

To: Diamond Transmission Partners RB Limited

**Electricity Act 1989
Section 11A(2)**

Modification of the amended standard conditions of the offshore electricity transmission licence held by Diamond Transmission Partners RB Limited

1. Diamond Transmission Partners RB Limited is the holder of an offshore electricity transmission licence ('the Licence') which has been granted or treated as granted under section 6(1)(b) of the Electricity Act 1989 ('the Act').
2. Under section 11A(2) of the Act the Gas and Electricity Markets Authority ('the Authority')¹ gave notice on 25 August 2020 ('the Notice') that we proposed to modify the following amended standard conditions ('ASC') of the Licence:
 - a. ASC E12-A1: Definitions and Interpretation; and
 - b. ASC E12-J3: Restriction of Transmission Revenue: Allowed Pass-through Items
3. We stated that any representations to the modification proposal must be made on or before 24 September 2020.
4. A copy of the Notice was sent to the Secretary of State in accordance with section 11A(4)(b) of the Act, and we have not received a direction that the changes should not be made.
5. In total, the Authority issued seven notices proposing similar modifications to all existing offshore transmission ('OFTO') Licences (including that held by Diamond Transmission Partners RB Limited) on 25 August 2020. We received 11 responses to the notices, which we have carefully considered. We have placed all non-confidential responses on our website. Our response to these comments is set out in the accompanying Decision Letter.
6. It is necessary to make a number of minor alterations to the modifications set out in the Notice. These alterations are shown in yellow highlight in the accompanying Schedule 1. The reasons for the differences between the modifications set out in the Notice and the modifications reflected in Schedule 1 are to address minor issues raised in consultation responses, including the placement of the definition of 'Uninsurable', and to ensure consistency in the Licence drafting. These differences are addressed in further detail in the Decision Letter and do not change the reason for, or effect of, the modifications as set out in the Notice.
7. We are making these Licence modifications for the reasons set out in the Notice, and the effect of the modifications will be as described in the Notice.
8. Where an application for permission to appeal our decision is made to the Competition and Markets Authority ('CMA') under section 11C of the Act, Rule 5.7 of the Energy Licence Modification Appeals: Competition and Markets Authority Rules² requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-sensitive notice setting out the matters required in Rule 5.2. The attached Schedule 2 provides a list of the

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

² CMA70 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf

relevant licence holders in relation to this modification. Section 11A(10) of the Act sets out the meaning of 'relevant licence holder'.

Under the powers set out in section 11A(1)(a) of the Act, we hereby modify the amended standard licence conditions for the offshore electricity transmission Licence held by Diamond Transmission Partners RB Limited in the manner specified in the attached Schedule 1. This decision will take effect from 14 January 2021.

This document with the accompanying Decision Letter is notice of the reasons for the decision to modify the offshore electricity transmission licence held by Diamond Transmission Partners RB Limited as required by section 49A(2) of the Act.

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Jourdan Edwards
Head of the OFTO Regime, Networks

Duly authorised on behalf of the
Gas and Electricity Markets Authority

17 November 2020

Schedule 1: Licence Modification

We have included the sections of the amended standard licence conditions we have decided to remove or amend below. Deletions are shown in strike through and new text is double underlined.

Amended Standard Condition E12–A1: Definitions and Interpretation

Insert the following definitions in amended standard condition E12-A1:

A. after the definition of "Financial Security" and before the definition of "Funding Return":

‘ "Force Majeure" means any event or circumstance which is beyond the reasonable control of the licensee including act of God, strike, lockout or other industrial disturbance, act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, lack of water arising from weather or environmental problems, explosion, governmental restraint, Act of Parliament, other legislation, bye law and Directive (not being any order, regulation or direction under sections 32, 33, 34 and 35 of the Act) and provided, for the avoidance of doubt, that weather conditions which are reasonably to be expected at the location of the event or circumstance are also excluded as not being beyond the reasonable control of the licensee.’

and

B. after the definition of "Transmission System Availability Incentive" or "AI_t":

‘ "Uninsurable" means that the Authority determines either that:

(a) Insurance is not available to the licensee in respect of all or part of its Transmission Assets in the Worldwide Offshore Transmission Asset Insurance Market with reputable insurers of good standing in respect of a Risk; or

(b) the Insurance premium payable for insuring that Risk is at such a level that the Risk is deemed as not being insurable in the Worldwide Offshore Transmission Asset Insurance market with reputable insurers of good standing.

