

Guidance

Enhanced Pre-Qualification Document for Tender Round 7 (TR7)

Publication date: 30 November 2020

Team: Competitive Networks

Email: tendercoordinator@ofgem.gov.uk

We are running a competitive tender round consisting of two tender exercises to appoint Offshore Transmission Owners (**OTFO**) for the following projects: Triton Knoll, Moray East.

The first stage of the tender round is an Enhanced Pre-Qualification (**EPQ**) Stage. This document sets out the requirements Bidders need to demonstrate in order to be invited to participate in subsequent stages.

Bidders should demonstrate that they satisfy the requirements set out in this document and demonstrate how they would approach financing, operating and managing offshore transmission assets.

We will evaluate Bidders' submissions against the criteria published in this document and select, for each project, a shortlist of Qualifying Bidders who will be invited to participate in the Invitation to Tender (**ITT**) Stage up to a maximum of 8 Qualifying Bidders.

© Crown copyright 2020

The text of this document may be reproduced (excluding logos) under and in accordance with the terms of the [Open Government Licence](#).

Without prejudice to the generality of the terms of the Open Government Licence the material that is reproduced must be acknowledged as Crown copyright and the document title of this document must be specified in that acknowledgement.

Any enquiries related to the text of this publication should be sent to Ofgem at: 10 South Colonnade, Canary Wharf, London, E14 4PU. Alternatively, please call Ofgem on 0207 901 7000.

This publication is available at www.ofgem.gov.uk. Any enquiries regarding the use and re-use of this information resource should be sent to: psi@nationalarchives.gsi.gov.uk

Contents

Context	4
Associated Documents	4
1. Overview of TR7	6
Legal Framework.....	6
Tender Stages for TR7	6
EPQ Document	7
Right to vary a Tender Exercise.....	8
Costs and Losses.....	8
Timetables	8
Certification of Transmission System Operators.....	9
OFTO Consultation and interaction with TR7 tender process.....	10
Relevant Guidelines and Other Documents	11
2. Instructions to Bidders.....	12
EPQ Questionnaire.....	12
Bidder Groups.....	13
Confidentiality Agreement & Conflicts of Interest (COI) Declaration	13
IM	14
Draft Transfer Agreement.....	14
EPQ Submission Deadline.....	15
Bids on Multiple Projects	15
Content of an EPQ Submission	15
Changes arising after the EPQ Submission.....	16
Clarifications.....	16
3. EPQ Questionnaire	17
Section 1: Identification Information.....	18
Section 2A: Grounds for mandatory exclusion	20
Section 2B: Grounds for discretionary exclusion	22
Section 3: Economic and Financial Standing	24
Section 4: Experience of Asset Takeover, Management and Operations.....	28
Section 5: Approach to Asset Takeover	29
Section 6: Approach to Management and Operations	30
Section 7: Funding Solution.....	32
Section 8: Financial and Commercial Risk Management.....	33
Section 9: Draft Transfer Agreement(s) Comments	34
Section 10: EPQ Certificate.....	35
Section 11: Confidentiality.....	36
4. Evaluation of EPQ Submissions	37
Evaluation Process.....	37
Assessment of Completeness.....	37
Assessment of Compliance	37
Scoring	38
Determining the Shortlist	39
Evaluation Scale for Scored Sections	39
Notification to Bidders and Publication of Qualifying Bidder Shortlist.....	40
ITT Award Criteria.....	40
Appendices.....	41
Form of Commentary Tables.....	42

Context

Great Britain continues to be a global leader in the development of offshore wind energy. Since 2009, Ofgem has run competitive tenders to select and licence Offshore Transmission Owners (**OFTOs**) to own and operate the assets that connect offshore wind farms to the onshore network.

From the outset the offshore transmission regime has encouraged innovation and attracted new sources of technical expertise and finance, whilst ensuring that grid connections are delivered efficiently and effectively. In 2014, we published a study by CEPA/BDO who found that competitive tendering saved consumers between £200m and £400m in our first tender round. We also published in 2016 a further study by CEPA¹ which evaluated the benefits of competition delivered by tender rounds two and three. This indicated further savings of between £428m and £749m.

We have completed 20 OFTO tenders to date, which has resulted in total OFTO investment of approximately £4.6bn in offshore transmission networks. A further four OFTO projects (with an approximate investment of £2.7bn) are due to see licences granted in 2021. With the appointment of two further OFTOs in the TR7 tender process, this will see an additional approximate investment in excess of £1.3bn.

