of invoice summary amounts, then the Participant may consult Kingdom to obtain such background data.
- B2.3 In case of a debit, the Participant must pay the full value invoiced to it under this Rule B2 in full, free of any charge, set off or counterclaim, by the due date for payment, even if it disputes any amount in the invoice, by making payment to the bank account notified from time to time to the Participant by BritNed for the purpose of these Rules.
- B2.4 In case of a credit note, BritNed must pay the full value invoiced to it under this Rule B2 in full, free of any charge, set off or counterclaim, by the due date for payment, even if it disputes any amount in the invoice, by making payment to the bank account notified from time to time to BritNed by the Participant for the purpose of these Rules.
- B2.5 Payments are due no later than fourteen (14) calendar days after the date of issuance of the invoice. If the day that payment is due is not a Business Day, then the payment is due on the next Business Day.

B3: Payment disputes

- B3.1 Subject to Rule B5, if a Participant disputes an invoice (or credit note) rendered under Rule B2, then it must as soon as practicable and in any event within ten (10) Business Days after the date of issuance of the invoice (or credit note) notify BritNed by registered mail and/or by electronic mail of the nature of the dispute and the amount in dispute. The notification of a dispute does not suspend any obligation to pay the amounts invoiced. If the Participant and BritNed are unable to resolve the difference within ten (10) Business Days of the notice then such difference will constitute a Dispute which will be submitted for resolution in accordance with Rule E8 (Dispute resolution).
- B3.2 If it is agreed or determined pursuant to Rule E8 that an amount paid by the Participant was not properly payable then BritNed will refund such amount to the Participant no later than twenty (20) Business Days after the agreement or determination.
- B3.3 If it is agreed or determined pursuant to Rule E8 that an amount paid by BritNed was not properly payable then the Participant will refund such amount to BritNed no later than twenty (20) Business Days after the agreement or determination.

B4: Late payments

- B4.1 Without prejudice to the other rights of BritNed and Participants, interest will be charged without further notice on amounts due for payment by a Participant or by BritNed but unpaid at the date due for payment at the rate of five percent

(5%) per annum above the interest rate applied by the European Central Bank for the main refinancing operations. This interest shall be charged from the date due for payment until the date of actual payment. In all cases the minimum amount to be charged for late payment is one hundred Euros (€100). Interest will be charged without further notice. Interest will be increased to include taxes and levies in force.

#### B5: Payment Incident

B5.1 Without prejudice to the other rights of BritNed, if any amounts due for payment by the Participant to BritNed are not paid in full by the Participant within five (5) Business Days after the due date for payment (“Payment Incident”), BritNed will register a Payment Incident and inform the Participant by formal notice.

B5.2 Immediately after registering a Payment Incident pursuant to Rule B5.1, BritNed may invoke the Credit Cover.

B5.3 From the day of notice of a Payment Incident, the rights of the Participant to participate in Auctions or in the Secondary Market and to Nominate the Units that are the subject of the Payment Incident may be suspended by BritNed as set out in Rule E6.3. This suspension will run until the two following conditions are cumulatively met;

(a) the Participant pays BritNed all overdue invoices and all interests for late payments; and

(b) the Participant readjusts its Credit Cover as necessary to the level required pursuant to Rule B7.4 to cover its unpaid commitments.

Provided that the two above conditions are met BritNed will formally end the suspension by notice to the Participant as described in A3.1.

B5.4 The Participant agrees that, at anytime during the period of its suspension pursuant to rule B5.3, BritNed may Resell the Units acquired by it and that are the subject of the Payment Incident. In this event the proceeds of the Resale shall not be returned to the Participant, and BritNed shall not be liable for any direct or indirect loss or liabilities which the Participant may suffer or incur as a result of a Resale under this Rule.

#### B6: Taxes

B6.1 Taxes at the rate and to the extent applicable will be applied to all amounts invoiced under these Rules.

#### B7: Payment Security

B7.1 Credit Cover must be provided and in the amount calculated under Rule B7.4, in Euros and must be in the form of:

(a) a Letter of Credit; and/or

(b) a cash deposit in a Deposit Account established and notified by BritNed.

B7.2 If the Credit Cover is provided in the form of a Letter of Credit, the letter must have a validity period extending until at least one month after the first date on which the Participant, if its Bid is accepted, would be required to make a payment of an instalment for the Units acquired.

B7.3 Credit Cover that is provided by means of cash on deposit will receive interest, and be subject to relevant bank charges.

B7.4 The minimum amount of Credit Cover required by BritNed at any time shall be such that the Auction Credit Limit, as described in Rule B7.5, shall be greater than or equal to zero at all times.

B7.5 An Auction Credit Limit (“ACL”) is calculated for each Participant in respect of each Auction. A Participant will only be able to participate in an Auction if its Auction Credit Limit, in respect of that auction, is greater than zero. The Auction Credit Limit is calculated as follows:

$$ACL = CC - UNL$$

Where: CC = Credit Cover, as confirmed in place immediately prior to the Auction commencement.

UNL = Unpaid Net Liabilities, calculated as:  $UNL = UL - UC$ , where:

UL = Unpaid liabilities, in respect of Units allocated to the Participant, calculated at the commencement of the Auction in question. In respect of Units with a Product Period greater than one (1) month, one (1) continuous month of liability will be considered in this calculation from the day of allocation of the Unit until the day of payment of the last instalment of this Unit.

UC = Unpaid Compensations in respect of Units Resold and Unused Units, calculated at the commencement of the Auction in question. In respect of Units Resold in Auctions with a Product Period greater than one (1) month, one (1) continuous month of compensation will be considered in this calculation from the day of Resale of the Unit until the day of payment of the last instalment of this Unit.

For the purpose of Auction Credit Limit calculation, unpaid liabilities and unpaid compensations are increased to include the Taxes and levies in force.

B7.6 The potential maximum commitment associated with any Bid, taking into account Taxes and levies in force, will be assessed against the Auction Credit Limit. In the case of Medium Term Auctions with a Product Period greater than one (1) month, one (1) month of potential maximum commitment associated with the Bid will be considered. (For example, in an Auction with a

Product Period of a year where the Auction Credit Limit is one hundred Euros (€100), Bids will be permitted up to a level that creates a total Product Period commitment of one thousand and two hundred Euros (€1,200)).

- B7.7 Any Bid that breaches the Auction Credit Limit shall be automatically rejected, and the Participant may submit a revised lower Bid (provided the Bidding Period has not closed).
- B7.8 Any Bid submitted to an Auction will be used to calculate a revised Auction Credit Limit for any concurrent Auction.
- B7.9 A Participant may request an increase of its Credit Cover at any time. All such requests must be received and approved by BritNed. The increased Credit Cover shall be reflected in the Participant's Auction Credit Limit:
- (a) at the time specified by the Participant and approved by BritNed; or
  - (b) in the absence of any time specified by the Participant, within two (2) hours of BritNed's approval.
- B7.10 A Participant may at any time request a decrease of its Credit Cover, such request to specify a certain time in the future at which such decrease in Credit Cover is requested to take effect. All such requests must be received and approved by BritNed. Provided that the reduced value at the specified time does not cause the Auction Credit Limit to be reduced below zero (0) at such specified time then the requested decrease shall be approved by BritNed.
- B7.11 Where a Participant has requested a decrease of Credit Cover that is in the form of a cash deposit, and where such request has been approved by BritNed pursuant to Rule B7.10, the associated funds shall be returned to the Participant within ten (10) Business Days of the approval.
- B7.12 BritNed is entitled to call the Credit Cover of a Participant in the event of a Payment Incident pursuant to Rule B5.
- B7.13 If the Credit Cover of a Participant is called in accordance with Rule B7.12, and where such call would cause the Auction Credit Limit to fall below zero (0), the Participant shall restore the Credit Cover to at least the minimum amount required by Rule B7.4 within two (2) Business Days of the call.
- B7.14 If the Credit Cover of a Participant, in the form of a Letter of Credit, is due to expire, the Participant shall renew the Credit Cover to at least the minimum amount required by Rule B7.4 and with a Validity Period not less than thirty (30) Business Days before it is due to expire.
- B7.15 Where a Participant wishes to renew its Letter of Credit, it shall use its reasonable endeavours to achieve this by providing a new Letter of Credit and not an amendment to its existing Letter of Credit.

- B7.16 Without prejudice to the other rights of BritNed, if the Credit Cover is not renewed in accordance with Rule B7.14, or not restored in accordance with Rule B7.13, or a substitute Letter of Credit is not procured in accordance with B7.19, BritNed will register a Credit Cover Incident and inform the Participant by formal notice.
- B7.17 From the day of notice of a Credit Cover Incident, the rights of the Participant to participate in Auctions or in the Secondary Market and to Nominate Units may be suspended as set out in Rule E6.3. This suspension will run until the Participant restores its Credit Cover to the minimum amount required pursuant to Rule B7.4 and the Participant's eligibility is reinstated as described in A3.1.
- B7.18 The Participant agrees that, at anytime during its suspension pursuant to Rule B7.17, BritNed may Resell the Units that such Participant is prohibited from using during the period of such suspension in accordance with Rule E6.3. In this event the proceeds of the Resale shall not be returned to the Participant, and BritNed shall not be liable for any direct or indirect loss or liabilities which the Participant may suffer or incur as a result of a Resale under this Rule.
- B7.19 If the bank issuing a Participant's Letter of Credit ceases to have the requisite credit rating, the Participant shall within two (2) Business Days procure the issue of a substitute Letter of Credit by a bank that has such a credit rating or shall deposit cash in a Deposit Account.

## SECTION C: AUCTION RULES

### C1: Auctions

- C1.1. Subject to Rule C1.20, BritNed will use the following procedures for Auctions:
- (a) Auctions for Medium Term Units, using the procedure described in Rule C2;
  - (b) Auctions for Daily Units, using the procedure described in Rule C3; and
  - (c) Auctions for Intraday Units, using the procedure described in Rule C4.
- C1.2 The different types of Auctions referred to above in Rule C1.1(a) and in Rule C1.1(c) are explicit closed Auctions (i.e. Interconnector Capacity will explicitly be allocated to a Participant and Participants have no visibility of other Participants' Bids).
- C1.3 The type of Auctions referred to above in Rule C1.1(b) are explicit closed Auctions (i.e. Interconnector Capacity will explicitly be allocated to a Participant and Participants have no visibility of other Participants' Bids) and are performed only as fallback for the Daily Implicit Auctions not being available..
- C1.4 Each Auction will be of Units. Units will be divided into categories as specified by BritNed by designating, in respect of each category of Unit:
- (a) the direction of Units in that category, which will either be "GB to Netherlands" or "Netherlands to GB";
  - (b) the duration of the Product Period of Units in that category;
  - (c) the applicable Unit Validity Times of Units being sold in a relevant Auction;
  - (d) any other terms applicable to that category of Unit; and
  - (e) the Planned Outage Period, if any.
- C1.5 Each category of Unit will be auctioned separately. Units having non-overlapping Unit Validity Times may be auctioned in the same Auctions. Daily and Intraday hourly Units will be auctioned respectively in single Auctions. Separate Auctions may be conducted concurrently.
- C1.6 Where BritNed rewards any Bid by allocating one or more Units to a Participant in accordance with these Rules, then the Participant will acquire such Unit(s) for the Unit Price on the terms and conditions of these Rules and the relevant Auction Specification. The rights and obligations of Unit Holders are set out in these Rules.
- C1.7 The preliminary results will be published only on Kingdom:
- (a) for each Medium Term Auction as soon as practicable and within thirty (30) minutes after the end of the Bidding Period;

- (b) for each Daily Auction as soon as practicable and within twenty (20) minutes after the end of the Bidding Period;
- (c) for each Intraday Auction as soon as practicable and within ten (10) minutes after the end of the Bidding Period.

- C1.8 The preliminary results are non-binding and shall be for information purposes only.
- C1.9 Each Participant may consult only its own preliminary results on Kingdom. The preliminary results are detailed per Auction and per Participant.
- C1.10 Should BritNed not publish the preliminary results within the relevant timeframe, BritNed will keep the Participants informed of the new timeframe of publication and/or any other consequences related to the relevant results.
- C1.11 The Participant agrees to check the Auction results and, where reasonably appropriate, query Medium Term and Daily Auction results within the times as follows:
- for Medium Term Auctions: no later than two (2) hours after the Auction preliminary results have been published on Kingdom;
  - for Daily Auctions: no later than twenty (20) minutes after the Auction preliminary results have been published on Kingdom;

This time for checking is referred to in Kingdom as “contestation period”.

- C1.12 Any query pursuant to C1.11 has to be marked as such, supported with full details and be sent by e-mail or fax accompanied by a phone call to the BritNed helpdesk. Only queries where the Participant believes there is an error in the Auction results shall be considered.
- C1.13 If the Participant does not query the Auction result within the times specified in C1.11 and under the conditions specified above, the Participant agrees that it loses all rights to query such Auction results.
- C1.14 BritNed shall endeavour to reply to the Participant no later than:
- (a) four (4) hours after receipt of the query for Medium Term Auctions;
  - (b) two (2) hours after receipt of the query for Daily Auctions.
- C1.15 Due to time constraints in Intraday process, there is no time for checking after an Intraday Auction. Any query of an Intraday Auction result shall be considered as a Dispute and must be made in accordance with Rule E8. Only queries where the Participant believes there is an error in the Auction results shall be considered.

C1.16 BritNed will publish on Kingdom the final results:

- (a) for each Medium Term Auction as soon as practicable and within thirty (30) minutes after the end of the period dedicated to checking of Auction results;
- (b) for each Daily Auction as soon as practicable and within thirty (30) minutes after the end of the period dedicated to checking of Auction results; and
- (c) for each Intraday Auction as soon as practicable and within fifteen (15) minutes after the end of the Bidding Period.

C1.17 The final Auction results are binding.

C1.18 The final Auction results shall comprise:

- (a) each Participant's own final Auction results, available only to that Participant on Kingdom, with the number of Units allocated to that Participant in the Auction and the Unit Prices;
- (b) the Auction's statistics, available to all Participants on Kingdom, which shall comprise the Auction Price and the total number of allocated Units;
- (c) unless otherwise notified by the Participant in respect of Rule A8.8, BritNed may publish a list of Units Holders for facilitation of the Secondary Market.

C1.19 Should BritNed not publish the final Auction results within the relevant timeframe, BritNed will keep Participants informed of the new timeframe of publication and/or any other consequences related to the relevant results.

C1.20 Auctions will be conducted electronically via Kingdom except in case of Kingdom failure as described in Rule C1.21.

C1.21 If Kingdom fails, and in the reasonable opinion of BritNed it is not practical to conduct an Auction electronically, BritNed may allocate the Units using a procedure for conducting the Auctions by email or fax to be specified by BritNed.

C1.22 In the unlikely event of unavailability or technical difficulties, BritNed may be forced to cancel an Auction:

- (a) before and during the course of the Auction itself: Participants are informed by a message that appears directly on Kingdom or by an electronic message;
- (b) after the preliminary Auction results have been published, in the event of erroneous results: Participants are informed by an electronic message. The results of the Auction are thereupon cancelled;

C1.23 BritNed shall notify the Participants as soon as possible of the reasons which caused the Auction cancellation.



- C1.24 With the exception of Intraday Auctions, BritNed may defer the dates or times of an Auction by notifying Participants of the revised date or time of such Auction. In this event, the Bidding Period will open and close at the revised time as notified by BritNed. Only Bids submitted during the revised Bidding Period and confirmed by BritNed will be valid.
- C1.25 If the fallback procedure described in C1.21 cannot, in the reasonable opinion of BritNed, and based on objective grounds (for example due to a lack of time or to technical difficulties), be implemented as necessary to enable an Auction to be conducted, the Auction will be deferred.
- C1.26 If deferral of an Auction is not considered by BritNed as being possible, based on objective grounds (for example due to a lack of time or to technical difficulties), the Auction will be cancelled and all Bids already submitted will automatically be cancelled.
- C1.27 The effect of a cancelled auction on Resales and UIOSI are specified in Rules D4.19 and D6.4.