Where:

(c) a "Risk" means the physical loss or damage requiring replacement or rectification of Transmission Assets, which is caused by a Latent Defect resulting from material workmanship design plan or specification;

- (d) “Insurance” means the indemnity which would normally be covered by an Operational All Risk insurance policy with a LEG3/06 exclusion, or equivalent, which includes indemnity for the full cost of replacement or rectification of the Offshore Transmission Assets (but not improvement) rendered necessary by damage which is the consequence of a Latent Defect;
- (e) a “Latent Defect” means a flaw in Offshore Transmission Assets, which:
- i. is an actual defect in material workmanship design plan or specification, not the damage resulting from the defect; and
 - ii. existed but which would not have been apparent to an efficient licensee in the position of the licensee at the time the Offshore Transmission Assets were transferred to it;
- (f) “LEG 3/06” means the London Engineering Group Unique Market Reference for the Model “Improvement” Defects Wording;
- (g) “Worldwide Offshore Transmission Asset Insurance Market” means all insurers who, after an exhaustive search, would reasonably be understood by an efficient licensee, in the position of the licensee, to be participating in the business of insuring offshore transmission assets (to be determined by the Authority); and
- (h) “Offshore Transmission Asset/s” means the transmission system to which the licensee’s Offshore Transmission Owner licence relates as set out in Annex B to amended standard condition E12-B1 (Transmission System Area) in the licensee’s Offshore Transmission Owner Licence.

Amended Standard Condition E12–J3: Restriction of Transmission Revenue: Allowed Pass-through Items

1. The purpose of this condition is to provide for revenue adjustments to reflect certain costs that can be passed through to consumers as part of Allowed Transmission Owner Revenue (OFTO_t).
2. For the purposes of paragraph 4 of amended standard condition E12–J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) the pass-through revenue adjustment term (PT_t) is derived from the following formula

$$PT_t = LF_t + RB_t + CEL_t + DC_t + IAT_t + TPD_t + TCA_t + MCA_t + CEA_t - RFG_t \quad (8)$$

where:

- LF_t means the licence fee cost adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraph 3.
- RB_t means the network rates cost adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraphs 4 and 5.
- CEL_t means the Crown Estate Lease cost adjustment term, whether of a positive or negative value, and shall be determined in accordance with paragraph 6.
- DC_t means the decommissioning cost adjustment term and shall be determined in accordance with paragraphs 7 to 13.
- IAT_t means the income adjusting event revenue adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraphs 14 to 24.
- TPD_t means the temporary physical disconnection payment term and shall be determined in accordance with paragraph 25.
- TCA_t means the tender fee cost adjustment term, whether of a positive or of a negative value, and shall be determined in accordance with paragraph 26.
- MCA_t means the Marine and Coastal Access Act 2009 cost adjustment term and shall be determined in accordance with paragraphs 27 to 33.
- CEA_t means the contingent event revenue adjustment term and shall be determined in accordance with paragraphs 34 to 47.
- RFG_t means the Refinancing Gain Share determined in accordance with paragraphs 48 to 65.

Formula for the Licence Fee Cost Adjustment (LF_t)

3. For the purposes of paragraph 2, LF_t is an amount in respect of licence fee payments and means the amount equal to the payments made by the licensee, in the relevant year t, in

accordance with its obligations set out in standard condition A4 (Payments by the Licensee to the Authority).

Formula for the Network Rates Cost Adjustment (RB_t)

4. For the purposes of paragraph 2, RB_t is an amount in respect of Networks Rates payments and means, subject to paragraph 5 of this condition, the amount equal to the rates payments made by the licensee in the Relevant Year t .
5. The licensee shall at the time of Network Rates Revaluation use reasonable endeavours to minimise the costs that it will incur in respect of Network Rates.

Formula for the Crown Estate Lease Cost Adjustment (CEL_t)

6. For the purposes of paragraph 2, CEL_t is an amount equal to the payments made by the licensee to the Crown Estate, in the Relevant Year t , in accordance with its obligations set out in its Crown Estate Lease in respect of the:
 - (a) annual rent of the seabed; and
 - (b) legal expenses of the Crown Estate for the preparation, negotiation and completion of the Crown Estate Lease.