TR7 is being run under the Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015. This EPQ document, together with the Tender Process Guidance Document, set out the rules for participation in the EPQ Stage of TR7.

Associated Documents

The following documents are published on the TR7 page of Ofgem's website:²

- Generic Preliminary Information Memorandum (**PIM**);
- Tender Process Guidance Document; and
- Generic OFTO Licence for TR7 and accompanying guidance.

The following documents will be made available through the Ofgem Tendering Portal (the **Portal**):

- the EPQ Questionnaire template, in which Bidders will need to complete their EPQ Submission;
- Information Memorandum (**IM**) for each project; and
- other related material.

We also refer you to the following material published on the internet:

- The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015

¹ <https://www.ofgem.gov.uk/publications-and-updates/evaluation-of-to-tender-round-2-and-3-benefits>

² <https://www.ofgem.gov.uk/electricity/transmission-networks/offshore-transmission/offshore-transmission-tenders/tender-round-7>

http://www.legislation.gov.uk/ukxi/2015/1555/pdfs/ukxi_20151555_en.pdf;

- Transmission Licence Standard Conditions (18 June 2020)
<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>;
- Certification of transmission system operators (TSOs) under the ownership unbundling requirements of the Third Package³:
 - November 2011 guidance: <https://www.ofgem.gov.uk/ofgem-publications/59314/111110-open-letter-certification-post-legislation.pdf>;
 - March 2015 guidance: <https://www.ofgem.gov.uk/publications-and-updates/certification-arrangements-great-britain-following-amendments-ownership-unbundling-requirements-gas-act-1986-and-electricity-act-1989>; and
 - February 2017 guidance: <https://www.ofgem.gov.uk/publications-and-updates/amendments-ownership-unbundling-requirements-gas-act-1986-and-electricity-act-1989>.

³ And, as relevant, updated by the Clean energy for all Europeans package (the CEP).

1. Overview of TR7

Section Summary

This Section provides an overview of the process we will follow during the Enhanced Pre-Qualification (EPQ) Stage for TR7.

- 1.1. We are running an EPQ Stage for 2 Qualifying Projects in TR7: Triton Knoll and Moray East. The EPQ Stage commencement date is 30 November 2020. Information about each Qualifying Project is available in the PIM as well as the IM for each project.
- 1.2. Following conclusion of the EPQ Stage, those shortlisted as Qualifying Bidders will be invited to participate in one or both of the Invitation to Tender (**ITT**) Stages for the Qualifying Projects. The maximum number of Bidders that may be shortlisted for the ITT Stage for each Qualifying Project is 8.
- 1.3. The ITT Stage for each Qualifying Project will run to separate timescales. Anticipated timings are provided below, however this will be confirmed to Qualifying Bidders closer to commencement of each ITT Stage.

Legal Framework

- 1.4. The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015 (the **Tender Regulations**) set out the legal framework for running competitive tenders for OFTO licences. Regulation 13 sets out the stages of a tender round and regulation 14 details the contents of the EPQ Document – these are covered in greater detail in the following sections.
- 1.5. As a statutory authority, we also have regard to the procurement principles prescribed in the Public Contracts Regulations 2015 (the **PCR**).
- 1.6. The Tender Process Guidance Document (**TPGD**) provides participants with further detail about how we will run the tender.⁴

Tender Stages for TR7

- 1.7. For TR7, we are holding an EPQ Stage rather than separate Pre-Qualification and Qualification to Tender stages. As a result, the stages of TR7 will be as follows:
 - an EPQ Stage to identify a shortlist of Qualifying Bidders to progress to the ITT Stage for each Qualifying Project;

⁴ In the event of any conflict between this document, the TPGD and the Tender Regulations, the order of precedence is the Tender Regulations first, EPQ Document second and TPGD last.