C2: Medium Term Auctions

- C2.1 BritNed will conduct Medium Term Auctions in accordance with this Rule C2 for Units having a Product Period longer than one Contract Day.
- C2.2 The list of Medium Term products available at the time of entry into force of these Rules is annexed in Schedule 6.
- C2.3 BritNed will give reasonable notice of Medium Term Auctions referred to in Rule C2.1 by publishing, before the first of October each year, a provisional calendar with the dates and indicative Offered Capacity values for all Medium Term Auctions for the following calendar year.
- C2.4 The number of Units auctioned in a Medium Term Auction will include:
- (a) a proportion (as determined by BritNed) of the available Interconnector Capacity (in the form of Units) not already allocated to Participants; and
  - (b) Resale Units (if any) made available for Resale at such Medium Term Auctions pursuant to Rule D4.
- C2.4.1 At least five (5) Business Days before the day of the start of the Bidding Period of a Medium Term Auction, BritNed will publish the initial Auction Specification for that Medium Term Auction stating in particular:
- a. the code identifying the Auction in Kingdom;
  - b. the provisional number of Units to be made available in the Auction;

- c. the Product Period of the Units, by specifying the time and date on which the right to use the Units commences and the time and date on which the right to use the Units ends;
- d. if necessary, any Planned Outage Period(s) associated with this Product Period;
- e. the Unit Validity Times;
- f. the dates and times of the Bidding Period for that Auction; and
- g. any other relevant information or terms applicable to the Units or the Auction.

The Offered Capacity in this initial Auction Specification does not include Units submitted by any Unit Holder for Resale at this Medium Term Auction.

C2.4.2 At least thirty (30) minutes before the opening of the Bidding Period of a Medium Term Auction, BritNed will publish the final Auction Specification for that Medium Term Auction stating in particular:

- a. the Offered Capacity (in the form of Units) to be made available in the Auction, comprises of:
  - (i) the proportion (as determined by BritNed) of the available Interconnector Capacity not already allocated to Participants, and
  - (ii) valid Resale Requests submitted for this Medium Term Auction in accordance with Rule D4; and
- b. any other update of relevant information or terms applicable to the Units or the Auction.

C2.5 The Bidding Period for each Medium Term Auction will be at such times specified by BritNed in Schedule 4 of these Rules and/or in the relevant Auction Specification. In case of contradiction between the times specified in Schedule 4 and in the relevant Auction Specification, the Auction Specification shall prevail.

C3: Explicit Daily Auctions

C3.1 BritNed will only conduct explicit Daily Auctions, for Units having a Product Period of a Contract Day, in accordance with this Rule C3, as a fallback of the Daily Implicit Auction.

C3.2. The Daily Auction held on day “D-1” is for Units relating to use of Interconnector Capacity on the Contract Day commencing at 00:00hrs (CET) on day “D”.

- C3.2. Explicit Daily Auctions are held seven (7) days a week, including weekend and public holidays, provided that the Offered Capacity for Daily Auctions is at least of one (1) Unit (to the extent that the Interconnector Capability permits, and subject to the outcome of UIOSI processes pursuant to Rule D6.
- C3.3 The total Offered Capacity for any Contract Day in Daily Auctions will include:
- (a) available Interconnector Capacity (in the form of Units) not already allocated to Participants (and that is not unavailable due to Outages and/or due to the application of Curtailment);
  - (b) Unused Units (if any) that have become available for the Daily Auctions pursuant to Rule D6 (and that are not unavailable due to Outages and/or due to the application of Curtailment); and
  - (c) Units (if any) that have become available by application of Netting on Medium Term Nominations (and that are not unavailable due to Outages and/or due to the application of Curtailment).
- C3.4 No later than fifteen (15) minutes before opening of the Bidding Period of a Daily Auction, BritNed will publish the Auction Specification for that Daily Auction stating:
- (a) the code identifying that Auction in Kingdom;
  - (b) the number of Units being auctioned;
  - (c) the Product Period for the Auction, by stating the Contract Day on which the Units can be used;
  - (d) the Unit Validity Times;
  - (e) the times of opening and closure of the Bidding Period for that Auction; and
  - (f) any other relevant information or terms applicable to the Units or the Auction.
- C3.5 The Bidding Period for each Daily Auction will be at such times as specified by BritNed in Schedule 4 of these Rules and/or in the relevant Auction Specification. In case of contradiction between the times specified in Schedule 4 and in the relevant Auction Specification, the Auction Specification shall prevail.

C4: Intraday Auctions

- C4.1 BritNed will conduct Intraday Auctions, having a Product Period of up to one Contract Day, in accordance with this Rule C4.
- C4.2. Intraday Units can be allocated in one or more Intraday Auctions.
- C4.2 Separate Intraday Auctions may be conducted each day for each category of Intraday Unit.

- C4.3 Intraday Auctions are held seven (7) days a week including weekend and public holidays, provided that the Offered Capacity for Intraday Auctions is at least of one (1) Unit (to the extent that the Interconnector Capability permits, and subject to the outcome of UIOLI processes pursuant to Rule D6).
- C4.4 Intraday Units will be allocated in several Intraday Auctions, one held on day “D-1”, the other(s) on day “D”, in accordance with this Rule C4, and pursuant to the number of Auctions and times of Intraday Auctions which are set out in Schedule 4.
- C4.5 Intraday Units will be allocated in advance of use and each Intraday Auction will be in respect of separate periods of the day as follows:
- (a) the Intraday Auction(s) held on day “D-1” is for Units relating to the use of Interconnector Capacity on the Contract Day which commences at 00:00hrs on day “D” and is in respect of a specific period of such Contract Day; and/or
  - (b) the Intraday Auction(s) held on day “D” is for Units relating to use of Interconnector Capacity on the Contract Day which commences at 00:00hrs on day “D”, and which is in respect of all or part of the remaining period of such Contract Day not covered by the previous Intraday Auction(s) relating to Contract Day D.
- C4.6 The number of Units auctioned for any part of a Contract Day in an Intraday Auction, being subject to any limitations due to real time system security reasons, will include:
- (a) potentially available Interconnector Capacity (in the form of Units) not already allocated to Participants and that is not unavailable due to Outages and/or due to the application of Curtailment;
  - (b) Unused Units (if any) that have become available for the Intraday Auctions under Rule D6 and that are not unavailable due to Outages and/or due to the application of Curtailment; and
  - (c) Netted Units (if any) that have become available for the Contract Day and that are not unavailable due to Outages and/or due to the application of Curtailment.
- C4.7 No later than fifteen (15) minutes before the opening of the Bidding Period of the relevant Intraday Auction, BritNed will publish the Auction Specification for the Intraday Auction stating:
- (a) the code identifying that Auction in Kingdom;
  - (b) the number of Units being auctioned;
  - (c) the Product Period of the Auction, by stating the Contract Day on which the Units can be used;
  - (d) the Unit Validity Times;

- (e) the times of the opening and closure of the Bidding Period for that Auction; and
- (f) any other relevant information or terms applicable to the Units or the Auction.

C4.8 The Bidding Period for each Intraday Auction will be at such times as specified by BritNed in Schedule 4 of these Rules or in the relevant Auction Specification. In case of contradiction between the times specified in Schedule 4 and in the relevant Auction Specification, the Auction Specification shall prevail.

#### C5: Submission of Bids

C5.1 Bids in Auctions must be submitted to Kingdom in accordance with this Rule C5.

C5.2. A Bid or a Set of Bids become valid when acknowledged as such by Kingdom in accordance with Rule C5.8.

C5.3 Each valid Bid or Set of Bids registered at closure of the Bidding Period will constitute an unconditional and irrevocable offer by the Participant to BritNed to buy Units up to the quantity and at prices up to those specified in the Bid or the Set of Bids and on the terms and conditions of these Rules and the relevant Auction Specification.

C5.4 Once submitted, a Bid or a Set of Bids cannot be withdrawn but the Participant may modify its previous Bid or Set of Bids at any time during the Bidding Period. The modified Bid or Set of Bids will supersede the previous Bid or Set of Bids. Irrespective of whether the previous submission was a Bid or a Set of Bids, only the updated valid Bid or Set of Bids will be taken into account for the Auction allocation.

C5.5 Each Bid must:

- (a) be submitted electronically using Kingdom during the Bidding Period;
- (b) be in the form and include the information required by BritNed from time to time;
- (c) identify the Participant submitting the Bid, using the form of identification required by BritNed for the purposes of Auctions;
- (d) state the price for the Bid in Euros. All prices bid must be to a maximum of two decimal places and must be a price per Unit for one hour of the Product Period of the Unit. Therefore, Unit Prices for any Product Period will be a price per Mega Watt per hour (€/MW/h); and
- (e) state the number of Units being bid for.

C5.6 The Participant must not submit more than twenty (20) Bids within a Set of Bids for any Auction.

C5.7 The Participants will submit their Bids through Kingdom or by such other means as specified by BritNed from time to time, pursuant to Rule A9.2. The

format of such Bid submission shall be as specified by BritNed and to the ETSO recommendations or to any other technical recommendations provided by BritNed.

- C5.8 Provided that the format of the Bid file is in a compliant format pursuant to Rule C5.7, Kingdom will automatically acknowledge receipt of Bids to Participants by a message indicating whether the Bids have been correctly registered.
- C5.9 Only Bids confirmed as being registered correctly by BritNed shall be valid.
- C5.10 BritNed may reject any Bid that:
- (a) causes the Participant to exceed its Auction Credit Limit, pursuant to Rule B7; or
  - (b) does not comply with the requirements of this Rule C5; or
  - (c) is received from a Participant which is suspended pursuant to Rule E6.3.
- C5.11 BritNed will notify any Participant whose Bid is rejected as invalid and the reason of this rejection, as soon as reasonably practicable after the Bid is rejected.
- C5.12 All Bid prices are deemed to be exclusive of Taxes.
- C5.13 A Manifest Error means a human error in submitting Bids, if the price or the volume of the concerned Bid is unmistakably too high in comparison with Bids which are usually submitted for the Auctions concerned.
- C5.14 In order to prevent a Manifest Error from occurring, the Participant is obliged to set his bid parameters, price and volume, to the range between a minimum and a maximum value within which parameters are allowed by the individual Participant. Any Bid outside of these bid parameters will be automatically rejected by Kingdom.
- C5.15 BritNed will maintain a record of all Bids received.
- C5.16 The Participants may define, at any time, in Kingdom, Default Bids for any explicit Auction which shall be identified as such in Kingdom by the Participant.
- C5.17 The Participant shall specify under the specific form its Default Bids and whether such Default Bids apply to Medium-Term, Daily or Intraday Auctions.
- C5.18 A Default Bid will apply automatically to each subsequent and relevant Auction. On the opening of a relevant Bidding Period, the registered Default Bid is considered as a Bid submitted by the Participant for the relevant Auction. This Bid is considered as a valid Bid once confirmed by BritNed in accordance with Rule C5.8. A Set of Default Bids may only be prepared with a maximum of twenty (20) Bids within the Set of Bids per Auction. In the

event that more than twenty (20) Bids are within the Set of Bids, the submission of such a Default Set of Bids will be invalid and therefore automatically rejected.

- C5.19 If the number of Units submitted in a Default Bid for a given Auction is greater than the Offered Capacity of this Auction, the number of Units of the Bid resulting from this Default Bid is set at the value of the Offered Capacity of the relevant Auction.
- C5.20 The Participant may modify a Bid resulting from a Default Bid for a specific Auction within the Bidding Period of such Auction in accordance with Rule C5.4.
- C5.21 A Participant not wishing to submit a Default Bid on Kingdom anymore for a given Auction must set the volume and the price of its Default Bids for this Auction to zero.

#### C6: Allocation

- C6.1 After the closure of the Bidding Period for an Auction, BritNed will determine its Auction results and allocate Units in accordance with Rules C1 and C6.
- C6.2 Bids with prices lower than the Reserve Price will not be part of the determination of the Auction results. This means that the Marginal Price is always equal to or higher than the Reserve Price.
- C6.3 If the total number of Units for which valid Bids have been submitted is equal to or is lower than the Offered Capacity for the relevant Auction then the Bids will be accepted in accordance with Rule C6.2 and the Marginal Price will be the Reserve Price.
- C6.4 If the total number of Units for which valid Bids have been submitted exceeds the Offered Capacity for the relevant Auction, then the lowest Bid accepted will set the Marginal Price. The Auction results are obtained using the methodology described below:
1. First, for each Auction BritNed ranks the valid Bids in decreasing Bid Price order. (Different Bids with the same Bid Price receive the same rank. Only valid Bids that comply with the terms of Rule C6.2 are taken into account in this ranking).
  2. The highest ranked valid Bid(s) received for a number of Units requested which in aggregate does(do) not exceed the Offered Capacity is (are) allocated. Any residual available Offered Capacity is then allocated to the next highest ranked valid Bid(s). If the number of Units requested in such next highest ranked valid Bid(s) does/do not exceed in aggregate the residual Offered Capacity, this process is then repeated for the remainder of the residual Offered Capacity;

3. Following the iterative process described in Rule C6.4.2, when the number of Units requested under the next highest ranked valid Bid is equal to or greater than the residual Offered Capacity, the Bid is allocated either in full, or partially up to the limit of the residual Offered Capacity, as the case may be. The price of this Bid constitutes the Marginal Price;
4. If two (2) or more Participants have submitted valid Bids with the same Bid price, for a total requested number of Units which exceeds the residual Offered Capacity, the residual Offered Capacity is allocated in proportion to the number of Units requested in the Bids by these Participants, in Units of at least one (1) MW. The Units attributed are rounded down to the nearest MW. The price of these Bids constitutes the Marginal Price.

C6.5 The Units are deemed to have been allocated to a Participant after the publication of the final results of the relevant Auction.

C6.6 Participants acknowledge and accept that their Bids may be partially accepted according to the methodology above.



## **SECTION D: CAPACITY USAGE RULES**

### **D1: Interconnector Capacity Entitlements**

- D1.1 Each Unit entitles the Participant that acquires it (whether at an Auction or in the Secondary Market) to use Interconnector Capacity by requesting, in accordance with Rule D2, an Energy Transmission of 1 MW at the MNN but only:
- (a) in the direction specified for that category of Unit; and
  - (b) in settlement periods during the Unit Validity Times of that Unit, and subject to and on the terms and conditions of these Rules including any Curtailment and as specified in the relevant Auction Specification.
- D1.2 BritNed shall make available via Kingdom the Participants' summary of acquired Units (ICE) for any given Contract Day.
- D1.3 The ICE of a Unit Holder for a Contract Day in a direction and per Timescale is a schedule showing, the total number of MW of Interconnector Capacity the Unit Holder is entitled to Nominate during each hour of that Contract Day in that direction and for the relevant Auction Type determined in accordance with these Rules. Each Participant will for a Contract Day and in each direction be notified of its three ICEs, one per Auction type (Medium Term, Daily and Intraday).
- D1.4 BritNed will notify each Participant of its ICEs for each Timescale for the Contract Day "D" before the Nomination Gate Closure of the relevant Timescale for that Contract Day at the times specified in Schedule 4.

### **D2: Mid North Sea Nominations**

- D2.1 For each hour in a Contract Day for which an ICE has been published by BritNed, each Unit Holder may Nominate to BritNed within Kingdom an Energy Transmission at Mid North Sea up to but not exceeding the Participant's ICE in the relevant direction in that hour ("Mid North Sea Nomination").
- D2.2 The Unit Holder shall Nominate its Mid North Sea Nominations no later than the relevant Nomination Gate Closure for all relevant hours as referred to in the corresponding ICE. The timescales for submitting Nominations are contained in Schedule 4.
- D2.3 Schedule 4 specifies the Intraday Nomination Gate Closures. Where a Unit Holder Nominates a Mid North Sea Nomination for a specific hour at an Intraday Nomination Gate Closure that is not the final Nomination Gate Closure for such hour, the Unit Holder may subsequently modify its Mid North Sea Nomination prior to the last Nomination Gate Closure that applies in respect of such hour(s).

- D2.4 BritNed will reject a Nomination in its entirety for the Contract Day where the corresponding Mid North Sea Nomination(s) in one or more hours exceed(s) the Participant's relevant ICE.
- D2.5 The Mid North Sea Nomination for each hour in the Contract Day must be expressed in whole MW, with a single value, greater than or equal to zero, for each hour.
- D2.6 Mid North Sea Nominations are not subject to any modification by the Participants after the relevant Nomination Gate Closure pursuant to Schedule 4.
- D2.7 In the absence of a Nomination by a Unit Holder in a direction, the corresponding Mid North Sea Nominations are assumed to be equal to zero.
- D2.8. Each Participant must notify its Nominations electronically within Kingdom.
- D2.9 Nominations shall be submitted to Kingdom in the formats specified by BritNed and pursuant to the ETSO recommendations and/or any other technical recommendations provided by BritNed to the Participants.
- D2.10 Subject to D2.4, and provided that the format of the Nomination is in accordance with D2.9, BritNed will acknowledge receipt of the Nomination to Participants by a message indicating that the Nomination has been correctly registered.
- D2.11 Only Nominations confirmed as correctly registered shall be valid.
- D2.12 Default Nominations can be activated by the Participant per Timescale. Where they are activated, all Mid North Sea Nominations for the relevant Timescale would be automatically generated at the value of the relevant ICE for each hour of that Contract Day.
- D2.13 Participants may activate Default Nominations independently for Medium Term, Daily and Intraday Timescales.
- D2.14 The registered Default Nomination is considered as a schedule of (Mid North Sea) Nominations submitted by the Participants for the relevant Timescale at the opening of the relevant period for Nomination. This Mid North Sea Nomination is considered as valid once confirmed as such by BritNed.
- D2.15 The Participant may modify the Mid North Sea Nomination resulting from the Default Nomination within the relevant Nomination period.
- D2.16 The Participant may deactivate its Default Nomination on Kingdom at any time. Where such deactivation is during a relevant Nomination period, any existing valid Mid North Sea Nomination resulting from a Default Nomination remains unchanged.