Formula for the Decommissioning Cost Adjustment (DC_t)

7. Where the licensee considers, and can provide supporting evidence, that there will be additional costs and/or expenses in relation to the licensee's obligations with respect to decommissioning of the Licensee's Transmission System that have arisen due to a change in legislative requirements, then the licensee shall give written notice of this change to the Authority.
8. A notice received by the Authority under paragraph 7 shall give particulars of:
 - (a) the change in legislative requirements to which the notice relates and the reason(s) why the licensee considers that it will face additional costs and/or expenses in complying with those obligations, and demonstrate that such costs and/or expenses are not included within the Allowed Transmission Owner Revenue ($OFTO_t$);
 - (b) the expected amount of any change in costs and/or expenses that can be demonstrated by the licensee to be caused by the change in decommissioning requirements and how the amount of these costs and/or expenses has been calculated;
 - (c) the amount of any allowed revenue adjustment, proposed as a consequence of the change in decommissioning requirements and how this allowed revenue adjustment has been calculated; and

- (d) any other analysis or information, which the licensee considers sufficient to enable the Authority to fully assess the change in legislative requirements to which the notice relates.
9. If the Authority considers that the analysis or information received under paragraph 8 is insufficient to enable the Authority to assess whether a change in decommissioning requirements has occurred and/or the amount of any revenue adjustment that might be approved, the Authority can request that the supporting evidence be supplemented with any additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall give such information to the Authority within one month of the Authority requesting such information.
10. A notice referred to in paragraph 7 shall be given as soon as is reasonably practicable after the occurrence of the change in legislative requirements, and, in any case, not later than three months after the end of the Relevant Year in which the change in requirements occurs.
11. The Authority shall determine:
- (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 7 were caused by the change in legislative requirements;
 - (b) if so, whether the amount of the proposed revenue adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that change in legislative decommissioning requirements had not taken place, and if not, the Authority shall determine what revenue adjustment would secure that effect; and
 - (c) the periods, if any, over which the revenue adjustment determined by the Authority should apply.
12. In relation to the Relevant Year t , the decommissioning cost adjustment term (DC_t) shall be:
- (a) the value determined by the Authority under paragraph 11 above; or
 - (b) if the Authority has not requested additional information under paragraph 9 and the Authority has not made a determination under paragraph 11 above within three months of the date on which the notice given by the licensee was received by the Authority, the amount of the allowed revenue adjustment proposed by the licensee in that notice given to the Authority; or
 - (c) if the Authority requests additional information under paragraph 9 and the Authority has not made a determination under paragraph 11 above within three months of receiving all additional information requested, the amount of the allowed revenue adjustment proposed by the licensee in the notice given to the Authority; or

- (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 11 above within three months of the date on which the notice given by the licensee was received by the Authority, or within three months of the date on which the Authority received additional information if requested under paragraph 9, and the Authority has, before the end of the appropriate three month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 8 and/or 9 is insufficient to enable the Authority to assess whether additional costs and/or expenses have occurred and/or the amount of any allowed revenue adjustment.
13. The Authority's decision in relation to any notice given under paragraph 7 shall be in writing, shall be copied to the licensee and shall be published.

Formula for the Income Adjusting Event Revenue Adjustment (IAT_t)

14. Where the licensee considers, and can provide supporting evidence that, in respect of Relevant Year t, there have been costs and/or expenses that have been incurred or saved by an Income Adjusting Event, then the licensee shall give written notice of this Income Adjusting event to the Authority.
15. An Income Adjusting Event in Relevant Year t may arise from any of the following:
- (a) an event or circumstance constituting ~~fForce majeure~~ ~~under the STC~~;
 - (b) an event or circumstance resulting from an amendment to the STC not allowed for when the Allowed Transmission Owner Revenue (OFTO_t) of the licensee was determined for the Relevant Year t; and
 - (c) an event or circumstance other than listed above which, in the opinion of the Authority, is an Income Adjusting Event and is approved by it as such in accordance with paragraph 21 of this licence condition,

where the event or circumstance has, for Relevant Year t, increased or decreased costs and/ or expenses by more than £1,000,000 (the "threshold amount").