- a separate ITT Stage to select a Preferred Bidder (**PB**) for each Qualifying Project;
 - an optional Best and Final Offer (**BAFO**) Stage; and
 - a PB Stage where the relevant PB is required to demonstrate that it can become the Successful Bidder (**SB**).
- 1.8. With regard to the PCR, we are conducting TR7 as a competitive procedure with negotiation and we reserve the right to grant an OFTO Licence⁵ on the basis of the ITT Stage without negotiation. We also reserve the right to re-run a tender stage in accordance with the Tender Regulations.
- 1.9. A BAFO Stage may be conducted in the following circumstances:
- 1.9.1. our evaluation of the ITT Stage determines two or more Qualifying Bidders tie with the lowest TRS;
 - 1.9.2. our evaluation of the ITT Stage determines two or more Qualifying Bidders with the lowest TRS that is within a small percentage of each other and in such circumstances all Qualifying Bidders will be invited to submit a BAFO; or
 - 1.9.3. we consider further value can be obtained from the Tender Exercise and in such circumstances all Qualifying Bidders will be invited to submit a BAFO.
- 1.10. The SB for a Qualifying Project will be granted an OFTO Licence, which will include an entitlement to an associated 25-year revenue stream in return for purchasing the Transmission Assets from the Developer and owning, operating and managing them in accordance with the obligations of the OFTO Licence.

EPQ Document

- 1.11. This EPQ Document sets out the requirements that Bidders must demonstrate, to our satisfaction, to progress to an ITT Stage for a Qualifying Project. It includes:
- the timeline for the EPQ Stage(s), including an overview of the key activities and steps;
 - the rules for the EPQ Stage(s);
 - the EPQ Questionnaire;
 - the instructions that apply to the EPQ Questionnaire;
 - the date, time and manner in which a Bidder must submit the completed EPQ Questionnaire;
 - the evaluation criteria against which we will assess EPQ Submissions (the **Evaluation Criteria**);
 - details of information available to Bidders to compile their EPQ Submissions;
 - the stages of the Tender Round; and
 - an overview of the award criteria for each ITT Stage.

⁵ The Authority grants licences under Section 6(1)(b) of the Electricity Act 1989. “Ofgem”, “the Authority” and “we” are used interchangeably in this document.

- 1.12. Bidders should familiarise themselves fully with this document, the TPGD and the Tender Regulations.
- 1.13. Bidders must submit a single EPQ Submission for all Qualifying Project(s) for which they wish to bid. Bidders must specify in the EPQ Submission which Qualifying Project or Projects the EPQ Submission relates. Ofgem will announce a separate ITT Stage shortlist of Qualifying Bidders for each Qualifying Project.

Right to vary a Tender Exercise

- 1.14. Subject to the provisions of the Tender Regulations, we may vary any element of a Tender Exercise, issue supplementary documentation or make additional arrangements at any time during a Tender Exercise in order to clarify any issue or amend any aspects of the Tender Exercise.
- 1.15. Any variation to the Tender Exercise shall be effective if confirmed in writing. This includes where we determine that it is impracticable to complete any action, or to deliver or publish any document or notice, by the time, date or in the manner specified within the Tender Regulations. We reserve the right to delay such action, delivery or publication until such date as we may determine.
- 1.16. Any supplementary documentation issued by us during a Tender Exercise will be deemed to form part of this document to the extent indicated in the amendment. We may decide to extend a Tender Exercise and postpone any EPQ Submission deadline in the event of any such amendment.

Costs and Losses

- 1.17. Each Bidder will bear its own costs of participating in a Tender Exercise and the PB and SB will be responsible for meeting the costs incurred by us in administering that Tender Exercise in accordance with the Tender Regulations and as set out in the TPGD.
- 1.18. We are under no obligation and shall not accept any liability for any costs, expenses, damages or losses incurred by any Bidder, including without limitation any unsuccessful Bidder, in connection with a Tender Exercise.
- 1.19. If a Bidder withdraws or is disqualified from a Tender Exercise, or if we cancel a Tender Exercise, in each case in accordance with the Tender Regulations, we shall not incur any liability for any losses whatsoever⁶ towards any Bidder or any of their Related Parties.

Timetables

- 1.20. The expected timetable for **TR7** is set out below:

Milestone	Date
EPQ Document published via the Portal along with Confidentiality Agreement and COI declaration	30 November 2020
Earliest date that the IM and draft Transfer Agreement will be made available to Bidders (who	3 December 2020 (and thereafter within 2 working days of

⁶ Whether in contract, tort or otherwise and including direct, indirect and consequential losses.