- D2.17 In case of a communication problem between the Participant and Kingdom due to a Kingdom failure, the Participant may contact BritNed to request, in respect of Nominations periods of which Gate Closure has not occurred, that the Participant be permitted to send its Mid North Sea Nominations by email and/or fax to BritNed.
- D2.18 In the event of technical difficulties with Kingdom, BritNed may be forced to cancel a Nomination Gate Closure. In that case, BritNed shall inform the Participant as soon as practicable of such cancellation.
- D2.19 Should BritNed cancel a Medium Term or a Daily Nomination Gate Closure, the Participant's corresponding ICE is compensated at the weighted average price of either the Medium Term Auction product Units corresponding to such ICE or the Daily Auction Units as appropriate.
- D2.20 Should BritNed cancel an Intraday Nomination Gate Closure, the Participant's corresponding ICE is compensated at the price of the Units corresponding to such ICE, only for Settlement Periods GB or Settlement Periods NL for which Nominations can no longer be entered because the last Intraday Nomination cancelled Gate Closure has elapsed.
- D2.21 Participants must comply with the Business Rules in Schedule 4, including the timing of Mid North Sea Nominations.
- D2.22 (a) If a Participant submits a valid request for an Energy Transmission for a Settlement Period, then BritNed will ensure that a corresponding Deemed Metered Volume, adjusted for losses on the Interconnector and for any reductions in Mid North Sea Nominations as a result of Curtailment, is allocated on the GB side to the relevant Energy Accounts of the Participants for the purposes of each of the Balancing and Settlement Code; and to TenneT TSO on the NL side using an E-programme notification;
- (b) For each hour in a Contract Day for which an ICE has been published by BritNed, each Unit Holder may Nominate an Energy Transmission at Maasvlakte on the Dutch side to TenneT TSO up to but not exceeding the Participant's Deemed Metered Volume as calculated by BritNed according to the rules set out in Schedule 5 in the relevant direction in that hour.
- D2.23 BritNed will calculate and submit to NGET physical notifications for each Settlement period on behalf of each Participant, based on the aggregate of Mid North Sea Nominations received from each Participant across all Timescales in respect of each Settlement Period (either GB or NL).
- D2.24 Each Participant acknowledges that, without prejudice to the rights of Participants under this Rule D2, Unit Holders do not have a right to control Energy Transmissions over the Interconnector. The actual level of Energy Transmissions over the Interconnector at any time is determined by BritNed having regard to a range of factors including other Mid North Sea Nominations, operational requirements and use of the Interconnector by NGET and/or TenneT TSO B.V. as Transmission System Operators (including

any limitation due to emergency or reasons of operational system security or under other arrangements such as the provision of emergency support and balancing services). Nothing in these Rules restricts BritNed from transmitting electricity over the Interconnector at any time in either direction.

D3: Secondary Market

- D3.1 The Secondary Market means the mechanisms of Resale of the Interconnector Capacity by a Participant, as specified under Rule D4, and of Capacity Transfer of Interconnector Capacity between Participants, as specified under Rule D5. These mechanisms enable a Participant to acquire or surrender Units which have previously been Auctioned by BritNed.
- D3.2 The Secondary Market will be conducted electronically in Kingdom except in case of Kingdom failure as described in Rule D3.5.
- D3.3 Resale Request and Capacity Transfer Notices shall comply with the format specified from time to time by BritNed which shall be consistent with the ETSO-E format recommendations.
- D3.4 BritNed will acknowledge receipt of the Resale Request and Capacity Transfer Notices to Participants by a message indicating whether the Request and Capacity Transfer Notices have been correctly registered. This message of acknowledgment will be sent manually if Kingdom fails. Only Resale Requests and Capacity Transfer Notices confirmed as correctly registered shall be valid.
- D3.5 If Kingdom fails and, in the reasonable opinion of BritNed, it is not practicable to operate the Secondary Market electronically, BritNed may use a fallback procedure by email and/or fax as specified from time to time, in order to conduct the Secondary Market and to allocate the Units resulting from the Secondary Market.
- D3.6 If the fallback procedure described in Rule D3.5 cannot, in the reasonable opinion of BritNed, be implemented as necessary to enable the Secondary Market to be operated, the Secondary Market will be deferred.
- D3.7 If deferral of the Secondary Market is not considered by BritNed as being possible, the Secondary Market will be cancelled and all Resale Requests and Capacity Transfer Notices already submitted will automatically be cancelled.

D4: Resale

- D4.1 A Participant may make a Resale Request for a forthcoming Medium Term Auction in Kingdom in accordance with this Rule D4.
- D4.2 Resale of a Unit by a Participant is permitted under these Rules only if the following conditions are satisfied:

- (a) the Participant must specify at which forthcoming Medium Term Auction it intends to Resell Units; and
  - (b) the Resale Request must be for Resale of Units with a Product Period that wholly includes the Product Period of the Units being offered in the relevant forthcoming Medium Term Auction;
  - (c) all Units that are the subject of the Resale Request must have been allocated from one Medium Term Auction;
  - (d) the Unit Validity Times of the relevant forthcoming Medium Term Auction are also Unit Validity Times of the Auction in which they were previously allocated;
  - (e) the Resale Request must be for the same number of Units across all Unit Validity Times within the Product Period of the Units being offered in the relevant forthcoming Medium Term Auction; and
  - (f) only one Resale Request may be registered per Participant in respect of a forthcoming Medium Term Auction for Units acquired in a certain previous Medium Term Auction.
- D4.3 Each Resale Request must state the number and category of the Units requested for Resale. This must be a whole number of Units and must not exceed the number of Units in that category in all applicable Unit Validity Times held by the Participant making the Resale Request (taking into account any Capacity Transfer of Interconnector Capacity under Rule D5 and Curtailment under Rule D8).
- D4.4 A Resale Request can be made or modified in respect of a forthcoming Auction within the applicable times specified under Schedule 4.
- D4.5 A Resale Request submitted by a Unit Holder to BritNed must:
- (a) identify the Unit Holder making the Resale;
  - (b) identify the Medium Term Auction in which the Units are requested to be Resold;
  - (c) state the Product Period of the Units which are requested to be Resold; and
  - (d) state the number of the Units being requested to be Resold.
- D4.6 A Unit Holder making a Resale Request must promptly respond to BritNed of any request made by BritNed for clarification of such Resale Request.
- D4.7 BritNed through Kingdom will acknowledge receipt of Resale Requests pursuant to Rule D3.4.
- D4.8 BritNed may reject any Resale Request that is invalid or that purports to Resell capacity in circumstances not permitted by Rule D4.2 or if the Unit Holder has failed to respond satisfactorily to a request under Rule D4.5.
- D4.9 Not Used
- D4.10 Where one or more Resale Request(s) is (are) made for a forthcoming Medium Term Auction, BritNed will include the total associated Units (“Resale Units”)

from such Resale Request(s) in the forthcoming Auction Specification but only to the extent that Interconnector Capacity is available.

- D4.11 The price at which Resale Units are sold is the Marginal Price of the Auction specified in the Resale Request.
- D4.12 BritNed will not charge a transaction fee for allocated Resale Units.
- D4.13 Resale Units are made available in Auctions (to the extent that Interconnector Capability is available), and are allocated by BritNed, as principal and not as agent of the Unit Holder making the Resale Request. No rights or obligations arise or exist in connection with allocation of Resale Units as between the Unit Holder making the Resale Request and the Participant to whom the Resale Units are allocated.
- D4.14 BritNed's obligations in respect of a Resale Request to the Unit Holder making the Resale Request are only those expressly set out in this Rule D4. For the avoidance of doubt, BritNed is under no obligation, express or implied, to ensure that demand in any Auction is such that Resale Units will be allocated in that Auction.
- D4.15 Rules D4.16 to D4.20 apply if Resale Units are allocated to Participants in an Auction. In those Rules, "Relevant Unit Holder" means, in relation to an Auction, a Unit Holder who made a Resale Request in respect of that Auction.
- D4.16 Each Relevant Unit Holder will be entitled to a payment calculated as follows:
- $$A = (B * C)$$
- where:
- A is the amount of the payment;
  - B is the Marginal Price of the Auction in which the Resale was made;
  - C is the number of Resale Units allocated in MW as specified in the Participant's Resale Request.
- D4.17 Each Relevant Unit Holder will lose its entitlement to use corresponding Interconnector Capacity for the Resale Period stated in its Resale Request and accordingly its rights will be reduced except in the circumstances specified in Rule D4.19.
- D4.18 In all other respects, Relevant Unit Holders' rights and obligations relating to Units will not be affected. For example, they are still required to pay the full Unit Price for all Units acquired in Auctions (whether or not subsequently Resold).
- D4.19 In the case where an Auction in which Units have been requested to be Resold is cancelled, any associated Resale Request(s) is/are cancelled and the corresponding Units are returned to the Relevant Unit Holder.
- D4.20 Resale invoicing and payments are made pursuant to Rule B2.

D4.21 For the proportion of Resale Units specified in the Resale Request that have not been allocated in such Auction the Participant will lose its entitlements to use corresponding Interconnector Capacity and such Resale Units will not be entitled to a payment.

D5: Capacity Transfer Conditions

D5.1 Capacity Transfer of a Unit Holder's rights to use Units through Kingdom is permitted under these Rules only if the following conditions are satisfied:

- (a) the Unit Holder gives BritNed a notice of the Capacity Transfer ("Capacity Transfer Notice") that complies with Rule D5.5;
- (b) Units are subject to Capacity Transfer across whole hours and in at least one hour of one Contract Day;
- (c) the Capacity Transfer is made to an existing Participant who has not been suspended in any way pursuant to Rule E6.3;
- (d) the duration of the Capacity Transfer ("Capacity Transfer Period") is one or more consecutive Contract Days of the specified Day Type, and is within the Product Period of the Units being subject to Capacity Transfer;
- (e) at least 1 Unit is being subject to Capacity Transfer and shall be a whole number;
- (f) the Unit Holder has at least as many Units as the number it wishes to Capacity Transfer in each Hour of each associated Contract Day (taking into account any reduction(s) due to previous Capacity Transfer(s), Resale(s) or Curtailment(s)); and
- (g) at the time it gives the Capacity Transfer Notice, the Unit Holder is not in default under these Rules and its rights to use Interconnector Capacity and participate in Auctions have not been suspended.

D5.2 A Unit Holder may give more than one Capacity Transfer Notice covering the same period of time, subject to each notice complying with this Rule. Any Capacity Transfer covering more than one calendar month must be notified in separate Capacity Transfer Notices, one for each affected month.

D5.3 The Capacity Transfer does not modify the Timescale or any other categorisation upon which the Capacity Transfer Units were initially acquired.

D5.4 Following the publication of the final results of an Auction, a Unit Holder may make a Capacity Transfer Notice in relation to Interconnector Capacity acquired in such Auction to BritNed in accordance with the relevant timings specified in Schedule 4.

D5.5 The Capacity Transfer Notice submitted by the Unit Holder making the Capacity Transfer must:

- (a) identify the Unit Holder making the Capacity Transfer;
- (b) identify the Participant to whom the Units are being subject to Capacity Transfer;
- (c) state the Capacity Transfer Period;
- (d) state the Day Types for which the Capacity Transfer is to apply;

- (e) specify the hours of the Contract Days in which the Capacity Transfer is to be made; and
  - (f) state the number and category (including the hour period) of the Units which are the subject of the Capacity Transfer Notice.
- D5.6 A Unit Holder giving a Capacity Transfer Notice must promptly respond to BritNed's satisfaction to any request by BritNed for clarification of the Capacity Transfer Notice.
- D5.7 BritNed will acknowledge receipt of Capacity Transfer Notices. BritNed may reject any Capacity Transfer Notice that is invalid or that purports to make a Capacity Transfer in circumstances not permitted by this Rule D5 or if the Unit Holder has failed to respond satisfactorily to a request under Rule D5.6 in relation to that Capacity Transfer Notice.
- D5.8 A Capacity Transfer Notice is valid only when confirmed by the Participant to whom the Capacity Transfer was made, during the period of time specified in Schedule 4 for each relevant Timescale. Both Participants who are party to the Capacity Transfer are informed by BritNed of its successful registration.
- D5.9 Where the Participant to whom the Capacity Transfer was made does not confirm the Capacity Transfer Notice during the relevant period of time, the Capacity Transfer Notice is not valid and the Participant who had sought to make the Capacity Transfer remains the Unit Holder of the Units. Both Participants who had been party to the attempted Capacity Transfer are informed by BritNed of the failure of completion of the Capacity Transfer.
- D5.10 If a Capacity Transfer Notice is confirmed in accordance with this Rule D5, then for the duration of the Capacity Transfer Period:
- (a) the Participant to whom the Capacity Transfer was made is treated as the Unit Holder of those Units for the purpose of Rules A1.1, D2, D3, D4, D5, D8 and Schedules 4 and 5; and
  - (b) the original Unit Holder, although obliged to pay for the capacity that has been the subject of a Capacity Transfer, loses its entitlement to use such Interconnector Capacity. In all other respects, the original Unit Holder's rights and obligations relating to its Units being subject to Capacity Transfer will not be affected, except in the case of Curtailment Reconciliation pursuant to Rule D9.
- D5.11 BritNed may, by giving notice to both the Unit Holder who made a Capacity Transfer and the Participant to whom it was Capacity Transferred, terminate any Capacity Transfer under this Rule D5 with immediate effect upon:
- (a) termination of the BPA of the Participant to whom the capacity was Capacity Transferred; and
  - (b) if a notice of suspension under Rule E6.3 is given to the Participant to whom the capacity was Capacity Transferred.
- D5.12 BritNed will not charge a transaction fee for allocated Capacity Transfers.



#### D6: Use-It-or-Sell-It and Use-It-or-Lose-It

- D6.1 The provisions under this Rule D6 detail the means by which capacity unused by a Unit Holder will be made available to BritNed for use in the next available future Auction.
- D6.2 To the extent that any Unit Holder does not Nominate any Medium Term Unit(s) associated with its Medium Term ICE for any hour of a Contract Day, it will lose the right to use such Medium Term Unit(s) in accordance with this Rule D6.
- D6.3 Unused Medium Term Units resulting from the process described in D6.2 are then subject to the following :
- (a) these Unused Unit(s) will be unavailable for subsequent use by the Unit Holder;
  - (b) the Unit Holder's other rights and obligations in relation to its Units, whether Unused Units or not Unused Units, will not be affected;
  - (c) the Unit Holder shall still pay to BritNed for its Unused Unit(s), subject to whether such Unused Units were acquired in a Capacity Transfer;
  - (d) BritNed will make Unused Unit(s) available in the Daily Implicit Auction for the same Contract Day in the same direction of the Units not being used;
  - (e) the proceeds of the sale of Unused Units in the Daily Implicit Auction will be paid by BritNed to the Unit Holder according to 100% of the difference of Power Exchange prices on the British and Dutch APX day ahead markets for the relevant hour(s) minus the flow dependent Transmission Pass Through Charges, Dutch Imbalance Charge and the proportion of the DC losses of the Interconnector for the relevant Units to the extent that the price difference is derived in the same flow direction of the Units not being used;
  - (f) In case of a Capacity Shortage, where BritNed can no longer flow the Units that have been sold through the Daily Implicit Auction, the Unused Units will be compensated subject to the caps set out in Rule 9.5..
- D6.4 If a Daily Implicit Auction is cancelled for any IT and/or communication problem, compensation to Unit Holders for Medium Term Unused Units will be based on the Marginal Price derived from the fallback Daily Explicit Auction; if the Daily Explicit Auction is not held for any reason compensation to Unit Holders for Medium Term Unused Units will be based on the weighted average price of Medium Term Units of the Unit Holder, the aggregate of which forms its Medium Term ICE.
- D6.5 To the extent that any Unit Holder does not Nominate any Daily Unit(s) associated with its Daily ICE for any hour of a Contract Day that were derived from the fall back Daily Explicit Auction, it will lose the right to use such Daily Unit(s) on that Contract Day in accordance with this Rule D6.5 and D6.6.