16. A notice received by the Authority under paragraph 14 shall give particulars of:
- (a) the event or circumstance to which the notice relates and the reason(s) why the licensee considers this event to be an Income Adjusting Event;
 - (b) the amount of any change in costs and/or expenses that can be demonstrated by the licensee to have been caused or saved by the event or circumstance and how the amount of these costs and/or expenses has been calculated, including the extent to which the licensee has claimed or intends to claim under other routes of recourse for any costs and/or expenses arising out of or relating to the event or circumstance;

- (c) the amount of any allowed revenue adjustment proposed as a consequence of that event or circumstance and how this allowed revenue adjustment has been calculated; and
 - (d) any other analysis or information, which the licensee considers sufficient to enable the Authority and the relevant parties to fully assess the event or circumstance to which the notice relates.
17. If the Authority considers that the analysis or information received under paragraph 16 is insufficient to enable both the Authority and the relevant parties to assess whether an Income Adjusting Event has occurred and/or the amount of any revenue adjustment that might be approved, the Authority can make a request or requests that the supporting evidence be supplemented with any additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall give such information to the Authority within one month of the Authority requesting such information or within such extended time as permitted by the Authority.
 18. A notice of an Income Adjusting Event referred to in paragraph 14 shall be given as soon as is reasonably practicable after the occurrence of the Income Adjusting Event, and, in any case, not later than three months after the end of the Relevant Year in which it occurs.
 19. The Authority will make public, excluding any confidential information, any notice of an Income Adjusting Event as soon as is reasonably practicable following its receipt.
 20. Any notice received by the Authority under paragraph 14 above should clearly identify whether any of the information contained in the notice is of a confidential nature. The Authority shall make the final determination as to confidentiality having regard to:
 - (a) the need to exclude from disclosure, so far as is reasonably practicable, information whose disclosure the Authority considers would or might seriously prejudicially affect the interests of a person to which it relates; and
 - (b) the extent to which the disclosure of the information mentioned in sub-paragraph 20(a) is necessary for the purposes of enabling the relevant parties to fully assess the event to which the notice relates.
 21. The Authority shall determine (after consultation with the licensee and such other persons as it considers desirable):
 - (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 14 were caused or saved by an Income Adjusting Event;
 - (b) whether the event or circumstance has increased or decreased the costs and/or expenses given in the notice pursuant to paragraph 14 by more than the threshold amount; and

(c) if so:-

- i. subject to sub-paragraph (iii), whether the amount of the proposed revenue adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if that Income Adjusting Event had not taken place, and if not, the Authority shall determine what revenue adjustment would secure that effect. Such adjustment shall be:
 - a. where the Income Adjusting Event relates to an Uninsurable event or circumstance, reduced by:
 - i. if the licence was granted on or before 28 November 2018, the amount of the insurance deductible set out in the invitation to tender questionnaire submitted in respect of this licence pursuant to the tender regulations ; or
 - ii. if the licence was granted after 28 November 2018, either £5 million or the insurance deductible set out in the invitation to tender questionnaire submitted in respect of this licence pursuant to the tender regulations, whichever is greater; and
 - b. for the avoidance of doubt, reduced by costs and/or expenses caused by the Income Adjusting Event that are recovered by other routes of recourse available to the licensee, including, but not limited to, commercial arrangements;
- unless, and to the extent that, the Authority has already applied such reductions to a previous revenue adjustment related to the same event or circumstance as that set out in the notice pursuant to paragraph 14;
- ii. ~~(d)~~subject to sub-paragraph (iii), the periods, if any, over which the revenue adjustment determined by the Authority should apply.
- iii. where it is not yet possible to make a final determination under sub-paragraphs (c)(i) and (c)(ii) above, the Authority may direct a partial amount of revenue adjustment, if any, pending the final determination of amount, such final determination to be made as soon as is reasonably practicable.

22. In relation to the Relevant Year t, the income adjusting event revenue adjustment (IAT_t) shall be:

- (a) the value, or relevant proportion of the value, determined by the Authority under paragraph 21 above; or
- (b) if the Authority has not requested additional information under paragraph 17 and the Authority has not made a determination under paragraph 21 above within three months (excluding the duration of any consultation under paragraph 21) of the date on which notice of an Income Adjusting Event was received by the Authority, the

amount of the allowed revenue adjustment proposed as a consequence of the event in the notice given to the Authority under paragraph 14; or

- (c) if the Authority requests additional information under paragraph 17 and the Authority has not made a determination under paragraph 21 above within three months (excluding the duration of any consultation under paragraph 21) of receiving all additional information requested, the amount of the allowed revenue adjustment proposed by the licensee in the notice given to the Authority; or
 - (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 21 above within three months (excluding the duration of any consultation under paragraph 21) of the date on which the notice was received by the Authority, or within three months (excluding the duration of any consultation under paragraph 21) of the date on which the Authority received additional information if requested under paragraph 17, and the Authority has, before the end of the ~~appropriate three month~~ that relevant period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 16 and/or 17 is insufficient to enable the Authority to assess whether an Income Adjusting Event has occurred and/or the amount of any allowed revenue adjustment.
23. The Authority's decision in relation to any notice given under paragraph 14 shall be in writing, shall be copied to the licensee and shall be published.
24. The Authority may amend or revoke an approval of an Income Adjusting Event and revenue adjustment with the consent of the licensee, following consultation with the licensee and relevant parties, and any such amendment or revocation of any Income Adjusting Event and revenue adjustment shall be in writing, shall be copied to the licensee and shall be published.