Milestone	Date
have returned correctly completed and signed Confidentiality Agreements and COI declarations as part of their expression of interest for the EPQ)	subsequent correctly completed and signed Confidentiality Agreements and COI declarations being returned to Ofgem)
Deadline for Bidders to submit clarifications	25 January 2021
Anticipated deadline for Ofgem to respond to Bidder clarifications	29 January 2021
EPQ Bid Submission deadline	5 February 2021, by 12 noon
Evaluation of EPQ Submissions (including Ofgem clarifications to Bidders)	February 2021 – April 2021
Bidders notified of outcomes and Qualifying Bidder shortlists published	w/c 19 April 2021
Estimated launch date for Triton Knoll ITT Stage	Mid/Late April 2021
Triton Knoll ITT Bid Submission Deadline	Early July 2021
Announcement of Preferred Bidder for Triton Knoll	Early October 2021
Estimated launch date for Moray East ITT Stage	July 2021
Moray East ITT Bid Submission Deadline	October 2021
Announcement of Preferred Bidder for Moray East	January 2022

- 1.21. We reserve the right to vary this timetable at our discretion. Any such variation will be communicated via the Portal. Further information regarding the Portal can be found in the TPGD.

Certification of Transmission System Operators

- 1.22. The Government has implemented a package of European legislation on the liberalisation of EU gas and electricity markets, namely the Third Package, through amending the Gas Act 1986 and the Electricity Act 1989.⁷ The measures of the Third Package aim to ensure that the benefits of a competitive energy market can be realised. A key requirement of the Third Package is full ownership unbundling, meaning the separation of transmission interests (ownership and operation of transmission systems) from generation, production and supply activities. Electricity transmission licensees need to be certified by the Authority as complying with the ownership unbundling requirements.

⁷ Note that in 2019, the EU energy policy framework (including the Third Package) was updated with the 'Clean energy for all Europeans package' (CEP). References to Third Package requirements therefore will include those requirements as updated by the CEP as appropriate if implemented into domestic legislation.

- 1.23. All Bidders are advised to review the requirements for certification. Further information on the procedure for processing applications for certification under the ownership unbundling requirements can be found on Ofgem’s website.⁸
- 1.24. It is important to note that any decisions we take in relation to this Tender Round are taken in our capacity as manager of the competitive tendering process pursuant to Section 6C of the Electricity Act and the Tender Regulations. Any decision we take in this capacity should not be taken as a decision, or any indication of what decision may be taken, on certification.
- 1.25. We are not able to advise Bidders as to the provisions of the detailed Third Package Regulations and strongly recommend that Bidders seek appropriate independent advice in this respect.
- 1.26. We note that all certification applications will be considered on a case-by-case basis by the Authority.
- 1.27. Ofgem will provide updated guidance on any impacts of the UK’s withdrawal from the EU on the certification process in due course; at this stage it is anticipated that the requirement for TSO certification will be maintained.⁹

OFTO Consultation and interaction with TR7 tender process

- 1.28. Following publication of the consultation ‘*Offshore Transmission Owner (OFTO) Regime Tender Process – Consultation concerning the developments to the current tender process*¹⁰’ on 19 November 2020, we have identified four main areas which could potentially be introduced for the ITT Stages of the TR7 tender process:
 - Changes that could facilitate a shorter OFTO tendering and transaction process;
 - Alterations to the way we evaluate ITT bids;
 - Insurance requirements for bids; and
 - Introduction of the Sterling Overnight Index Average (**SONIA**) to replace the London Inter-Bank Offered Rate (**LIBOR**), as well as consideration for the measurement of index revenue to be based on the Consumer Prices Index (**CPI**) (or **CPIH**¹¹), rather than the Retail Price Index (**RPI**).
- 1.29. Full details of the items under consideration are set-out in the consultation document. The deadline for interested parties to respond to this consultation is 8 January 2021. Ofgem will consider all responses received before making any decisions on the changes we will make to the TR7 ITT tender process. Such changes will only be considered if

⁸November 2011 guidance: <https://www.ofgem.gov.uk/ofgem-publications/59314/111110-open-letter-certification-post-legislation.pdf>; March 2015 guidance: <https://www.ofgem.gov.uk/publications-and-updates/certification-arrangements-great-britain-following-amendments-ownership-unbundling-requirements-gas-act-1986-and-electricity-act-1989>; February 2017 communication: <https://www.ofgem.gov.uk/publications-and-updates/amendments-ownership-unbundling-requirements-gas-act-1986-and-electricity-act-1989>.