- D6.6 Daily Unused Units resulting from the process described in D6.5 are then subject to the following:
- (a) these Unused Unit(s) will be unavailable for subsequent use by the Unit Holder;
  - (b) the Unit Holder's other rights and obligations in relation to its Units, whether Unused or not Unused, will not be affected;
  - (c) the Unit Holder shall still pay BritNed for its Unused Unit(s), subject to whether such Unused Units were acquired in a Capacity Transfer;
  - (d) BritNed will make Unused Unit(s) available in the appropriate Intraday Auction for the same Contract Day; and
  - (e) the proceeds of the sale of the Unused Units in the relevant Intraday Auction will not be paid by BritNed to the Unit Holder.
- D6.7 To the extent that any Intraday Capacity Units remain unused such Intraday Capacity Units shall be treated as Unused Units and as such shall be subject to the UIoLI mechanism.

D7: Outages

- D7.1 BritNed will give Participants information about Outages in accordance with this Rule D7.
- D7.2 In September of each year BritNed will publish an indicative schedule of the Planned Outage Periods for the forthcoming year. The schedule will specify the expected start and end dates of each Planned Outage Period and the expected Interconnector Capability during each Planned Outage Period.
- D7.3 The Planned Outage Periods will be included in the relevant final Auction Specification.
- D7.4 BritNed will update the information given under Rules D7.2 and D7.3 as soon as practicable after any changes are known.
- (a) BritNed will use reasonable endeavours to ensure that the information provided under this Rule D7 is accurate and that Outages take place as indicated by the information.
  - (b) Notwithstanding Rule D7.4.(a), each Participant acknowledges that circumstances may arise that require BritNed to take Outages at times other than those planned and therefore BritNed remains free to plan and execute any Outages that it considers necessary.
  - (c) Without prejudice to Rule E7, BritNed excludes any and all liability for any claims, payments, costs and expenses arising out of any differences between the information provided under this Rule D7 and actual Outages (other than credits calculated under Rule D9), whether the claim arises in contract or on any other basis, except to the extent that liability cannot be excluded by law.

- D7.5 Interconnector Capacity at any time may be greater than expected due to circumstances such as early return to service after an Outage or rescheduling of an Outage. If Interconnector Capacity becomes available, BritNed will use reasonable endeavours to notify all Participants of its availability promptly and will allocate the Interconnector Capacity to Participants for the direction in question using the Daily Auction or Intraday as applicable.
- D7.6 BritNed will notify Participants of any Forced Outages or Trips as soon as practicable after the Forced Outage is arranged or the Trip occurs. Following this initial notice, BritNed will as soon as practicable give Participants information about the Forced Outage or the Trip including where possible the expected Interconnector Capability and its expected duration. These details will be given for information purposes only and they are not binding on BritNed and Rule D7.4(c) will apply to this information.

#### D8: Curtailment

- D8.1 BritNed will Curtail Interconnector Capacity secured by all Unit Holders, and if necessary their Mid North Sea Nominations, during each Settlement Period GB or Settlement Period NL (as appropriate) in which there is a Capacity Shortage in accordance with this Rule D8. Participants acknowledge that a Capacity Shortage, or any increase or decrease in the Curtailment Quantity during a Capacity Shortage, which arises after the relevant Nomination Gate Closure will be reflected in the calculation of Deemed Metered Volumes in accordance with Schedule 5.
- D8.2 Each relevant Unit Holder will lose its entitlement to use Interconnector Capacity Curtailed by BritNed in the event of a Capacity Shortage.
- D8.3 If there is a Capacity Shortage BritNed shall inform Participants of the revised level of Interconnector Capability, as soon as practicable.
- D8.4 Capacity Shortage may change from time to time and BritNed will inform Participants of the anticipated duration of such Capacity Shortage, with associated updates as soon as practicably possible.
- D8.5 A Capacity Shortage occurs in any minute in a direction if:

$$NTC_{dir} < \Sigma \text{Capa}^{GNC}_{dir} + \Sigma \text{MNN}^{GC}_{dir} - \Sigma \text{MNN}^{GC}_{opp}$$

Where:

- |                                  |   |
|----------------------------------|---|
| $NTC_{dir}$                      | is the value of the Interconnector Capability at that time in that direction; and   |
| $\Sigma \text{Capa}^{GNC}_{dir}$ | is the sum of the Interconnector Capacity Units across all Participants in that direction, for any Timescale for which Nomination Gate Closure has not yet occurred, (before Curtailment of |

	these rights in respect of the relevant Capacity Shortage); and
$\Sigma \text{MNN}^{GC}_{dir}$	is the sum of the MNN values across all Participants in that direction for all Timescales for which Nomination Gate Closure has occurred, (before Curtailment of that MNN in respect of the relevant Capacity Shortage); and
$\Sigma \text{MNN}^{GC}_{opp}$	is the sum of the MNN values across all Participants in the opposite direction for all Timescales, for which Nomination Gate Closure has occurred, (before Curtailment of that MNN in respect of the relevant Capacity Shortage).
	and the “Curtailment Quantity” is the positive number equal to the difference between the Net Transfer Capacity (“NTC”) in such direction and $(\Sigma \text{Capa}^{GNC}_{dir} + \Sigma \text{MNN}^{GC}_{dir} - \Sigma \text{MNN}^{GC}_{opp})$ .

- D8.6 If there is a Capacity Shortage in any Settlement Period, the Interconnector Capacity Units of all Participants and if necessary their Mid North Sea Nominations, in that Settlement Period in the direction of the Capacity Shortage will be Curtailed by BritNed under this Rule D8.
- D8.7 Following the Nomination Gate Closure, if there is a Capacity Shortage, the MNN values, in that Settlement Period and in that direction, are Curtailed pro rata for all Participants and for all types of Explicit Auctions.
- D8.8 To the extent that the calculations under Rule D8.7 result in Interconnector Capacity Units and/or MNN values for a Participant that are not whole numbers, BritNed will round the result down to the nearest whole number. Any Interconnector Capacity remaining as a result of the rounding down process will, to the extent it is a whole number, be allocated by BritNed to Participants at the next relevant Auction, where practicable.
- D8.9 If a Participant’s Units have been Curtailed as a result of a Capacity Shortage then any such Units will not be reinstated if BritNed, acting reasonably, decides to increase the Interconnector Capability in any Settlement Period (either GB or NL) in any flow direction. Any such increase of Interconnector Capability will be added to the Offered Capacity in the next available Auction.

#### D9: Curtailment Reconciliation

- D9.1 If there is a Capacity Shortage in any Settlement Period in a given direction, any Curtailed Units or MNN of a Participant will be shown by BritNed as a credit on the relevant invoice(s), in accordance with this Rule D9.
- D9.2 For the avoidance of doubt, whilst the relevant invoice will show as payable by the Unit Holder all Units acquired in the Auctions and the Unit Holder shall

pay the total amount shown on such invoice, any Units which have been Curtailed shall be shown as a credit on the relevant invoice.

- D9.3 Unit Holders will be credited in full for the Unit Price of Curtailed Units where practicable except in circumstances including (but not limited to) D9.4 to D9.9.
- D9.4 If there is a Capacity Shortage in any Settlement Period (GB or NL) prior to the Nomination Gate Closure in a given direction leading to the Curtailment of the Medium Term MNN of a Unit Holder, the corresponding Units will be credited to the Unit Holder at a price based on the weighted average Marginal Price of the relevant Medium Term Auctions as originally paid by the Unit Holder.
- D9.5 If there is a Capacity Shortage in any Settlement Period (GB or NL) after Nomination Gate Closure in any given direction leading to the Curtailment of the Medium Term MNN of a Unit Holder, the corresponding Units will be credited to the Unit Holder subject to the following valuation principle and compensation caps:

#### Valuation

The monthly valuation of compensations for all curtailed Nominations is equal to the sum of all hourly amounts obtained in periods affected by a Nomination reduction in the Month M, calculated as the product of:

- Positive day-ahead market spread in the affected period with a cap in the same direction than the Nominations reduction (if the day-ahead market spread is on the opposite direction from the reduction, the price taken into account for the compensation will be equal to 0 € / MWh);  
The energy in MWh in the affected period represented by the reduction in Nominated Capacity. This energy is equal to the difference between the Capacity initially Nominated minus the allowed level of Nominations after reduction.

The first cap applies to the Day-Ahead Market Spread and is different for each direction:

- 17.6 € / MWh for a Nomination from the Netherlands to Great Britain (the value to be taken as a reference in the compensation scheme can not be greater than this given value)
- 11.9 € / MWh for a Nomination from Great Britain to the Netherlands (the value to be taken as a reference in the compensation scheme can not be greater than this given value).

The second cap applies to the total monthly amount of compensations under Rules D9.4 and D9.5. This cap is defined for each month as the sum of:

- The revenue from Medium Term Auctions with a Product Duration less than or equal to a month in both directions raised in this particular Month;

- Whereas, the revenue from Medium Term Auctions with a Product Duration longer than a month shall be allocated in part to that month e.g. a twelfth of the revenues raised at Annual Auction in both directions.

If this monthly amount is reached, it will be shared on a pro-rata basis between the Participants deserving compensations in that month according to their compensation amount. This sharing will be done after taking into account the cap on the Day–Ahead Market Spread.

- D9.6 In the case of a fall back Daily Explicit Auction, if there is a Capacity Shortage in any Settlement Period (GB or NL) in a given direction leading to the Curtailment of the explicit Daily MNN of a Unit Holder, the corresponding Units will be credited to the Unit Holder at a price based on the Marginal Price for the relevant hours as originally paid by the Unit Holder.
- D9.7 If there is a Capacity Shortage in any Settlement Period (either GB or NL) in a given direction leading to the Curtailment of Units notified for Resale by a Participant to BritNed (but not already Resold), the corresponding notifications for Resale are cancelled in their entirety, without credit from BritNed and the corresponding Units are retained by the Participant. These Units are then subject to Curtailment in accordance with Rule D8.
- D9.8 If there is a Capacity Shortage in any Settlement Period (either GB or NL) in a given direction leading to the Curtailment of Units notified for Capacity Transfer by a Participant to BritNed:
- (i) if the Capacity Transfer has been confirmed by the party to whom the Capacity Transfer was made before the Curtailment, the Units are Curtailed and a credit is made to such Party in accordance with Rules D8 and D9,
  - (ii) if the Capacity Transfer has not been confirmed by the party to whom the Capacity Transfer is being made before the Curtailment, the Capacity Transfer is cancelled in its entirety by BritNed, the corresponding Units are returned to the party which submitted the associated Capacity Transfer Notice and no credit is due to the party which had not confirmed the Capacity Transfer. These Units are then subject to Curtailment in accordance to Rules D8 and D9.

## **SECTION E: GENERAL CONDITIONS**

### **E1: Notices and other communications**

- E1.1 Any notice or other communication to be given under or in connection with the matters contemplated by these Rules shall be in English.
- E1.2 Save as otherwise expressly provided in these Rules, all notices or other communications between BritNed and each Participant shall be sent to the address or facsimile number or email address and marked for the attention of the addressee's representative as set out in the Participant's BPA or as notified by the addressee from time to time.
- E1.3 Save as otherwise expressly provided in these Rules, all notices or other communications shall be in writing and shall be given by letter delivered by hand against receipt, sent by prepaid post (airmail if overseas) and using a recorded delivery service (registered post or equivalent) or sent by facsimile or email and shall be deemed to have been received:
- (a) in the case of delivery by hand, when delivered against receipt; or
  - (b) in the case of recorded delivery prepaid post, on the day following the delivery; or
  - (c) in the case of facsimile, on acknowledgement of receipt by the addressee's facsimile receiving equipment; or
  - (d) in the case of email, when delivered to the other Party but only if an acknowledgement of receipt is requested and obtained by the Party sending the e-mail and a printed copy of the transmission is retained by that Party.
- E1.4 If a notice or other communication would otherwise be deemed to have been received outside normal business hours (being 08:30hrs to 17:00hrs (local time) on a Business Day) under this Rule E1, it is deemed to have been received at the opening of business on the next Business Day.

### **E2: Confidentiality**

- E2.1 Subject to Rule E2.2 (exceptions), BritNed and each Participant who is a Recipient must, in relation to the Confidential Information of a Disclosing Party, preserve the confidentiality of each item of Confidential Information of the Disclosing Party and must not directly or indirectly reveal, report, publish, disclose or transfer any item of Confidential Information of the Disclosing Party and must not use any item of Confidential Information of the Disclosing Party other than for the purpose for which it was disclosed.
- E2.2 Notwithstanding Rule E2.1, a Recipient may disclose Confidential Information of a Disclosing Party:

- (a) to the extent expressly permitted or contemplated by the Rules;
- (b) with the prior written consent of the Disclosing Party;
- (c) to any person who is one of the directors, officers, employees, agents, advisers or insurers of the Recipient and who needs to know the Confidential Information in connection with these Rules;
- (d) as may be directed or ordered under or required in order to comply with any Applicable Law;
- (e) as may be required to comply with the requirements of the GB Grid Code, the Dutch Codes, the Balancing and Settlement Code;
- (f) as may be required by a court, arbitrator or administrative tribunal or an expert in the course of proceedings to which the Recipient is a party;
- (g) in order to obtain clearances or consents from a Competent Authority or if requested by a Competent Authority; or
- (h) To any Affiliate of the Recipient who needs to know the Confidential Information in connection to these Rules.

E2.3 The obligations of confidentiality in this Rule E2 shall continue for a period of 5 years after termination of the Participant's BPA.

### E3: Assignment and subcontracting

- E3.1 BritNed may assign its rights and novate its obligations under any BPA and any of these Rules to any entity which is to succeed it as operator of the Interconnector and joint provider of the services sold to Participants under these Rules and these Rules shall be binding upon and enure for the benefit of the assigns and successors in title of BritNed. Each Participant will do all things reasonably requested of it by BritNed to assist with such assignment and novation.
- E3.2 Subject to Rules D3 and E3.3, a Participant may not assign, novate or otherwise transfer any of its rights or obligations under these Rules or its BPA without the prior written consent of BritNed.
- E3.3 Nothing in Rule E3.2 prevents a Participant from entering into a Capacity Subcontracting Arrangement. Entry into a Capacity Subcontracting Arrangement by a Participant does not relieve the Participant of any obligation or liability under these Rules or its BPA and is subject to the indemnity in Rule E7.4.



#### E4: Amendments

- E4.1 Subject to Rule E4.2 BritNed is entitled to amend these Rules from time to time by giving an Amendment Notice to Participants.
- E4.2 Before making any amendment to these Rules under Rule E4.1, BritNed will, unless the amendment is urgent or minor in its nature, give Participants a reasonable opportunity, and in any event not less than 20 Business Days, to review and give written comments to BritNed on the proposed amendment. If BritNed decides to modify a proposed amendment as a result of comments from Participants, they may give Participants a further opportunity to review and comment on the modified proposals under this Rule indicating timescales for provision of such comments.
- E4.3 Subject to Rule E4.9, an amendment made under Rule E4.1 takes effect from the later of:
- (a) the start of the Contract Day commencing 10 Business Days after the Amendment Notice is notified to Participants by BritNed; or
  - (b) the date and time specified in the Amendment Notice.
- E4.4 Nothing in this Rule E4 shall prevent a Participant from proposing in writing amendments to these Rules at any time.
- E4.5 In the event that a Rule amendment is proposed by a Participant, BritNed shall, within 5 Business Days, confirm receipt of the proposed amendment and provide timescales for consideration of such proposal.
- E4.6 Each amendment applies to any aspect of these Rules, including but not limited to all Auctions conducted after the date on which the amendment takes effect.
- E4.7 Unless expressly stated otherwise by BritNed, the amended Rules shall govern all rights to use Interconnector Capacity and all other rights and obligations acquired under these Rules including those acquired before but for use after the amendment takes effect.
- E4.8 Any amendment of these Rules will apply automatically to the BPA, without the need for the Participant to sign the amended Rules but without prejudice to the Participant's right to request termination of its BPA in accordance with Rule E6.
- E4.9 These Rules are subject to the law prevailing at the time at which they take effect. In the event that there is a change in law or any action by Competent Authorities at national or international level which have an effect on these Rules then, notwithstanding any other provision of these Rules, the Rules will be amended accordingly and, where possible, pursuant to this Rule E4.
- E4.10 Schedule 4 contains the timings of the business processes.

Modifications may be made to this Schedule 4 by BritNed to reflect changes in either the Dutch or British electricity markets and/or changes to BritNed's operational practices by giving at least 10 Business Days notice to the Participants.