Formula for the Temporary Physical Disconnection Payment (TPD_t)

25. For the purposes of paragraph 2, TPD_t shall be an amount equal to the interruption payments made by the System Operator in the licensee's Transmission System Area and charged by the System Operator to the Transmission Licensee in accordance with the STC within each respective Relevant Year. Such costs shall include any financing or other costs such as to ensure that the financial position and performance of the licensee is, insofar as is reasonably practicable, the same as if those costs had not been incurred.

Formula for the Tender Fee Cost Adjustment (TCA_t)

26. For the purposes of paragraph 2, TCA_t shall be an amount, whether of a positive or of a negative value, representing:
- (a) the payments made by the licensee to the Authority in accordance with the Tender Regulations with respect to the recovery of the Authority's tender costs.

Where the payments have been made in relation to an application for the grant of more than one licence, the licensee shall attribute an appropriate proportion of the relevant payment made to the Authority; and

- (b) any re-payments made by the Authority to the licensee in accordance with the Tender Regulations as a result of the payments collected by the Authority exceeding its tender costs. Where the re-payments have been made in relation to an application for the grant of more than one licence, the licensee shall be attributed an appropriate proportion of the relevant re-payment made by the Authority.

Formula for the Marine and Coastal Act 2009 Cost Adjustment (MCA_t)

- 27. Where the licensee considers, and can provide supporting evidence, that there will be additional costs and/or expenses in relation to additional obligations imposed on the licensee with respect to the introduction of the Marine and Coastal Access Act 2009, then the licensee may give written notice of these changes to the Authority.
- 28. A notice received by the Authority under paragraph 27 shall give particulars of:
 - (a) the additional obligations to which the notice relates and the reason(s) why the licensee considers that it will face additional costs and/or expenses in complying with those additional obligations, and demonstrate that such costs and/or expenses are not included within the Allowed Transmission Owner Revenue (OFTO_t);
 - (b) the expected amount of any change in costs and/or expenses that can be demonstrated by the licensee to be caused by the introduction of those new obligations under the Marine and Coastal Access Act 2009 and how the amount of these costs and/or expenses has been calculated;
 - (c) the amount of any allowed revenue adjustment proposed as a consequence of the licensee incurring additional obligations in relation to the Marine and Coastal Access Act 2009 requirements and how this allowed revenue adjustment has been calculated; and
 - (d) any other analysis or information, which the licensee considers sufficient to enable the Authority to fully assess the additional obligations to which the notice relates.
- 29. If the Authority considers that the analysis or information received under paragraph 28 above is insufficient to enable the Authority to assess whether additional obligations have been imposed on the licensee and/or the amount of any revenue adjustment that might be approved, the Authority can request that the supporting evidence be supplemented with any additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall give such information to the Authority within one month of the Authority requesting such information.

30. A notice referred to in paragraph 27 shall be given as soon as is reasonably practicable after the new obligations imposed by the Marine and Coastal Access Act 2009 take effect, and, in any event, not later than three months after the end of the Relevant Year in which they take effect.
31. The Authority shall determine:
- (a) whether any or all of the costs and/or expenses given in a notice pursuant to paragraph 27 were caused by the introduction of new obligations as a consequence of the Marine and Coastal Access Act 2009 requirements and not already incorporated within Allowed Transmission Owner Revenue (OFTO_t);
 - (b) if so, whether the amount of the proposed revenue adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if the additional obligations had not been implemented, and if not, the Authority shall determine what revenue adjustment would secure that effect; and
 - (c) the periods, if any, over which the revenue adjustment determined by the Authority should apply.
32. In relation to the Relevant Year t , the Marine and Coastal Act 2009 cost adjustment term (MCA _{t}) shall be:
- (a) the value determined by the Authority under paragraph 31 above; or
 - (b) if the Authority has not requested additional information under paragraph 29 and the Authority has not made a determination under paragraph 31 above within three months of the date on which the notice was received by the Authority under paragraph 27, the amount of the allowed revenue adjustment proposed by the licensee in that notice given to the Authority; or
 - (c) if the Authority requests additional information under paragraph 29 and the Authority has not made a determination under paragraph 31 above within three months after receiving all additional information requested, the amount of the allowed revenue adjustment proposed by the licensee in the notice given to the Authority under paragraph 27; or
 - (d) in all other cases the value zero, including situations where the Authority has not made a determination under paragraph 31 above within three months of the date on which the notice given by the licensee was received by the Authority, or within three months of the date on which the Authority received additional information if requested under paragraph 29, and the Authority has, before the end of the appropriate three month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 28 and/or 29 is