⁹ For Ofgem guidance on the UK’s preparation to leave the European Union: <https://www.ofgem.gov.uk/about-us/ofgem-and-europe/preparing-eu-exit>

¹⁰ Available on the Ofgem website at: <https://www.ofgem.gov.uk/publications-and-updates/offshore-transmission-owner-ofto-regime-tender-process-consultation-concerning-developments-current-tender-process>

¹¹ Consumer price inflation including owner-occupiers’ housing costs.

appropriate and with sufficient prior warning communication to Bidders in advance of ITT commencement.

Relevant Guidelines and Other Documents

- 1.30. The list of documents provided in the Associated Documents section at the start of this document contains additional information of which we expect Bidders to be aware.
- 1.31. Bidders should also be familiar with the standard industry framework documents that underpin Great Britain's transmission market, for example the industry codes¹² and technical standards.
- 1.32. We may publish additional information as appropriate during the EPQ Stage. Any such information will be made available to Bidders via the Portal.

¹² The codes establish detailed rules for industry that govern market operation, the terms for connection and access to energy markets. Further details in relation to the codes relevant to offshore transmission can be found at <https://www.ofgem.gov.uk/licences-industry-codes-and-standards/industry-codes/electricity-codes>

2. Instructions to Bidders

Section Summary

This section sets out the instructions to Bidders in respect of the EPQ Stage(s), including the EPQ Questionnaire, EPQ Submissions, draft Transfer Agreements and the clarification process.

EPQ Questionnaire

- 2.1. The EPQ Questionnaire, which is included in Section 3, has been produced to enable us to evaluate each Bidder's: i) suitability, ii) economic and financial standing, and iii) technical and professional ability to takeover and manage the Qualifying Project(s).
- 2.2. Bidders should provide responses to each question in the EPQ Questionnaire by completing the EPQ Questionnaire template provided in the Portal.
- 2.3. In completing the EPQ Questionnaire template, Bidders must not exceed the page limits stipulated in each section of the EPQ Questionnaire. If the Bidder's submission for a particular section exceeds the stipulated page limit, the additional information beyond the stipulated page limit will not be evaluated. In addition to this, Bidders may provide supporting documentation which they should upload to the Portal. For the avoidance of doubt, any supporting information provided should not be in place of an answer, in whole or in part, within the stipulated page limit; rather, where provided, it should only support statements made in the answer itself.
- 2.4. Wherever possible, Bidders should collate all supporting documents into one PDF document per EPQ questionnaire section. However, we recognise that in some cases it will not be possible for Bidders to collate everything into a single PDF document (for example, where you have provided a supporting document in MS Excel format). In such cases it will be necessary for you to use Zip file or similar functionality to upload and submit multiple items.
- 2.5. Any supporting documentation should be uploaded to the supporting documentation folder for the section to which it relates. Where a Bidder provides documentation in support of any response to this EPQ Questionnaire, there should be clear reference made to this documentation in the text of the Bidder's response. Where multiple documents are being provided in support of a response to a particular section, Bidders are required to collate these into one document per section. Further information on uploading supporting documentation is provided in the "Instructions to Bidders participating in Tender Round 7" document provided in the Portal.
- 2.6. Bidders should note that the bids will be evaluated only on the basis of their responses to the EPQ Questionnaire, within the specified page limits. Any information in the supporting documentation may only be used to corroborate the statements made within the stipulated page limit in the EPQ Submission.

Bidder Groups

2.7. Where a Bidder is formed of a Bidder Group, and unless otherwise permitted explicitly in the section, Sections 1, 2A, 2B and the EPQ Certificate in Section 10 must be completed by each Bidder Group member individually. Any Supporting Organisations which are not members of the Bidder Group, but on whom Bidders or Bidder Groups rely to meet Parts 1 to 3 (comprising sections 1 to 4) of the EPQ Questionnaire (the **Selection Criteria**), must also complete Sections 1, 2A, 2B and the EPQ Certificate (these could be parent companies, guarantors, affiliates, associates, or essential subcontractors). All other questions in the EPQ Questionnaire (Sections 3 to 9 and Section 11) should be answered by the lead member of that Bidder Group.

2.8. Some questions require that information be provided in relation to individual members of a Bidder Group, in which case the lead member of a Bidder Group must provide information in relation to each Bidder Group member, ensuring that such information is clearly identified as relating to that Bidder Group member.

2.9. We recognise that in the case of a Bidder Group not every member will, for example, be able to provide examples of experience requested. Our evaluation will look at the capabilities of the Bidder Group and/or Supporting Organisations taken as a whole.