- E4.11 Schedule 6 contains the list of Medium Term products available on the Interconnector at the time of entry into force of these Rules. Modifications may be made to Schedule 6 by means of notification on BritNed's website and/or as specified in the relevant Auction Specification.
- E4.12 These Rules are approved by the Competent Authorities and a copy of the approved Rules will be published on BritNed's website.
- E4.13 BritNed shall undertake a review of these Rules in October 2011 giving Participants an opportunity to review and give written comments in accordance with Rule E4.2. This review shall be limited, as the Rules will have only been in use for a few months; therefore, such review shall be restricted to the UIOSI mechanism and reconciliation on Curtailment.
- E.14 BritNed shall undertake a full review of its Rules on or around September 2012 and every year thereafter giving Participants an opportunity to review and give comments in accordance with Rule E4.2.

#### E5: Force Majeure

- E5.1 Force Majeure means, in relation to BritNed or a Participant, any unforeseeable event or any situation which is beyond the reasonable control of that person, and not due to a fault of such person, which cannot be reasonably avoided or overcome, and which makes it impossible for such person to fulfil temporarily or permanently its obligations under these Rules. Events of Force Majeure shall include the following:
  - (a) explosions, fires, cyclones, earthquakes, floods, epidemics, volcanoes or plagues;
  - (b) any act of war (whether declared or undeclared), invasion, armed conflict, blockade, revolution;
  - (c) any riot, insurrection, civil commotion, or acts or campaigns of terrorism;
  - (d) any protest, demonstration or public disturbance which continues for a period of three (3) weeks or more;
  - (e) official strikes which are not caused or contributed by BritNed or the Participant or any of its employees and do not solely affect BritNed or the Participant or any of its employees.
- E5.2 BritNed or a Participant, which invokes Force Majeure, shall promptly send to the other a notification describing the nature of Force Majeure, its probable

duration and must continue to furnish reports with respect thereto with reasonable frequency during the period of Force Majeure. The person invoking the Force Majeure shall make every possible effort to limit the consequences of the Force Majeure.

- E5.3 The obligations of a Party subject to Force Majeure shall be suspended from the beginning of Force Majeure, with the exception of the confidentiality provisions contained within Rule E2.
- E5.4 Suspension under Rule E5.3 is subject to the following:
- (a) suspension of performance will be of no greater scope and of no longer duration than is required by the Force Majeure;
  - (b) the suspension of performance applies only for so long as the person relying on Rule E5.3 is using reasonable efforts to remedy their inability to perform.
- E5.5 The consequences of Force Majeure which is not subject to any discussion or litigation between BritNed and the Participant, are:
- (i) the person invoking Force Majeure cannot be held responsible to pay compensation for any damage suffered, due to the non-performance or partial performance of all or any of its obligations during the Force Majeure and when such non-performance or partial performance is due directly to Force Majeure;
  - (ii) the acquired Units which have been entirely paid and become subject to Force Majeure are reimbursed for the duration of the Force Majeure; and
  - (iii) where the Unit Holder is the Party claiming the Force Majeure event, BritNed may, for their own benefits, reallocate the Unit Holder's Units to the subsequent Daily Auctions and for the duration of the Force Majeure event.
- E5.6 If suspension under Rule E5.3 claimed and relied on by the affected person continues for a period of 6 months then BritNed or each Participant may, by notice to the other given at any time while the suspension continues beyond that period but not thereafter, terminate the Participant's BPA. Termination takes effect 10 Business Days after the notice is given or any later date specified in the notice. A Medium Term Unit Holder whose BPA is terminated under this Rule E5.6 is under no obligation to pay remaining instalments of the Unit Price and is entitled to a refund to the extent that any instalment includes an amount in respect of use after the date of termination, to be calculated pro-rata from the date termination takes effect.

E6: Termination and suspension

- E6.1 A Participant may cease to be a Participant only in accordance with Rule E5 (termination for Force Majeure) Rule E6.2 or Rule E6.7.

E6.2 A Participant and BritNed may agree at any time to terminate the BPA to which the Participant is a party and any such agreement should not be unreasonably withheld or delayed. Termination takes effect at the time and on the terms agreed by the Participant and BritNed.

E6.3 If any of the events in Rule E6.3 (each a “Suspension Event of Default”) occurs in relation to a Participant, BritNed may by notice to the Participant:

- (a) suspend temporarily the Participant’s rights to participate in Auctions and/or Secondary Market until the Participant has remedied the Suspension Event of Default specified in the notice; and/or
- (b) suspend temporarily the Participant’s rights to use Interconnector Capacity accordingly, (and reduce its ICEs to zero) until the Participant has remedied the Suspension Event of Default specified in the notice and, consequently, the Participant will no longer be entitled to Nominate, Resell or Capacity Transfer the Units it has acquired and such Units will not be taken into account in relation to the “Use It Or Sell It” provisions within these Rules.

For the avoidance of doubt, the Units which the Unit Holder is prohibited from using as a result of suspension may be offered by BritNed in subsequent Daily Auctions and BritNed shall not return the corresponding proceeds to the Unit Holder.

E6.4 The Suspension Events of Default referred to in Rule E6.3 are the following:

- (a) subject to Rule E6.3, if a Participant fails to pay any amount properly due and owing to BritNed pursuant to these Rules;
- (b) if a Participant fails to provide and maintain Credit Cover in accordance with Rule B7;
- (c) BritNed is satisfied on reasonable grounds that the Participant no longer satisfies one or more of the Eligibility Conditions;
- (d) if BritNed has required a Participant, based on reasonable grounds and prior to the application of Rule E6.4 (d), to remedy its breach of these Rules or a breach of its BPA (other than a failure to pay); or
- (e) if the Participant has taken any action which may lead to the damaging or reduction in effectiveness of the Kingdom or of the Kingdom’s hosting system (it being understood that such an action is deemed to happen in case of any behaviour that can be assimilated to an attack on the information system such as, but not limited to, deny of service, spam, virus, brute forcing, Trojan horse attack).

E6.5 A notice under Rule E6.3 takes effect from the time it is given or any later time specified in it. BritNed may withdraw a notice under Rules E6.3(a) or

E6.3(b) at any time. Having given a notice under Rule E6.3, BritNed may give a further or other notice at any time in respect of the same or a different Suspension Event of Default.

- E6.6 Once the Participant has fulfilled or remedied the Suspension Event of Default as notified to it in the notice sent by BritNed, BritNed will reinstate as soon as reasonably practicable the Participant's rights in relation to use of the Interconnector and its ability to participate in Auctions and/or the Secondary Market by written notice to the Participant ("Reinstatement Notice"). As from the date of effect of the Reinstatement Notice, the Units allocated prior to the suspension and which remain unused may be Nominated and the Participant shall also be entitled to participate in Auctions and/or Secondary Market.
- E6.7 If any of the events in Rule E6.8 (each a "Termination Event of Default") occurs in relation to a Participant, BritNed may by notice to the Participant terminate the BritNed Participant Agreement to which the Participant is a party, including the Participant's rights to use Interconnector Capacity. A notice under this Rule E6.7 takes effect from the time it is given or any later time specified in it.

For the avoidance of doubt, as from the time at which the notice referred to at E6.7 takes effect, the Participant will no longer be entitled to participate in an Auction or in the Secondary Market, or Nominate, or Resell, or Capacity Transfer the Units it has acquired and such Units will not be taken into account in relation to the "Use It Or Sell It" provisions within these Rules.

For the avoidance of doubt, the Units which the Unit Holder is prohibited from using as a result of termination may be offered by BritNed in subsequent Daily Auctions or in the Secondary Market and BritNed shall not return the corresponding proceeds to the Unit Holder.

- E6.8 The Termination Events of Default referred to in Rule E6.7 are the following:
- (a) if a Participant fails to remedy within 10 Business Days of a notice (or any other time period specified in the notice, if any) any failure to pay the amount properly due and owed to BritNed pursuant to Rule E6.4.(a);
  - (b) if a Participant fails to remedy within 10 Business Days of a notice (or any other delay specified in the notice, if any) any failure to provide and maintain the relevant Credit Cover pursuant to Rule E6.4.(b);
  - (c) if a Participant undergoes an Insolvency Event;
  - (d) if a Participant commits a breach of these Rules or the terms of its BPA (other than a failure to pay) and (if capable of remedy) the breach has not been remedied within 10 Business Days of a notice (or any other delay specified in the notice, if any) from BritNed requiring remedy;
  - (e) if a Participant persistently breaches these Rules or a BPA, whether or not the breach is capable of remedy;

- (f) if the Participant commits a breach of any of the provisions of the Dutch Codes, GB Grid Code or BSC applicable to it and such breach has or can reasonably be expected to have an adverse effect on the operation of the Interconnector or the arrangements contemplated by these Rules and (if capable of remedy) the breach has not been remedied within 10 Business Days of a notice from BritNed requiring remedy; or
  - (g) if a Competent Authority (i) determines that the Participant has committed a misusing or fraudulent act and (ii) requests BritNed to terminate the BritNed Participant Agreement to which such Participant is a Party or (iii) agrees that BritNed has reasonable grounds to believe that the Participant has committed a misusing or fraudulent act in participating in Auctions, Secondary Market or in Nominating on the BritNed Interconnector.
- E6.9 If BritNed gives a notice to a Participant under Rule E6.3 and Rule E6.7, then respectively such notice of suspension or termination does not relieve the Participant from its payment obligations pursuant to Rule B2, including its payment obligations in relation to the Units for which the Participant loses the right of use pursuant to Rule E6.3 and E6.7.
- E6.10 Where BritNed gives a notice to a Participant pursuant to Rule E6.8 (c), the Participant shall be obliged to fulfil its payment obligations, including its payment obligations in relation to the Units for which the Participant loses the right of use pursuant to Rule E6.3 and E6.7. Nevertheless, for the sole application of this Rule E6.10 and notwithstanding Rule E6.7, the Participant's debt shall be reduced by the amounts of the Units initially acquired by him and finally re-auctioned by BritNed.
- E6.11 Termination of a BPA does not affect any rights and liabilities under or in connection with the BPA and these Rules which arose prior to that termination. Accordingly, any Participant whose BPA is terminated will remain liable, subject to and in accordance with the Rules, in respect of all such rights and liabilities.
- E6.12 This Rule E6 is without prejudice to other remedies available to BritNed under these Rules.

#### E7: Liability

- E7.1 Subject to Rule E7.2 and Rule E7.4, BritNed and each Participant agrees and acknowledges that neither BritNed nor a Participant nor any of their respective officers, employees or agents shall be liable to any other of them for loss arising from any breach of these Rules other than for loss directly resulting from such breach and which at the date of these Rules was foreseeable as not unlikely to occur in the ordinary course of events from such breach in respect of:

- (a) physical damage to the property of BritNed or the Participant (as the case may be), or their respective officers, employees or agents; or
  - (b) the liability of BritNed or the Participant (as the case may be) to any other Participant for loss in respect of physical damage to the property of that other Participant.
- E7.2 Nothing in these Rules excludes or limits the liability of BritNed or a Participant for death or personal injury resulting from that person's negligence or the negligence of any of its officers, employees or agents and BritNed and each Participant shall indemnify and keep indemnified the other and their respective officers, employees or agents, from and against all such and any loss or liability (including all reasonable legal costs) which the person having the benefit of the indemnity may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the person giving the indemnity or any of its officers, employees or agents.
- E7.3 Subject to Rule E7.2 and Rule E7.4, neither BritNed nor any Participant or any of their respective officers, employees or agents shall in any circumstances whatsoever be liable to any other of them for:
  - (a) any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill; or
  - (b) any indirect or consequential loss; or
  - (c) loss resulting from the liability of BritNed or Participant (as the case may be) to any other person (including another Participant) howsoever and whatsoever arising save as provided in rules E7.1(a) and E7.2.
- E7.4 A Participant shall indemnify and keep indemnified BritNed and their respective officers, employees and agents from and against any and all loss or liability (including all reasonable legal costs) which any of them may suffer or incur by reason of any claim by any third party ("claimant") on account of any and all loss (whether direct or indirect) suffered by the claimant or any of the claimant's officers, agents, subcontractors or employees in connection with any Capacity Subcontracting Arrangement to which that Participant is a party.
- E7.5 Each of the provisions of this Rule E7 shall survive termination of any BPA.
- E7.6 BritNed and each Participant acknowledges and agrees that it holds the benefit of Rules E7.1, E7.2, E7.3 and E7.4 above for itself and as trustee and agent for its officers, employees and agents.
- E7.7 For the avoidance of doubt, nothing in this Rule E7 prevents or restricts either BritNed or a Participant from enforcing any obligation (including suing for a debt) owed to it under or pursuant to these Rules.

## E8: Dispute Resolution

- E8.1 Any disagreement, difference of opinion or other dispute between BritNed and a Participant under or in relation to these Rules (“Dispute”) must be resolved in accordance with this Rule E8.
- E8.2 BritNed or a Participant may bring proceedings (“Debt Proceedings”) against the other for any amount owing under or in connection with these Rules and unpaid for more than 20 Business Days after the date the monies were due.
- E8.3 The proceedings referred to in Rule E8.2 may be brought in any court having jurisdiction to hear such claim. Each Participant hereby consents for the purposes of such proceedings to submit to the jurisdiction of any court having jurisdiction to hear such claim. Each Participant irrevocably waives any objection which it may have now or hereafter to the laying of a venue of such proceedings in any court in accordance with Rule E8.2 and any claim that any such proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgement in any such proceedings brought in any such court may be enforced in the courts of any other jurisdiction.
- E8.4 Where there is a Dispute (other than Debt Proceedings) BritNed and Participants shall first seek amicable settlement through mutual consultation pursuant to Rule E8.5.
- E8.5 If there is any Dispute, including any Technical Dispute, a senior representative of BritNed and the Participant with authority to resolve the Dispute must meet within 20 Business Days of a request to meet and seek to resolve the Dispute. If the representatives are unable to resolve the Dispute within 20 Business Days of the meeting (or such longer time as may be agreed) then the Dispute (other than a Debt Proceeding) must be determined in accordance with Rule E8.6. This Rule E8.5 does not prevent the commencement of proceedings under Rule E8.2.
- E8.6 Subject to Rule E8.5, either Party may refer the Dispute to a court of law in England and Wales or The Netherlands or settle the Dispute by way of arbitration in accordance with the rules of arbitration of the International Chamber of Commerce (“ICC”). The decision of the ICC shall be final and binding.
- E8.7 Notwithstanding any reference to amicable settlement, expert resolution, court of law or arbitration under this Rule E8 BritNed and the Participant shall continue to perform their respective obligations under these Rules and the Participant’s BPA.
- E8.8 This Rule E8 survives termination of the Participant’s BPA.

## E9: Miscellaneous

- E9.1 These Rules shall be governed by and construed in all respects in accordance with English Law.



- E9.2 These Rules will be produced both in English and Dutch. For the avoidance of doubt, in the event of inconsistency between the English and Dutch versions, the English language version shall prevail.
- E9.3 No Participant shall acquire any right, title, licence or interest in or to any Intellectual Property, including the Intellectual Property referred to in Rule E9.4, used by BritNed in connection with these Rules.
- E9.4 Save where BritNed agrees in writing otherwise, all Intellectual Property relating to the subject matter of these Rules, including the Rules themselves, as conceived, originated, devised, developed or created by BritNed or their respective officers, employees, agents or consultants during the duration of these Rules shall vest, as against Participants, in BritNed and shall remain the confidential information of BritNed.
- E9.5 The relationship of BritNed and Participants is that of service provider and service Participant respectively. Except as expressly provided in these Rules, nothing contained or implied in these Rules constitutes or is deemed to constitute BritNed or a Participant, the partner, agent or legal representative of the other for any purpose whatsoever or create or be deemed to create any partnership, agency, trust or comprising of any nature whatsoever.
- E9.6 The rights granted to Participants under these Rules are in the form of physical transmission rights of electrical energy. The Auctions and Secondary Market are in respect of capacity only and the Participants can invoke no other right that capacity made available to them in accordance with the provisions of these Rules.
- E9.7 BritNed and each Participant acknowledge and agree that a person who is not a party to the BPA between them (including any other Participant) has no rights to enforce these Rules or the BPA as between BritNed and that Participant.
- E9.8 No omission to exercise or delay in exercising any right, power or remedy provided by law or under these Rules shall constitute a waiver of such right, power or remedy or any other right, power or remedy or impair such right, power or remedy. No single or partial exercise of any such right, power or remedy precludes or impairs any other or further exercise thereof or the exercise of any other right, power or remedy provided by law or under these Rules.
- E9.9 Any waiver of any right, power or remedy under these Rules must be in writing and may be given subject to any conditions thought fit by the grantor. Unless otherwise expressly stated, any waiver is effective only in the instance and only for the purpose for which it is given.
- E9.10 No variation to these Rules or a BritNed Participant Agreement shall be effective unless made in accordance with Rule E4.