insufficient to enable the Authority to assess whether additional costs and/or expenses have occurred and/or the amount of any allowed revenue adjustment.

33. The Authority's decision in relation to any notice given under paragraph 27 shall be in writing, shall be copied to the licensee and shall be published.

Formula for a revenue adjustment in respect of a Contingent Event Revenue Adjustment Term (CEAT)

34. Where the licensee considers, and can provide supporting evidence that, in respect of Relevant Year t, there have been costs and/or expenses that have been incurred by the licensee in respect of a contingent event, then the licensee shall give written notice of this contingent event to the Authority (in respect of which, the licensee shall not also be entitled to serve a notice in respect of such costs and/or expenses under paragraph 14 of this amended standard condition).
35. A notice provided to the Authority under paragraph 34 shall give particulars of:
- (a) the contingent event to which the notice relates;
 - (b) the extent to which, if at all, the licensee has mitigated or can mitigate any losses arising out of or relating to the contingent event, including but not limited to commercial solutions available to it;
 - (c) the amount of any change in costs and/or expenses that can be demonstrated by the licensee to have been caused by the contingent event and how the amount of these costs and/or expenses has been calculated;
 - (d) the amount of any allowed revenue adjustment proposed as a consequence of the contingent event and how this allowed revenue adjustment has been calculated; and
 - (e) any other analysis or information, which the licensee considers sufficient to enable the Authority and the relevant parties to fully assess the contingent event to which the notice relates.
36. If the Authority considers that the analysis or information provided under paragraph 35 above is insufficient to enable both the Authority and the relevant parties to assess whether a contingent event has occurred and/or the amount of any allowed revenue adjustment that might be approved, the Authority can request that the supporting evidence be supplemented with any additional information that it considers appropriate. If the Authority requests that the supporting evidence be supplemented with additional information, the licensee shall provide such information to the Authority within one month of the Authority requesting the information, or within the period otherwise directed by the Authority.
37. A notice of a contingent event shall be provided as soon as is reasonably practicable after the occurrence of the contingent event, and, in any case, not later than three months after the end of the Relevant Year in which it occurs.

38. The Authority will make public, excluding any confidential information, any notice of a contingent event following its receipt.
39. Any notice provided to the Authority under paragraph 34 should clearly identify whether any of the information contained in the notice is of a confidential nature. The Authority shall make the final determination as to confidentiality having regard to:
- (a) the need to exclude from disclosure, so far as is reasonably practicable, information whose disclosure the Authority considers would or might seriously prejudicially affect the interests of a person to which it relates; and
 - (b) the extent to which the disclosure of the information mentioned in sub-paragraph 39(a) is necessary for the purposes of enabling the relevant parties fully to assess the contingent event to which the notice relates.
40. The Authority shall determine (after consultation with the licensee and such other persons as it considers desirable) whether a contingent event has occurred and, if so, determine the following in order to calculate the value of the contingent event revenue adjustment:
- (a) whether any or all of the costs and/or expenses given in a notice under paragraph 34 were caused by the contingent event;
 - (b) whether the costs and/or expenses were incurred economically and efficiently;
 - (c) whether the costs and/or expenses are net of all reasonable mitigation of the costs and/or expenses that the licensee has available to it, including but not limited to commercial recovery;
 - (d) if so, whether the amount of the proposed revenue adjustment ensures that the financial position and performance of the licensee are, insofar as is reasonably practicable, the same as if the contingent event had not taken place (save for any deductions under sub-paragraphs 40(b) and 40(c)), and if not, the Authority shall determine what revenue adjustment shall secure that effect; and
 - (e) the periods, if any, over which the revenue adjustment determined by the Authority shall apply.
41. Without prejudice to the Authority's duty to subsequently determine whether a contingent event has occurred pursuant to paragraph 40, in respect of the matters set out in paragraph 47(c)(iii)(1) and/or paragraph 47(c)(iii)(2), the Authority shall, following notification from the licensee that includes relevant supporting evidence, determine whether it is satisfied that the circumstances set out in those paragraphs are met. In making such a determination, the Authority, acting reasonably, will have due regard to any relevant expert determination obtained by the licensee and Race Bank Wind Farm Limited, and/or any relevant agreement between the licensee and Race Bank Wind Farm Limited, if such a determination or agreement is provided to the Authority with the notification. The

Authority will provide its determination to the licensee and Race Bank Wind Farm Limited within a reasonable time from the date the notification is received.