2.10. We expect the membership of and the respective interests in a Bidder Group to be finalised when that Bidder Group makes its EPQ Submission. However, if this is not the case and a change is proposed to the membership of a Bidder Group after an EPQ Submission, each individual member should make itself aware of the requirements under regulation 33 of the Tender Regulations.

Confidentiality Agreement & Conflicts of Interest (COI) Declaration

2.11. We will make available Confidentiality Agreements and COI declarations, along with instructions for those documents, including the date, time and manner that both should be returned to us. Confidentiality Agreements have already been signed by Developers and should not be amended.

2.12. Each Bidder must return signed Confidentiality Agreements and COI declarations for the Qualifying Project(s) for which they intend to submit a bid. This is taken as an expression of interest to participate in the tender round. Return of the Confidentiality Agreement and COI declaration will enable us to release the IM and draft Transfer Agreement for each relevant Qualifying Project to the Bidder. Both the Confidentiality Agreement and COI declaration are required to protect the confidentiality of the IM and draft Transfer Agreement and to ensure that any commercially sensitive information is not compromised.

2.13. More generally the COI declaration aims to avoid any distortion of competition in the tender process and to ensure the equal treatment of all Bidders. Bidders should note that they are further required to confirm in their EPQ Submission whether the organisation has a conflict of interest within the meaning of regulation 24 of the Public Contracts Regulations 2015. If a Bidder answers yes to that question, they are required to provide evidence of the measures that they have taken that are sufficient to demonstrate their reliability as a potential OFTO. Bidders whose responses are not sufficient to demonstrate their reliability as a potential OFTO may be excluded from the tender process at the Authority's discretion.

IM

2.14. The Regulations require Developers to provide us with certain information for us to issue to Bidders. This is provided in the form of the IM containing a summary of the relevant Qualifying Project. Bidders that have submitted satisfactory Confidentiality Agreements and COI declarations will be granted access, via the Portal, to the IM.

2.15. Subject to our satisfaction with the completion of the Confidentiality Agreement and COI declaration by Bidders, the IM(s) and draft Transfer Agreement(s) will be released to Bidders within two working days (but no earlier than 3 December 2020).

2.16. The table below sets out key information that can be used as assumptions to inform submissions:

Project	Developer	Size (MW)	Initial Transfer Value (£M)
Triton Knoll	RWE Renewables, J-Power and Kansai	857	612.5
Moray East	Diamond Green Limited, Moray Offshore Renewable Power Limited, Delphis Holdings Limited and China Three Gorges Limited	900	720

2.17. Initial Transfer Values are based on information provided by Developers. Bidders should use the Initial Transfer Values detailed above for the purposes of completing their EPQ Submissions. We will publish the Indicative Transfer Value for each Qualifying Project during the ITT Stage.

Draft Transfer Agreement

2.18. The draft Transfer Agreements set out the terms upon which the Transmission Assets for each Qualifying Project will transfer from the Developer to the OFTO.

2.19. We are satisfied that the draft Transfer Agreement for each Qualifying Project are sufficiently advanced to share with Bidders and are available on the Portal to Bidders who have returned Confidentiality Agreements and COI declarations.

2.20. Bidders should use draft Transfer Agreements to inform their EPQ Submissions. However, Bidders should be aware that draft Transfer Agreements released at the EPQ Stage are subject to further development.

2.21. The EPQ Questionnaire includes a section on the transfer of assets under the draft Transfer Agreement (see Section 9). **Commentary tables on the draft Transfer Agreement are optional at the EPQ Stage and will not be evaluated during the evaluation process.** Notwithstanding this, we encourage all Bidders to provide full and detailed comments on the draft Transfer Agreements at this early stage of the tender process. Ofgem will then strongly urge Developers to take these comments on board, to facilitate more efficient conversations during the ITT Stage of the tender process.

2.22. We will provide any commentary tables completed by Bidders to Developers on an anonymous and confidential basis to enable Developers to consider the comments as part of

the ongoing development of the Transfer Agreement. The final Transfer Agreement for each Qualifying Project will be made available at the ITT Stage.

2.23. Bidders should note that in releasing draft Transfer Agreements to Bidders at the EPQ Stage, we do not endorse draft Transfer Agreements nor the positions taken by Developers expressed in them. We also do not constrain our discretion as to the terms on which we might make a property transfer scheme under Schedule 2A to the Electricity Act in a particular case.