- E9.11 The Participant acknowledges that neither BritNed nor any person acting on behalf of or associated with BritNed makes any representation, gives any advice or gives any warranty or undertaking of any kind in respect of these Rules, the BPAs or the Disclosed Information or otherwise in relation to or in connection with these Rules, the BPAs and the Disclosed Information or any transaction or arrangement contemplated by these Rules, the BPAs and the Disclosed Information except as specifically provided in these Rules or the BPA.
- E9.12 These Rules and the BPA contain or expressly refer to the entire agreement between BritNed and each Participant with respect to the subject matter hereof and expressly exclude any warranty, condition or other undertaking implied at law or by custom and supersedes all previous agreements and understandings between BritNed and each Participant with respect thereto and each of them acknowledges and confirms that it does not enter into these Rules on the BPA in reliance on any representation, warranty or other undertaking (other than where made fraudulently) not fully reflected in the terms of these Rules or the BPA.
- E9.13 The rights and remedies provided by these Rules and the BPA to BritNed and each Participant are exclusive and not cumulative and, to the extent permissible by law, shall exclude and be in place of all substantive (but not procedural) rights or remedies express or implied and provided by law (whether Dutch or English) or statute in respect of the subject matter of these Rules and the BPA. Accordingly, BritNed and each Participant hereby waives to the fullest extent possible all such rights and remedies provided by law (whether Dutch or English) or statute, and releases each other of them if it is liable to any other of them, its officers, employees and agents to the same.
- E9.14 If any provision of these Rules or BPA is declared invalid, unenforceable or illegal by the courts in any jurisdiction to which it is subject or pursuant to arbitration or by order of any Competent Authority, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of these Rules and the BPA which shall continue in full force and effect notwithstanding such invalidity, unenforceability and illegality.

## **Schedule 1: Definitions and interpretation**

### **Part I: Definitions**

In these Rules, capitalised words and phrases have the meanings given to them below unless the context requires otherwise.

“Affiliate” means, with respect to any person, any other person (other than an individual) directly or indirectly controlling, controlled by, or under direct or indirect common control with, such person. A person shall be deemed to control another person if such person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other person, whether through the ownership of voting securities, by contract or otherwise.

“Amendment Notice” means the notification and any associated documents issued by BritNed pursuant to Rule E4, provided to the Participants and which provide Participants with the BritNed’s proposed amendment(s) to the Rules;

“Applicable Law” means any statute, statutory instrument, licence (including the BritNed Interconnector Licence, NGET Transmission Licence and the Licence Standards) law (whether English or Dutch) or decree or order in council or directive, or any code including the GB Grid Code, the Dutch Codes and the Balancing and Settlement Code, or any request, requirement, instruction, direction or rule of any Competent Authority but only, where not having the force of law, if compliance with the Applicable Law is in accordance with the general practice of persons to whom the Applicable Law is addressed;

“Applicant” has the meaning given to it in Rule A8.1;

“Application Form” means the form designated by BritNed as such for the purposes of these Rules from time to time and included in the Application Pack;

“Application Pack” means the package of information and other documents designated by BritNed as such for the purposes of these Rules from time to time;

“Auction” means any auction conducted under these Rules;

“Auction Credit Limit” means a credit limit established by a Participant under Rule B7.5 in respect of participation in any Auction;

“Auction Price” means the value of the Marginal Price of an Auction, and which is payable by all Unit Holders resulting from such Auction;

“Auction Specification” means, the specification for the Auction published by BritNed, as described in Rules C2, C3 and C4 for the respective Timescales;

“Balancing and Settlement Code” means the code of that name established under the NGET Transmission Licence;

“Balance Responsibility” means the responsibility of consumers, other than captive consumers, and licence holders to draw up or to have drawn up energy programmes for the generation, transmission and consumption of electricity for the network operators and to act in accordance with such energy programmes subject to the conditions referred to in article 26 (as defined in the NL Definition List);

“Balance Responsible Party” or “Programme Responsible Party” or “BRP” means the parties with Balance Responsibility.

“Bid” means a Participant’s offer to buy Units in an Auction, and made in accordance with these Rules;

“Bidding Period” means, in relation to an Auction, the time during which Bids may validly be submitted in that Auction in accordance with these Rules;

“BritNed Participant Agreement” or “BPA” means an agreement between BritNed and a Participant in or substantially in the form set out in Schedule 2;

“BritNed Participant Guide” means the guide to these Rules published by BritNed from time to time;

“BRP” means Balance Responsible Party Agreement.

“Business Day” means a week-day on which banks in both London and Amsterdam are open for domestic business and for dealings in sterling and Euro deposits;

“Business Rules” means the rules for day to day use of Interconnector Capacity in Schedule 4;

“Capacity Shortage” has the meaning given to it in Rule D8.5;

“Capacity Subcontracting Arrangement” means any arrangement between a Unit Holder and another person under which the Unit Holder allows the person, either directly or indirectly, to use the Interconnector Capacity of the Unit Holder;

“Capacity Transfer” means the mechanism by which a Unit Holder passes over Units to another Participant in accordance with Rule D5, and “Transfer Capacity”,

“Transferred”, “Transferee” shall have corresponding meanings;

“Capacity Transfer Notice” has the meaning given to it in Rule D5.1(a);

“Capacity Transfer Period” has the meaning given to it in Rule D5.1(d);

“Competent Authority” means the Secretary of State (as defined in the Governing Act), the GB Regulator (Office of the Gas and Electricity Markets), the Dutch Regulator (NMa Energiekamer) and any local, national or supra national agency, authority, department, inspectorate, minister, ministry, official or public or statutory person (whether autonomous or not) of, or of the government of, the United Kingdom, the Netherlands or the European Union;

“Confidential Information” means any item of information, regardless of its form, disclosed by BritNed or a Participant to the other under or in connection with these Rules, other than any item of information which:

- (a) was, at the time of the disclosure, within the public domain;
- (b) not being within the public domain at the time of disclosure, enters the public domain otherwise than as a result of a breach of a confidentiality obligation owed in relation to that item of information of which the Recipient is aware; or
- (c) was already known to the Recipient or was independently (of the Disclosing Party) acquired or developed by the Recipient without being in breach of its obligations under the Rules;

“Contract Day” in relation to a Contract Day D, means a period of 24 hours commencing at 00:00 hours CET local time on day D;

“Credit Cover” means security for payment of amounts owed under these Rules provided under Rule B7;

“Credit Cover Incident” means the failure of a Participant to provide the renewal of Credit Cover as specified under Rule B7.16;

“Curtail” means to reduce Unit Holders’ Interconnector Capacity and MNNs in accordance with Rule D8 and “Curtailed” and “Curtailement” have corresponding meanings;

“Curtailement Quantity” means, in relation to a Capacity Shortage, the quantity calculated under Rule D8.5;

“CUSC” means the Connection and Use of System Code established under the NGET Transmission Licence;

“Daily” means processes relating to Auctions with Product Period of one (1) Contract Day and associated Interconnector Capacity activities, the business process for which is described in Schedule 4;

“Daily Auction” means any Auction of Daily Units;

“Daily Auction – Hourly ” means a Daily Auction in which all hours have an independent Auction Price, therefore each hour being a Unit Validity Time;

“Daily Auction – Grouped Hours” means a Daily Auction in which a group of hours has a single Auction Price. The Unit Validity Times in this case are the hours that are grouped together with a common Offered Capacity and a common Auction Price. For the avoidance of doubt, separate groups of hours may have different Auction Prices.

“Daily ICE” means the ICE described under Rule D1.3 pertaining to Interconnector Capacity being allocated (subject to any Curtailment) to a Unit Holder pursuant to Daily Auctions and Secondary Market within the Daily Timescale;

“Daily Imbalance Charge” means any costs levied by TenneT TSO on BritNed resulting from an imbalance of energy through capacity nominated explicitly and has been subject to Curtailment, will be passed through on a pro-rata, neutral cost basis to Participants;

“Daily Unit” means a Unit offered in a Daily Auction, with Unit Validity Times as specified in the relevant Auction Specification;

“Day-Ahead Market Spread” the importing market hourly price minus the exporting market hourly price, the importing and exporting markets are the markets which correspond respectively to the destination and the origin of the energy transaction.

“Day Type” means any of Business Days, non-Business Days or all Days as the case may be, in the context of a Capacity Transfer Notice;

“Debt Proceedings” has the meaning given to it in Rule E8.2 ;

“Deemed Metered Volumes” or “DMV” means volumes of energy allocated to Participants’ Energy Accounts by BritNed calculated using the rules in Schedule 5;

“Default Bid” means the automatic submission of Bids in respect of a particular Auction type (Daily or Intraday) pre-prepared by the Participant;

“Default Nomination” means the automatic generation and submission of Mid North Sea Nominations in respect of a particular Timescale which are identical to the ICE notified to the Participant in respect of such Timescale;

“Deposit Account” means a deposit account at a bank that satisfies the criteria outlined in the definition of Letter of Credit where:

- (a) the account is in the name of BritNed and the Participant;
- (b) interest on the amount deposited in the account accrues for the benefit of the Participant, after deduction for any tax or bank charges;
- (c) BritNed and the Participant have irrevocably instructed the bank to make a payment against the signature of BritNed;
- (d) the bank has agreed that the amounts deposited in the account must not be set off or otherwise applied by the bank in respect of any indebtedness of the Participant or other person; and
- (e) amounts (other than interest) standing to the credit of the account will not be paid to the Participant without the prior written agreement BritNed;

“Disclosed Information” means all information and data provided by or on behalf of BritNed to Participants and Applicants in connection with the Rules including the Application Pack and the BritNed Participant Guide;

“Disclosing Party” means, in relation to an item of Confidential Information, the person that disclosed the item;

“Dispute” has the meaning given to it in Rule E8;

“Dutch Codes” are the Rules that govern the transportation and use of electricity on the Dutch Grid, which includes system codes.

“EAN Code” means the unique identification number in accordance with European Article Numbering (as defined in the NL Definition List);

“Eligibility Conditions” means the conditions set out in Rule A2.2;

“Eligibility Notice” has the meaning given to it in Rule A2.3;

“Energy Account” means in relation to a Participant:

- (a) the Participant’s Production Interconnector BM Unit and Consumption Interconnector BM Unit under the Balancing and Settlement Code; and
- (b) the BRP account established under the Dutch Codes and acknowledged by TenneT TSO.

both as specified by the Participant in its Standing Data;

“NL Energy Programme or E-Programme” means a programme drawn up by a party with balance responsibility (Balance Responsible Party (BRP)) and submitted to the network operator of the national high-voltage network which contains for each programme time unit within one calendar day (i) the balance of the transmissions across all connections for which the BRP has balance responsibility, (ii) the net quantity of all energy transactions with other BRPs, (iii) the quantity of each Import and Export Transaction at Maasvlakte (as defined in the NL Definition List);

“Energy Transmission” means the transmission of electricity across the Interconnector and “Transmitting” has a corresponding meaning;

“Export Transaction at Maasvlakte” or “ETM” has the meaning given to it in Rule 4.2 of Schedule 5;

“Force Majeure” has the meaning given to it in Rule E5;

“Forced Outage” means any Outage of which notice was given after the publication of the Auction Specification for the Daily Auction for the Contract Day on which the Outage occurs;

“GB Grid Code” means the document referred to as the Grid Code in the NGET Transmission Licence;

“Governing Act” means the Electricity Act 1989 as amended and supplemented by the Utilities Act 2000;

“ICE” or “Interconnector Capacity Entitlement” has the meaning given to it in Rule D1.3;

“Implicit Auction” means a mechanism whereby the Interconnector Operator at Day-ahead stage implicitly makes available to market parties the cross-border capacity available for spot trades via the interconnected spot markets of The Netherlands and Great Britain.

“Import Transaction at Maasvlakte” or “ITM” has the meaning given to it in Rules 4.3 of Schedule 5.

“Insolvency Event” means in relation to a Participant, any of the following events:

- (a) an order of a competent court is made or a resolution is passed for its insolvent winding up or dissolution;
- (b) a receiver of the whole or any material part of its assets or undertaking is appointed (whether under contract or by a court) or a decision for the opening of insolvency proceedings has been made by a competent court;
- (c) an administration order is made or a voluntary arrangement is proposed or a decision is made to appoint a mediator or to approve a voluntary arrangement with creditors; or
- (d) anything analogous to, or having a substantially similar effect to, any of the circumstances specified in paragraphs (a) to (c) above occurs in relation to the Participant in any jurisdiction;

“Intellectual Property” means patents, trade marks, design rights, copyright, database rights, know-how (whether registrable or otherwise), information including these Rules (whether patented or not), applications for any of the foregoing, and other similar rights or obligations, whether registrable or not, in any country (including the United Kingdom and the Netherlands);

“Interconnector” means the interconnection of the NGET Transmission System with the TenneT Transmission System by the BritNed Interconnector Circuits;

“Interconnector Capability” means the capability (in MW, at Mid North Sea) of the Interconnector to Transmit electrical energy between Great Britain and the Netherlands taking into account the effects of any event or circumstance affecting such capability at any relevant time, including events or circumstances on the NGET Transmission System or the TenneT Transmission System or disconnection or de-energisation of the Interconnector from either of those transmission systems;

“Interconnector Capacity” means the right of use of the Interconnector made available by BritNed in Auctions, to facilitate the Transmission of energy by Participants



between Great Britain and the Netherlands, to the extent that Interconnector Capability permits and as provided for in these Rules;

“Intraday” means processes relating to Auctions with Product Periods of up to 1 Contract Day duration and associated Interconnector Capacity activities, the business process for which is described in Schedule 4.

“Intraday Auction” means any Auction of Intraday Units;

“Intraday Unit” means a Unit with a Product Period shorter than a Contract Day, as specified in the relevant Auction Specification;

“Kingdom” means the IT system used for conducting Auctions and other associated Interconnector Capacity activities ;

“Letter of Credit” means an irrevocable stand by letter of credit in the currency in which the Participant intends to pay for its Units in such form as BritNed may reasonably approve issued for the account of the Participant in favour of BritNed, allowing for partial drawings and providing for the payment to BritNed forthwith on demand by any United Kingdom clearing bank or banks or any other bank or banks which has (have) a long term debt rating of not less than A by Standard and Poor’s Corporation or by Moody’s Investors Service Inc. or such other bank or banks as BritNed may approve, and which shall be available for payment at a branch of the issuing bank as specified by the issuing bank, provided that the branch so specified shall be located within the boundaries of the mainland of Great Britain;

“Licence Standards” means those standards set out in or referred to in the NGET Transmission Licence;

“Loss Factor” has the meaning given to it in Schedule 5;

“Manifest Error” has the meaning given to it in Rule C5.13;

“Marginal Price” means the lowest winning Bid received by BritNed in an Auction and equal or higher than the Reserve Price in accordance with Rule C6;

“Medium Term” means processes relating to Auctions with Product Periods greater than 1 Contract Day and up to and including 1 contract year and associated Interconnector Capacity activities, the business process for which is described in Schedule 4;

“Medium Term Units” means a Unit with a Product Period longer than one Contract Day and up to and including 1 contract year, as specified in the relevant Auction Specification;

“Mid North Sea Nomination” OR “MNN” has the meaning given to it in Rule D2.1;

“Netting” means the superposition of MNNs in two opposite directions (the Netherlands-GB and GB-the Netherlands), in order to release some capacity in the

more congested direction for the next allocation step, and “Netted” shall have corresponding meaning;

“NGET Transmission Licence” means the licence granted by the Secretary of State to NGET under Section 6(1)(b) of the Governing Act permitting, inter alia, the transmission of electricity in England and Wales, as amended from time to time;

“NGET Transmission System” means the system comprising electric lines owned or operated by NGET for the transmission of electricity as defined in the GB Grid Code;

“NGET” means National Grid Electricity Transmission plc, a company incorporated in England and Wales;

“NL Definition List” means the definition list as referred to under the conditions under article 31, clause 1, under a, b, c of the Electricity Act 1998;

“Nominate” means, in relation to a Participant, the action to submit a MNN to BritNed, and “Nomination” shall have corresponding meaning;

“Nomination Gate Closure” means, for a specific Timescale and in relation to a Settlement Period, the last time at which Nominations can be made in relation to that Settlement Period (those times being listed in Schedule 4);

“Offered Capacity” means the number of Units being made available in the respective Unit Validity Times in an Auction;

“Outage” means any reduction of Interconnector Capability in either direction and includes Forced Outages and Trips;

“Participant” means any person, other than BritNed, who for the time being is a party to a BritNed Participant Agreement;

“Participant Forum” has the meaning given to it in Rule A6;

“Participant Systems” means, in relation to a Participant, the hardware, software and other systems needed by the Participant to exercise its rights and perform its obligations under these Rules, including communicating electronically with BritNed, participating in Auctions and using Interconnector Capacity;

“Payment Incident” has the meaning given to it in Rule B5.1;

“Planned Outage Period” means a period of time during a Product Period where the Offered Capacity is less than the Offered Capacity at other times during the Product Period as a consequence of a planned Outage;

“Product Period” means the period of time beginning on the first Contract Day in respect of a specific Auction and ending at the end of the last Contract Day in respect of such Auction.