42. Pursuant to determining, under paragraph 40, whether a contingent event has occurred in accordance with the definition in paragraph 47(d), on receipt of a request from the licensee that includes relevant supporting information, the Authority will issue a determination outlining such secondary protection measures as it considers may be required in accordance with Good Industry Practice to protect the subsea transmission cable from a Fishing Gear Strike at a Cable Protection Site(s), following consultation with the licensee and Race Bank Wind Farm Limited. The Authority may amend such a determination from time to time, following consultation with the licensee and Race Bank Wind Farm Limited.
43. The allowed revenue adjustment (CEA(t)) for Relevant Year t shall be:
- (a) the value determined by the Authority under paragraph 40; or
 - (b) the value zero where the Authority determines that a contingent event has not occurred; or
 - (c) the value proposed by the licensee in the notice provided to the Authority under paragraph 34 where the Authority has not requested additional information under paragraph 36 and the Authority has not made a determination under paragraph 40 within three months, or such other period that the Authority notifies to the licensee, of the date on which notice of a contingent event was provided to the Authority; or
 - (d) the value proposed by the licensee in the notice provided to the Authority under paragraph 34 where the Authority requests additional information under paragraph 36 and the Authority has not made a determination under paragraph 40 within three months, or such other period that the Authority notifies to the licensee, after receiving the additional information requested; or
 - (e) the value zero in situations where the licensee fails to provide, within the relevant time period, additional analysis or information requested by the Authority under paragraph 36; or
 - (f) the value zero in all other cases, including situations where the Authority has not made a determination under paragraph 40 within three months of the date on which the notice under paragraph 34 was provided to the Authority or within three months of the date on which the Authority received the additional information requested under paragraph 36 and the Authority has, before the end of the relevant three month period, informed the licensee that the Authority considers that the analysis or information provided in accordance with paragraphs 35 and/or 36 is insufficient to enable the Authority to assess whether the contingent event occurred and/or the amount of any allowed revenue adjustment.

44. The Authority's decision in relation to any notice provided under paragraph 34, shall be in writing, shall be copied to the licensee and shall be published (excluding any confidential information).
45. The Authority may revoke an approval of a contingent event and allowed revenue adjustment with the consent of the licensee, following consultation with the licensee and relevant parties, and any such revocation of any contingent event and allowed revenue adjustment shall be in writing, shall be copied to the licensee and shall be published.
46. Where the Authority directs a revenue adjustment under paragraph 43 and it subsequently transpires that all costs and/or expenses allowed for under that revenue adjustment have not been incurred in full, the Authority may retrospectively vary the allowed revenue adjustment following a further assessment of the costs and/or expenses incurred, including an assessment of whether these were economically and efficiently incurred. Any such change to the allowed revenue adjustment shall be in writing and shall follow consultation with the licensee and such other persons as the Authority considers desirable.
47. In this condition:

‘contingent event’ means either:

- (a) a requirement placed on the licensee by the Secretary of State to increase the size of its security in respect of its decommissioning plan to account for the payment of VAT and/or the disallowance of scrap value allowed for under the decommissioning plan and reflected in the TRS bid at ITT;

or

- (b) if a Marine Licence permits Remedial Cable Burial Works in part or in full, and this work is completed:
- i. any requirement placed on the licensee, as a condition of that Marine Licence:
 1. to remove (in a Cable Protection Site where such work has been completed) all or part(s) of the rock berm(s) constructed as part of the Remedial Cable Burial Works; and/or
 2. to remove all or part(s) of the subsea transmission cable(s) as a direct result of the decommissioning of such rock berm(s) during the

decommissioning of the Licensee's
Transmission System;

in each case, but only if the MMO
requires, at the point of
decommissioning, that the rock berm
and/or subsea transmission cable(s) be
wholly or partially removed (as
relevant);