2.24. The TPGD sets out further information on the development of the Transfer Agreement after the EPQ Stage.

EPQ Submission Deadline

2.25. All EPQ Submissions for this EPQ Stage must be submitted via the Portal **no later than 12 noon on 5 February 2021 and no late EPQ Submissions will be accepted.**

Bids on Multiple Projects

2.26. Bidders will note that for this EPQ Stage they are invited to provide a single EPQ Submission in respect of any/both of the Qualifying Projects. Bidders are requested to specify which Qualifying Project(s) the submission relates to, for example, one or both Qualifying Projects in the tender round. We strongly advise Bidders to consider their ability to deliver multiple projects when making this decision. Ofgem will announce a separate shortlist of Qualifying Bidders for each Qualifying Project.

Content of an EPQ Submission

2.27. All EPQ Submissions must be made in the templates provided on the Portal. We will not accept EPQ Submissions in any other form.

2.28. The EPQ Submission must be completed in English, including any supplementary supporting documentation. Further information on making EPQ Submissions via the Portal can be found in the TPGD.

2.29. A compliant EPQ Submission must contain the following:

- responses to all requirements set out in the EPQ Questionnaire, together with relevant supporting documentation. Responses must be provided in the templates available on the Portal; and
- a signed Confidentiality Agreement and COI declaration for the Qualifying Project(s) as set out in paragraphs 2.11 to 2.13.

2.30. Where page limits are indicated in the requirements for response, these refer to A4 size pages. The font style should be in 'Verdana' and must be in a font size no smaller than 10 point. Any such page limits must be adhered to. We reserve the right to ignore any additional information submitted in excess of these limits.

2.31. We reserve the right to amend these requirements during the EQ Stage prior to the EPQ Submission deadline.

Changes arising after the EPQ Submission

2.32. Bidders should note that if, after their EPQ Submission has been submitted and prior to the publication of the Qualifying Bidder shortlist:

- there is a material change or proposed material change in the information provided in their EPQ Submission; or
- a Bidder, member of a Bidder Group, or Supporting Organisation becomes aware that information previously submitted is no longer true or accurate,

they are obliged to notify us as soon as reasonably practicable. Where a Bidder notifies us of such matters, we will be entitled to re-evaluate the EPQ Submission in light of the change.

Clarifications

2.33. Our general approach to dealing with clarifications is set out in the TPGD.

3. EPQ Questionnaire

Section Summary

This section sets out the information that Bidders are required to return in their EPQ Submissions for the Qualifying projects(s).

- 3.1. This EPQ Questionnaire sets out the information that Bidders are required to return in their EPQ Submission. All questions are numbered. Bidders should provide their response to all questions in the corresponding numbered boxes in the EPQ Questionnaire template, available on the Portal. References throughout the EPQ Questionnaire to 'you' and 'your' refer to the Bidder, Bidder Group and/or Supporting Organisations as applicable.
- 3.2. The EPQ Questionnaire is structured into the following Parts and Sections:

Part	Section	Section area
Part 1 <i>Suitability</i>	Section 1	Identification Information
	Section 2A	Grounds for mandatory exclusion
	Section 2B	Grounds for discretionary exclusion
Part 2 <i>Economic and Financial Standing</i>	Section 3	Economic and Financial Standing
Part 3 <i>Technical and Professional Ability</i>	Section 4	Experience of Asset Takeover, Management and Operations
Part 4 <i>Limitation Criteria</i>	Section 5	Approach to Asset Takeover
	Section 6	Approach to Management and Operations
	Section 7	Funding Solution
	Section 8	Financial and Commercial Risk Management
Part 5 <i>Other</i>	Section 9	Draft Transfer Agreement(s) Comments
	Section 10	EPQ Certificate
	Section 11	Confidentiality

- 3.3. Ofgem will evaluate EPQ Submissions with appropriate support from its Advisers. Information on the evaluation process is set out in Section 4.

PART 1 – SUITABILITY

Where the Bidder is formed of a Bidder Group, please ensure that each individual Bidder Group member completes the table below.