“Recipient” means, in relation to an item of Confidential Information, the person to whom it is disclosed;

“Reinstatement Notice” has the meaning given to it in Rule E6.6;

“Relevant Unit Holder” has the meaning given to it in Rule D4.15

“Resale” means the offering of Units in an Auction by BritNed on behalf of a Unit Holder, and the resulting reallocation of those Units to another Participant in accordance with Rule D4, and “Resell”, “Resold” shall have corresponding meanings;

“Resale Period” means the period of time specified as such by a Participant in a Resale Request;

“Resale Request” means a written notice from a Unit Holder to BritNed requesting them to Resell the Unit Holder’s Units during the Resale Period;

“Resale Unit” has the meaning given to it in Rule D4.10;

“Reserve Price” means the minimum price in an Auction for which Units are being offered. The Reserve Price will be set in relation to costs and not in relation to market revenue predictions. Several steps of reserve prices within an Auction may be identified, ranging from the marginal cost to the full cost (including a capital expenditures allowance) of running the BritNed interconnector. The Reserve Price for the Explicit Daily Auction and Explicit Intraday Auction will be set to zero.

“Resold Unit Quantity” means (in megawatt-hours) equals the product of the

- (a) number of Units Resold by the Participant at a specific Auction (in megawatts); and
- (b) the aggregate hours of the Unit Validity Times within the Product Period of such Auction;

“Rules” means these BritNed Access Rules, as amended from time to time;

“Secondary market” means Resale and Capacity Transfer of Interconnector Capacity, as described in Rule D3;

“Set of Bids” means all valid Bids from a Participant registered in Kingdom and as modified during the relevant Bidding Period, at any time;

“Settlement Period GB” means each half-hour period coinciding with Settlement Periods as defined in the Balancing and Settlement Code in the GB market;

“Settlement Period NL” means the time unit used to settle an imbalance in the NL market, i.e. 15 minutes as defined in the NL Definition list;

“Standard Training” means a set of on-line exercises designed by BritNed to enable Participants to become sufficiently familiar with Kingdom. The exercises shall be

undertaken on the test platform of Kingdom with remote support from BritNed and in conjunction with a BritNed Participant Guide and other relevant documentation;

“Standing Data” means, in relation to a Participant, the data and other information to be given by the Participant to BritNed described in Schedule 3;

“Suspension Event” means, in relation to a Participant, any of the following events:

- (a) the Participant’s rights referred to in Section H3.2.2(c) of the Balancing and Settlement Code are suspended under Section H3.2.1 of that Code;
- (b) the Participant becomes a Dormant CUSC Party (as defined in CUSC);
- (c) any request is made under CUSC for BritNed to cease or procure the cessation of the transport of power across the Interconnector by or on behalf of the Participant;

“Suspension Event of Default” has the meaning given to it in Rule E6.4;

“Taxes” means all forms of taxation and statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and of any jurisdiction and any penalty, fine, surcharge, interest, charges or costs payable in connection with any Taxes;

“Technical Dispute” means any dispute relating to technical matters in relation to Parts A, B, C, or D of these Rules, including but not limited to technical matters relating to Kingdom;

“TenneT Transmission System” the system of electric lines operated by TenneT TSO for the transmission of electricity as defined in the Dutch Codes;;

“Termination Event of Default” has the meaning given to it in Rule E6.8;

“Timescale” means either Medium Term, Daily or Intraday period of time;

“Transmission Pass-Through Charge” means the charge, specified by National Grid from time to time, in pence per Unit per Hour payable by Unit Holders, reflecting pass through by National Grid of the charges paid by it for connection of the Interconnector to the NGET Transmission System and use of the NGET Transmission System, (including those charges applicable to the Interconnector Error Administrator as defined in the Balancing and Settlement Code) as calculated under the statement made by NGET under Condition 10 of the NGET Transmission Licence;

“Transmission System Operator” means each of NGET in its capacity as operator of the NGET Transmission System and TenneT TSO in its capacity as operator of the TenneT Transmission System;

“Trip” means any unforeseen event which results in an Outage;

“Unit” means the right to an ICE of up to 1MW (subject to Curtailment and these Rules) in a particular direction and during the Product Period of the Unit, as defined in Rule D1.1 and subject to and on the terms and conditions of these Rules;

“Unit Holder” means a Participant who has been allocated Units under these Rules, any of which at the relevant time have not yet reached the end of their Product Period and, for the purposes of the Rules specified in Rule D5.12(a), Participants to whom a Capacity Transfer is made;

“Unit Price” means, for a Unit, the Auction Price (in euros per megawatt hour) resulting from the Auction at which the Unit was allocated to the Participant;

“Unit Quantity” means, in megawatt-hours, the product of (a) the number of Units allocated to the Participant at a specific Auction (in megawatts) and (b) the aggregate hours of the Unit Validity Times within the Product Period of such Units;

“Unit Resale Price” means, for a Unit, the Auction Price (in euros per megawatt hour) resulting from the Auction at which the Unit was Resold by the Participant, as set out in Rule D4.11;

“Unit Validity Times” means:

- (i) in the case of Medium Term Units, the specific hours within the Product Period for which the Units have been offered in the applicable Auction,
- (ii) in the case of Daily Units, the individual hours (in the case of Daily Auction – Hourly product) or the relevant groups of hours (in the case of a Daily Auction – Grouped Hours product) for which the Units have been offered in the applicable Auction,
- (iii) in the case of Intraday Units, the individual hours for which the Units have been offered in the applicable Auction;

“Unused Units” has the meaning given to it respectively in Rules D6.2 and D6.3, and is referred, in Kingdom, “Non-Nominated capacity”;

“Use-It-or-Lose-It” (UIOLI) has the meaning given to it in Rule D6;

“Use-It-or-Sell-It” (UIOSI) has the meaning given to it in Rule D6;

“Use of System Interconnector Agreement” means an agreement (including a Framework Agreement as defined in CUSC) between NGET and a Participant in the form agreed by NGET setting out the terms on which the Participant may use the NGET Transmission System in relation to Energy Transmission; and

“Validity Period” has the meaning given in Rule B7.2.

## **Part II: Interpretation**

In these Rules (including its Schedules) unless the context requires otherwise:

- (a) the singular indicates the plural and vice versa;
- (b) references to one gender include all other genders;
- (c) the table of contents, headings and examples are inserted for convenience only and do not affect the interpretation of the Rules;
- (d) the word “including” and its variations are to be construed without limitation;
- (e) any reference to legislation, regulations, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force;
- (f) any reference to a “Rule” is a reference to a rule contained in the relevant Section, any reference in a Schedule to a “paragraph” is a reference to a paragraph contained in that Schedule and any reference to a “Schedule” is a reference to a Schedule to the Rules. Rules are identified by reference to the relevant Section and Rule number. For example Rule D4 refers to Rule 4 in Section D;
- (g) any reference to another agreement or document, or any deed or other instrument is to be construed as a reference to that other agreement, or document, deed or other instrument as amended, varied, supplemented, substituted or novated from time to time;
- (h) any reference to a day, month or year is to be construed as a reference to a calendar day, month or year as the case may be;
- (i) a reference to time is a reference to CET time unless (otherwise specified);
- (j) the symbol \* requires multiplication to be effected;
- (k) where BritNed are required to publish any information under these Rules, they may do so by making the information or data available on their respective websites or via Kingdom;

## **Schedule 2: Form of BritNed Participant Agreement**

**THIS BRITNED PARTICIPANT AGREEMENT is made on the day of 201[ ] BETWEEN:**

(1) BRITNED DEVELOPMENT LIMITED a company registered in England and Wales whose registered office is at 1-3 Strand, London, WC2N 5EH, United Kingdom (“BritNed”);

and

(2) THE PARTICIPANT named in Item 1 of the schedule whose registered office is at the address set out in Item 1 of the schedule (“Participant”)

### **RECITALS:**

(A) BritNed is the operator of the Interconnector and has established the BritNed Access Rules governing the relationship between BritNed and the Participants and more particularly setting out the arrangements for selling rights to use the Interconnector and the terms of use.

(B) The Participant wishes to buy rights to use the Interconnector under the terms of the BritNed Access Rules.

(C) The Parties are entering into this Agreement for the purposes of giving effect to and binding themselves to the BritNed Access Rules in relation to the Participant’s acquisition and use of rights to use the Interconnector.

NOW IT IS HEREBY AGREED as follows:

### **1. Definitions and interpretation**

1.1 In this Agreement including the recitals, capitalised words and phrases have the meaning given to them below except where the context requires otherwise:

“Agreement” means this BritNed Participant Agreement;

“BritNed Access Rules” means the rules of that name established by BritNed providing for the sale and use of rights to use the Interconnector as amended from time to time, the current version of which has been made available to the Participants;

“BritNed Participant Guide” means the guide to the BritNed Access Rules, published by BritNed and designated as such by them from time to time;

“Interconnector” means the 1,000 MW DC interconnector between the Isle of Grain in Great Britain and Maasvlakte in the Netherlands; and

“Party” means BritNed and the Participant.

1.2 The rules of interpretation in the BritNed Access Rules apply to this Agreement and visa versa.

## **2. BritNed Access Rules**

2.1 The BritNed Access Rules are hereby given effect between and made binding upon each Party with effect from the date of execution of this Agreement by both Parties.

2.2 With effect from the date of execution of this Agreement by both Parties, each Party undertakes to the other Party to comply with and perform its obligations in accordance with and subject to the BritNed Access Rules.

## **3. Warranties**

3.1 The Participant warrants to BritNed at the time of entering into this Agreement that:

- (a) the information and data provided by the Participant to BritNed in its Application Form (as defined in the BritNed Access Rules) is true, accurate and complete in all respects;
- (b) this Agreement and rights acquired under the BritNed Access Rules constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms;
- (c) the Participant has taken the steps necessary to ensure that it has access to all the relevant documentation issued by BritNed including but not limited to the BritNed Access Rules and the BritNed Participant Guide;

3.2 Each Party warrants to the other at the time of entering into this Agreement that:

- (a) it will not by entering into this Agreement or acquiring rights under the BritNed Access Rules infringe any anti-trust or competition legislation or any undertaking or other obligation arising under any antitrust or competition legislation;
- (b) it is not a natural person, it is duly incorporated and validly existing under the laws of its country of incorporation;
- (c) it has full power and authority to enter into and perform this Agreement and to acquire and exercise rights under the BritNed Access Rules and all necessary action has been taken on its part to authorise entry into and performance of this Agreement and rights under the BritNed Access Rules;
- (d) it warrants that it is not insolvent and that it has no knowledge of any possible insolvency proceedings that may be brought against it in the immediate future.



3.3 If any of the above ceases to be true with regard to either Party at any time prior to termination of this Agreement, then that Party shall immediately notify the other of that fact and shall provide full details.

#### **4. Notices**

4.1 All notices and other communications between the Parties under or in connection with this Agreement and the BritNed Access Rules must be given in accordance with the BritNed Access Rules.

4.2 The address and contact details for BritNed are set out in Item 3 of the Schedule below. The address and contact details for the Participant are set out in Item 2 of the Schedule.

4.3 Contact details of a Party can be amended from time to time by notice from that Party.

#### **5. Termination**

This Agreement may be terminated only as provided for in the BritNed Access Rules.

#### **6. General**

6.1 This Agreement and the BritNed Access Rules are governed by and construed in accordance with English law.

6.2 This Agreement and the BritNed Access Rules must be read and construed as one document. References in the BritNed Access Rules to the BritNed Participant Agreement must be read and construed as references to the BritNed Access Rules and this Agreement.

6.3 If any provision of this Agreement or the BritNed Access Rules is declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject or pursuant to arbitration under the BritNed Access Rules or by order of any Competent Authority (as defined in the BritNed Access Rules), such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of the BritNed Access Rules and this Agreement which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.

SIGNED by the Parties as an Agreement.

## **The Schedule**

### **Item 1: The Participant**

Name:	<i>[Insert]</i>
Registered address:	<i>[Insert]</i>

### **Item 2: Notices to the Participant**

Address for notices:	<i>[Insert]</i>
Facsimile:	<i>[Insert]</i>
Telephone:	<i>[Insert]</i>
Attention:	<i>[Insert]</i>
Email:	<i>[Insert]</i>

### **Item 3: Notices to the Operators**

BritNed Development Ltd Oude Oeverstraat 120 6811 JZ Arnhem The Netherlands  Telephone: <i>[Insert]</i> Fax number: <i>[Insert]</i> Contact: <i>[Insert]</i> Email: <i>[Insert]</i>
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### **Schedule 3: Standing Data**

This Schedule 3 lists the Standing Data to be provided by each Participant. Rule A8.9 requires Participants to keep their Standing Data up to date.

1. Name.
2. Registered address.
3. Address for correspondence.
4. Telephone number.
5. Facsimile number.
6. Commercial contact person and their contact details.
7. Operational contact person and their contact details. (Kingdom Main Contact).
8. Invoicing contact person and their contact details.
9. Identification of the Participant's Production Interconnector BM Unit and Consumption Interconnector BM Unit under the Balancing and Settlement Code.
10. Identification of a Balance Responsible Party Agreement of the Participant with TenneT TSO.
11. EAN Code.
12. E-mail address for operational communications.

## **Schedule 4: Business Rules for Use of Interconnector Capacity**

*(All timings are put between brackets as they are only indicative and might be amended at a later stage)*

### **1. Introduction**

- 1.1 This Schedule 4 describes the business process and timings of the following activities:
  - (a) calculation and notification by BritNed of the Settlement Period values of the ICEs per Timescale for each Participant in each direction for each Contract Day;
  - (b) notification by each Participant of Resales and Capacity Transfers at each relevant Timescale; and
  - (c) submission by each Participant of Medium Term, Daily and Intraday Nominations in each direction for each Contract Day.
- 1.2 Timings given in this Schedule 4 are nominal timings, which may be subject to change in case of emergency. In this case, Participants would be informed of new timings to follow in due time.
- 1.3 Times are given in CET.
- 1.4 Participants should note that in addition to these Business Rules, in using the Interconnector they must comply with the NGET Grid Code, the BRP Agreement with TenneT TSO and any other applicable legislation or rules in England and Wales or the Netherlands..

### **2. Energy Accounts**

- 2.1 Each Participant must identify its Production and Consumption Interconnector BM Units under the BSC and the BRP in the Dutch Codes as acknowledged by TenneT TSO in its Standing Data.
- 2.2 Each Participant may notify an Energy Transmission against one of each of the types of Energy Account referred to above in any one Settlement Period.

### **3. Medium Term Business Process**

- 3.1 Dates of Medium Term Auctions are published in advance (end of year Y-1 for Medium Term Auctions taking place in year Y) by BritNed.
- 3.2 Five business days before the day when a Medium Term Auction is planned, BritNed shall publish an Initial Auction Specification, pursuant to Rule C2. The Offered Capacity in this Initial Auction Specification does not include Units offered for Resale at this Medium Term Auction.
- 3.3 After the final results publication of any previous Medium Term Auction and no later than 30 minutes before the final Auction Specification of another Medium Term Auction, Capacity Transfer Notices and Resale Requests of Units initially

allocated in any previous Medium Term Auction can be submitted to BritNed, in accordance to Rules D3, D4 and D5.