and/or

- ii. the licensee incurring additional costs
associated with resizing any letter of
credit held as a security in respect of its
decommissioning plan as a result of a
requirement placed on the licensee by
the Secretary of State to increase the
size of said security as a consequence
of Marine Licence conditions imposed
by the MMO as outlined in paragraph
47(b)(i)(1) and/or (2);

or

- (c) the repair or replacement of all or part of the
licensee's subsea transmission cable(s)
required as a direct result of damage caused
by a Fishing Gear Strike that has occurred at
a Cable Protection Site in respect of which:
 - i. the MMO has not permitted Remedial
Cable Burial Works under a Marine
Licence, following a decision on the
relevant Marine Licence Application,
and those works are not undertaken; or
 - ii. the MMO has not made a decision on
the relevant Marine Licence Application
within 3 years from the date the
Licensee's Transmission Licence is
granted, provided Remedial Cable Burial
Works are not later permitted and
completed; or
 - iii. a Marine Licence permits Remedial
Cable Burial Works and the Authority is
satisfied that:

1. those works are no longer beneficial or suitable to improve the protection of the subsea cable and/or would not increase the depth of lowering and/or the depth of cover of the subsea cable in that Cable Protection Site; or
2. there is no reasonable prospect that those works can be completed in that Cable Protection Site,

and in each case provided that the licensee has taken all reasonable actions in line with Good Industry Practice to prevent any Fishing Gear Strike.

A contingent event in accordance with paragraph 47(c) shall not occur in respect of any Cable Protection Site at which the licensee and Race Bank Wind Farm Limited reach agreement, at any time, that Remedial Cable Burial Works are not required due to natural seabed mobility resulting in reburial;

or

- (d) the licensee incurring costs as a result of putting in place secondary cable protection measures, as required in accordance with Good Industry Practice and as determined by the Authority in accordance with paragraph 42, to protect the subsea transmission cable(s) from a Fishing Gear Strike at a Cable Protection Site(s) in respect of which any of paragraphs 47(c)(i)-(iii) apply.

‘Cable Protection Sites’

means the sections of the subsea transmission cables of the Licensee’s Transmission System set out in the table in Annex A to this condition, and included in a Marine Licence Application.

‘decommissioning plan’

means the plan for the decommissioning of the transmission assets of the licensee as provided to The Authority under Section 5 of the licensee’s ITT submission for the Race Bank project and reflected in the ITT financial model submitted by the licensee for the Race Bank project.

‘Fishing Gear Strike’	means damage caused to the subsea transmission cable(s) of the Licensee’s Transmission System by fishing gear (including trawling equipment, dredging equipment, gill nets, pots and traps) at a Cable Protection Site(s).
‘Marine Licence’	means a Marine Licence (as varied or amended) issued by the MMO pursuant to a Marine Licence Application.
‘Marine Licence Applications’	means the application for: <ul style="list-style-type: none"> (a) a variation to the existing marine licence (L/2017/00459/2) for cable protection work, submitted to the MMO under reference MLA/2017/00277/4 (including, where applicable, any amendments made to application MLA/2017/00277/4); and (b) a new marine licence for cable protection work, submitted to the MMO under reference MLA/2018/00385 (including, where applicable, any amendments made to application MLA/2018/00385).
The ‘MMO’	means the Marine Management Organisation established under the Marine and Coastal Access Act 2009, or any successor body.
‘Remedial Cable Burial Works’	means remedial works to bury or protect one or both subsea transmission cables at one or more of the Cable Protection Sites on the Licensee’s Transmission System, including by placement of rocks or a rock berm(s), or backfill, or other means as are specified in the relevant Marine Licence or Marine Licence Application.
‘scrap value’	means the value allowed for the sale of scrap materials, including metal, to be recovered through the decommissioning plan.

Schedule 2: Relevant licence holders

Blue Transmission London Array Limited
Blue Transmission Sheringham Shoal Limited
Blue Transmission Walney 1 Limited
Blue Transmission Walney 2 Limited
Greater Gabbard OFTO plc
TC Ormonde OFTO Limited
Thanet OFTO Limited
TC Barrow OFTO Limited
TC Gunfleet Sands OFTO Limited
TC Robin Rigg OFTO Limited
Diamond Transmission Partners BBE Limited
Diamond Transmission Partners Galloper Limited
Diamond Transmission Partners RB Limited
Diamond Transmission Partners Walney Extension Limited
TC Dudgeon OFTO plc
Humber Gateway OFTO Limited
TC Westermost Rough OFTO Limited
Gwynt y Mor OFTO plc
TC Lincs OFTO Limited
WoDS Transmission plc