- 3.4 Thirty minutes before the opening of a Medium Term Auction, the final Auction Specification of this Medium Term Auction is published by BritNed, pursuant to Rule C2. The Offered Capacity in this Final Specification includes Units submitted for Resale at this Medium Term Auction, subject to any Curtailment, pursuant to Rules C2 and D8.
- 3.5 A Medium Term Auction opens and closes at the times given in the relevant Medium Term Auction Specification. During this period of time, Participants can submit Bids to BritNed, in accordance with Rules C2 and C5.
- 3.6 Once the Auction is closed, at the time specified in the Auction Specification Units are allocated, pursuant to Rule C6, and preliminary Results of this Medium Term Auction are published as soon as practicable and within 30 minutes after the end of the Bidding Period.
- 3.7 Two hours after the publication of the preliminary Results of a Medium Term Auction (or at any other time specified in advance by BritNed), the final results of this Auction are published and Capacity Transfer Notices and Resale Requests can be submitted to BritNed, in accordance with Rule D3, D4 and D5.
- 3.8 Capacity Transfer Notices and Resale Requests of Units initially allocated in any previous Medium Term Auction can be submitted to BritNed, in accordance to Rules D3, D4, and D5 up to 30 minutes before the Final Specification of another Medium Term Auction. Any Capacity Transfer of Medium Term Units must be confirmed by the Participant to whom the Capacity Transfer was made within 3 hours of the Capacity Transfer Notice being received by BritNed, and no later than 30 minutes before the Final Specification of another Medium Term Auction.
- 3.9 Any Medium Term Unit for the Contract Day D can be subject to a Capacity Transfer Notice until 15:30 hrs on the day D-2.
- 3.10 BritNed will notify each Unit Holder of its Medium Term ICE for Contract Day D in each Direction, pursuant to Rule E2, at 16:15 hrs on the day D-2.
- 3.11 Unit Holders can submit Medium Term Mid North Sea Nominations of Medium Term Units for the Contract Day D, from opening of the gate for Medium Term MNNs at 16:30 hrs on the day D-2 until Medium Term MNNs gate-closure at 09:30 hrs on day D-1, in accordance with Rule D2 (or at any other time specified in advance by BritNed).
- 3.12 When D-2, in respect of a Contract Day D, is not a Business Day, then the opening of the gate for Medium Term MNNs shall take place on the last Business Day preceding D-2, at 16:30 hrs.

**4. Day-Ahead Business Process for Explicit Daily Auction (Timings are indicative as this is a fallback to the Daily Implicit Auction)**

- 4.1 The Specification of a Daily Auction of Units for Contract Day D is published by BritNed no later than 09:35 hrs on day D-1, in accordance with Rule C3.
- 4.2 A Daily Auction of Units for Contract Day D opens at 09:50 and closes at 10:15 hrs on Day D-1 (or at any other times specified by BritNed in the relevant Auction Specification or after publication of the Auction Specification). During this period of time, Participants can submit bids to BritNed, in accordance with Rules C3 and C5.
- 4.3 Once the Daily Auction is closed, Units are allocated, pursuant to Rule C6, and preliminary Results of this Daily Auction are published at 10:20 hrs on the day D-1.
- 4.4 Twenty minutes after the publication of the preliminary Results of a Daily Auction (or at any other time specified in advance by BritNed), the final results of this Daily Auction are published..
- 4.5 BritNed will notify each Unit Holder of its Daily ICE for Contract Day D in each Direction, pursuant to Rule E2, at 11:00 hrs on the day D-1 (or at any other time specified in advance by BritNed).
- 4.6 Unit Holders can submit Daily Mid North Sea Nominations of Daily Units for the Contract Day D, from opening of the gate for Daily MNNs at 12:30 hrs on the day D-1 until Daily MNNs gate-closure at 13:30 hrs on day D-1, in accordance with Rule D2 (or at any other time specified in advance by BritNed).

**5. Intraday Business Process (all timings are indicative).**

- 5.1 The Auction Specification of the first Intraday Auction of Units for Contract Day D is published by BritNed no later than 18:15 hrs on day D-1, in accordance with Rule C4. This first Intraday Auction covers hours from 00:00 to 15:59 hrs.
- 5.2 The first Intraday Auction for the Contract Day D opens at 18:30 hrs and closes 19:00 hrs (or at any other times specified by BritNed in the relevant Auction Specification or after publication of the Auction Specification). During this period of time, Participants can submit bids to BritNed, in accordance to Rules C4 and C5.
- 5.3 Once the first Intraday Auction is closed, Units are allocated, pursuant to Rule C6, and final results of this Intraday Auction are published.
- 5.4 BritNed will notify each Unit Holder of its Intraday ICE for the period from 00:00 to 15:59 hrs of the Contract Day D in each Direction, pursuant to Rules D1, at 19:15 hrs on the day D-1 (or at any other time specified in advance by BritNed).

- 5.5 Unit Holders can submit Intraday Mid North Sea Nominations of Intraday Units for the period from 00:00 to 15:59 hrs of the Contract Day D, from opening of the gate for Intraday MNNs at 19:40 hrs on the day D-1 until Intraday MNNs gate closure at 20:00 hrs on day D-1, in accordance with Rule D2 (or at any other time specified in advance by BritNed).
- 5.6 Any Intraday Unit for the period from 04:00 to 15:59 hrs of the Contract Day D can be subject to a Capacity Transfer Notice from 21:00 hrs on the day D-1 until 23:00 hrs on the day D-1. Any such Capacity Transfer of Intraday Units must be confirmed by the Participant to whom the Capacity Transfer was made within 20 minutes of the Capacity Transfer Notice being received by BritNed, and no later than 23:00 hrs on the day D-1.
- 5.8 Unit Holders can submit Intraday Mid North Sea Nominations of Intraday Units for the period from 08:00 to 15:59 hrs of the Contract Day D, from opening of the gate for Intraday MNNs at 23:40hrs on the day D until Intraday MNNs gate-closure at 00:00 hrs on day D, in accordance with Rule D2 (or at any other time specified in advance by BritNed).
- 5.9 Any Intraday Unit for the period from 08:00 to 15:59 hrs of the Contract Day D can be subject to a Capacity Transfer Notice from 01:00 hrs on the day D until 03:00 hrs on the day D. Any such Capacity Transfer of Intraday Units must be confirmed by the Participant to whom the Capacity Transfer was made within 20 minutes of the Capacity Transfer Notice being received by BritNed, and no later than 03:00 hrs on the day D.
- 5.10 BritNed will notify each Unit Holder of its Intraday ICE for the period from 08:00 to 15:59 hrs of the Contract Day D in each Direction, pursuant to Rule D1, at 03:15hrs on the day D (or at any other time specified in advance by BritNed).
- 5.11 Unit Holders can submit Intraday Mid North Sea Nominations of Intraday Units for the period from 08:00 to 15:59 hrs of the Contract Day D, from opening of the gate for Intraday MNNs at 03:40 hrs on the day D until Intraday MNNs gate-closure at 04:00 hrs on day D, in accordance with Rule D2 (or at any other time specified in advance by BritNed).
- 5.12 Any Intraday Unit for the period from 12:00 to 15:59 hrs of the Contract Day D can be subject to a Capacity Transfer Notice from 05:00 hrs on the day D until 07:00 hrs on the day D. Any such Capacity Transfer of Intraday Units must be confirmed by the Participant to whom the Capacity Transfer was made within 20 minutes of the Capacity Transfer Notice being received by BritNed, and no later than 07:00 hrs on the day D.
- 5.13 BritNed will notify each Unit Holder of its Intraday ICE for the period from 12:00 to 15:59 hrs of the Contract Day D in each Direction, pursuant to Rule D1, at 07:15 hrs on the day D (or at any other time specified in advance by BritNed).

- 5.14 Unit Holders can submit Intraday Mid North Sea Nominations of Intraday Units for the period from 12:00 to 15:59 hrs of the Contract Day D, from opening of the gate for Intraday MNNs at 07:40 hrs on the day D until Intraday MNNs gate-closure at 08:00 hrs on day D, in accordance with Rule D2 (or at any other time specified in advance by BritNed).
- 5.15 The Auction Specification of the second Intraday Auction of Units for Contract Day D is published by BritNed no later than 10:15 hrs on day D, in accordance with Rule C4. This second Intraday Auction covers hours from 16:00 to 23:59 hrs.
- 5.16 The second Intraday Auction for the Contract Day D opens at 10:30 hrs and closes at 11:00 hrs (or at any other times specified by BritNed in the relevant Auction Specification or after publication of the Auction Specification). During this period of time, Participants can submit bids to BritNed, in accordance to Rules C4 and C5.
- 5.17 Once the second Intraday Auction is closed, Units are allocated, pursuant to Rule C6, and final results of this Intraday Auction are published.
- 5.18 BritNed will notify each Unit Holder of its Intraday ICE for the period from 16:00 to 23:59 hrs of the Contract Day D in each Direction, pursuant to Rule D1, at 11:15 hrs on the day D (or at any other time specified in advance by BritNed).
- 5.19 Unit Holders can submit Intraday Mid North Sea North Sea Nominations of Intraday Intraday Units for the period from 16:00 to 23:59 hrs of the Contract Day D, from opening of the gate for Intraday MNNs at 11:40 hrs on the day D until Intraday MNNs gate-closure at 12:00 hrs on day D, in accordance with Rule D2 (or at any other time specified in advance by BritNed).



- 5.20 Any Intraday Unit for the period from 20:00 to 23:59 hrs of the Contract Day D can be subject to a Capacity Transfer Notice from 13:00 hrs on the day D until 15:00 hrs on the day D. Any such Capacity Transfer of Intraday Units must be confirmed by the Participant to whom the Capacity Transfer was made within 20 minutes of the Capacity Transfer Notice being received by BritNed, and no later than 15:00 hrs on the day D.
- 5.21 BritNed will notify each Unit Holder of its Intraday ICE for the period from 20:00 to 23:59 hrs of the Contract Day D in each Direction, pursuant to Rule D1, at 15:15 hrs on the day D (or at any other time specified in advance by BritNed).
- 5.22 Unit Holders can submit Intraday Mid North Sea Nominations of Intraday Units for the period from 20:00 to 23:59 hrs of the Contract Day D, from opening of the gate for Intraday MNNs at 15:40 hrs on the day D until Intraday MNNs gate-closure at 16:00 hrs on day D, in accordance with Rule D2 (or at any other time specified in advance by BritNed).

**Timings summary (CET time) (indicative)**

<b>Units Validity Times</b>	<b>...are auctioned in...</b>	<b>can be Capacity Transferred during</b>	<b>relevant Nomination Gate- Closures</b>
00:00-04:00	ID auction 1 (end 19:00)	-	20:00
04:00-08:00	ID auction 1 (end 19:00)	21:00-23:00	20:00, 00:00
08:00-12:00	ID auction 1 (end 19:00)	21:00-23:00, 01:00-03:00	20:00, 00:00, 04:00
12:00-16:00	ID auction 1 (end 19:00)	21:00-23:00, 01:00-03:00, 05:00-07:00	20:00 00:00 04:00 08:00
16:00-20:00	ID auction 2 (end 11:00)	-	12:00
20:00-00:00	ID auction 2 (end 11:00)	13:00-15:00,	12:00, 16:00,

## **Schedule 5: Deemed Metered Volume Allocation**

### **1. Introduction**

- 1.1 BritNed will calculate the Deemed Metered Volumes for each Participant for each direction for each Settlement Period in each Contract Day and allocate those amounts to the Energy Accounts of Participants in accordance with this Schedule 5.

### **2. Deemed Metered Volumes**

- 2.1 For each Settlement Period, the Deemed Metered Volume of each Participant is equal to the net of the Medium Term, Daily and Intraday Mid North Sea Nominations (as amended by any Curtailment) of that Participant for that Settlement Period integrated over the Settlement Period to give a MWh figure in the net direction (and zero in the other) .

### **3. Losses**

- 3.1 The physical flow on the Interconnector is subject to losses. BritNed will apply a Loss Factor (“LF”) to calculate each Participant’s share of the losses. The Loss Factor is symmetrical between Mid North Sea and either end of the Interconnector (Isle of Grain and Maasvlakte).
- 3.2 The Loss Factor to be applied by BritNed is published on the BritNed website ([www.britned.com](http://www.britned.com)). This Loss Factor is used to calculate energy volumes of each Participant in the Netherlands and in Great Britain in accordance with paragraph 4.

### **4. Adjustment for losses**

- 4.1 For the purpose of the Balancing and Settlement Code, BritNed will send to the SAA (as defined in that Code) a program called BM Unit Metered Volume (BMUMV) expressed in MWh at Grain in half-hourly volumes and calculated by this formula:

- (a) for a BM Unit in the direction from The Netherlands to GB:

$$\text{BMUMV} = (1 - (\text{LF}/2)) * \text{DMV}; \text{ and}$$

- (b) for a BM Unit in the direction from GB to The Netherlands:

$$\text{BMUMV} = (1 + (\text{LF}/2)) * \text{DMV}.$$

- 4.2 For the purpose of the TenneT TSO Settlement Arrangements and for an export from The Netherlands to GB, BritNed will send to TenneT TSO (in its capacity as Transmission System Operator) a program called “Export Transaction at

Maasvlakte” as part of the NL Energy Programme expressed in kWh at Maasvlakte in quarter hour volumes and calculated by this formula:

$$ETM = 1 + (LF/2) * DMV$$

- 4.3 For the purpose of the TenneT TSO settlement arrangements and for an import from GB to The Netherlands, BritNed will send to Tennet TSO a program called “Import Transaction at Maasvlakte” as part of the NL Energy Programme expressed in MWh at Maasvlakte in quarter hour volumes and calculated by this formula:

$$ITM = (1 - (LF/2)) * DMV.$$

- 4.4 In paragraphs 4.1, 4.2, and 4.3, “DMV” means the Deemed Metered Volume calculated for that Participant for that Settlement Period under paragraph 2 above.

#### **Schedule 6: List of Medium Term products**

On the date of entry into force of these Rules, as a minimum the following products shall be offered under Medium Term Auctions:

- Calendar annual; and
- Calendar month;

BritNed may offer other Medium Term products if in its reasonable opinion the current Medium Term products are not sufficient.

Should BritNed deem it necessary to offer other Medium Term products then BritNed will provide Participants with reasonable notice of such products and the timings of when such products will be offered.

## **Schedule 7: Transparency**

### **All capacity allocation procedures shall be made transparently available to all market participants:**

The BritNed Access Rules will be made publicly available to all market participants via the BritNed website.

### **BritNed shall publish all relevant data concerning its trade on the basis of the best possible forecast at that time:**

BritNed shall publish the yearly and day-ahead Net Transfer Capacity (NTC) to the market per border direction and for each market time unit, taking into account all relevant information available to BritNed and the TSOs at the time of the calculation (e.g. planned maintenance on the grid, availability of the assets, etc.)

### **BritNed shall publish all available capacity depending on the type of auction and shall take into account all netted day-ahead nominations:**

For every type of auction BritNed will publish in advance the Available Transmission Capacity (ATC) to the market. The ATC is the part of NTC that remains available, after each phase of the allocation procedure, for further commercial activity. ATC is given by the following equation:  $ATC = NTC - AAC$ . Taking into account all netted day-ahead nominations from capacity allocated in previous auctions.

For every type of auction BritNed will publish in advance the Offered Capacity. The Offered Capacity is a part of or equivalent to the ATC that will be offered by BritNed to the market in a particular auction. Taking into account all netted day-ahead nominations from capacity allocated in previous auctions.

### **BritNed shall publish the allocated capacity after each allocation as well as an indication of the price paid. BritNed shall also publish the total capacity used by market time unit after nomination:**

As soon as an auction is finished, BritNed will publish the results of the auction. The auction results will contain the following information:

- For explicit auctions:
  - o Requested capacity; the capacity requested by market participants in the auction per border direction.
  - o Allocated capacity; the capacity allocated to market participants in the auction per border direction.
  - o Auction clearing price; the price participants have paid for the allocated capacity.
  - o Reserve price; the reserve price for a particular auction will be made available as soon as practicable after the auction has finished. Confirmation of the Reserve Price shall be submitted to both the GB Regulator and Dutch Regulator immediately before any auction is conducted.
- For implicit auctions:
  - o Allocated capacity; the capacity allocated to market participants in the auction per border direction.
  - o Spot Price Differences; the price difference between the Power Exchanges of both countries.

**BritNed shall publish as close as possible to real time aggregated realised commercial and physical flows by market time units:**

After an auction nomination gate closure, BritNed will publish the aggregated commercial schedule of the capacity the link is scheduled to flow commercially on the delivery day. The initial schedule will be updated after a consecutive nomination gate closure. Therefore it is the sum of final scheduled exchanges.

**BritNed is committed to providing all relevant information to the market in due time for it to negotiate transactions:**

BritNed will publish all planned maintenance and forced outages on the system.

BritNed will publish:

- For a planned outage:
  - o Start (precise day and time) and planned stop dates and time of the outage,
  - o Impact on available transmission capacity (NTC)
  - o Reason of planned outage.
- For a forced outage:
  - o Start (precise day and time) and estimated stop dates and time of the outage,
  - o Impact on available transmission capacity (NTC)
  - o Reason of planned outage.

For participants that are active on the Interconnector at the time of an outage and if this outage influences their nominated position, they will be informed by messages and SMS.