Section 1: Identification Information

Section 1	Identification information
<p>[1A(i)] Name of Bidder/Bidder Group member:*</p> <p><i>* If the Bidder is formed of a Bidder Group, please also state the name of each Bidder Group Member and indicate the lead contact</i></p>	
<p>[1A(ii)] Please confirm the Qualifying Project(s) for which you are bidding for (Triton Knoll and/or Moray East).</p>	
<p>[1B] Please provide as applicable the relevant requested details in the boxes below. Where an address provided is not in Great Britain, provide an address in Great Britain for the service of documents.</p>	
Company Registration number or identification (if applicable):	
Date of registration in country of establishment	
Place of incorporation (or equivalent):	
Address of registered office (or equivalent):	
<p>Trading status (<i>please mark 'X' in the relevant box to indicate your trading status</i>)</p>	
a) Public limited company	
b) Limited company	
c) Overseas company	
d) Other body corporate	
e) Unincorporated association	
f) Sole trader	
g) Other	
<p>Details of immediate parent company (if applicable):</p>	
<ul style="list-style-type: none"> full name of the immediate parent company 	
<ul style="list-style-type: none"> Registered office address (if applicable) 	
<ul style="list-style-type: none"> Registration number 	
<p>Details of ultimate parent company:</p>	
<ul style="list-style-type: none"> Full name of the ultimate parent company 	
<ul style="list-style-type: none"> Registered office address 	
<ul style="list-style-type: none"> Registration number 	
<ul style="list-style-type: none"> Position of Bidder (or Bidder Group member) in the group structure 	

[1C] Please provide the following, with your response not exceeding a maximum of 3 pages in total:

Details of the shareholding/Bidder Group organisational structure, making clear:

- the identity of the entity that will hold the OFTO Licence for the Qualifying Project(s);
- the relationship which each Bidder Group member and Supporting Organisation, where applicable, will have within and/or with the OFTO, including identification of the Ultimate Controller(s) of the OFTO; and
- key contractual relationships and accountability for managing these.

In the case of a Bidder Group, outline the proposed ownership arrangements, the proposed ownership proportions, and how you propose to share any and all liabilities of the Bidder Group under the project and/or finance documents between members. Bidders must either: confirm that the share of liabilities is shared according to the proposed ownership proportions or must clearly set out the alternative proposed liability apportionment between Bidder Group members.

[1D] Please provide the following details in relation to the Bidder (or Bidder Group member):

Full names and addresses of current directors in existing bidding entities including any shadow directors within the meaning of section 251 of the Companies Act 2006:	
--	--

Authorised signatories:	
-------------------------	--

Principal shareholders:	
-------------------------	--

[1E] Where any person (other than a person whose name is given in response to question [1D] holds 20% or more of any class of shares of a Bidder (or Bidder Group member), please provide for each person:

Name of person:	
-----------------	--

Address:	
----------	--

Number of shares held as percentage of the aggregate number of shares of that class represented by such shareholding:	
---	--

[1F] Where the Bidder (or Bidder Group member) is neither a body corporate nor a sole trader, please provide the name(s) and address(es) of the person or persons in whom effective control of the Bidder or Bidder Group member rests.

Name:	
-------	--

Address:	
----------	--

[1G] Where they have already been appointed, provide details of the Bidder’s legal, financial, technical, communications, or other key professional advisers in relation to TR7.

Legal:	
--------	--

Financial:	
------------	--

Technical:	
------------	--

Communications:	
-----------------	--

Other:	
--------	--

[1H] Provide details of any licences held by the Bidder (or Bidder Group member) under the Electricity Act 1989 (as amended) or Gas Act 1986 (as amended).

Section 2A: Grounds for mandatory exclusion

Bidders whose responses are not sufficient to demonstrate their reliability as a potential OFTO will be excluded from the Tender Exercise unless the Authority considers there are overriding reasons relating to the public interest for those Bidders to participate.

Where we consider the measures taken by the Bidder to be insufficient, and therefore the Bidder will be excluded from the Tender Exercise, we will give the Bidder a statement of reasons for that decision.

Where the Bidder is formed of a Bidder Group, the Bidder must submit a separate completed table (see below) for each Bidder Group member unless the answers to all questions below are 'no' for each Bidder Group member. Where all responses from all Bidder Group members are 'no' to the questions below, the Bidder need only submit one response to this section. If this is the case, please confirm by ticking this box:

Section 2A	Grounds for mandatory exclusion <i>Please type 'yes' or 'no' in the space provided as applicable. Where you have indicated 'yes', further details should be provided at 2.1A(b)</i>	
2.1A(a)	Regulations 57(1) and (2) of the Public Contracts Regulations 2015 The detailed grounds for mandatory exclusion of a Bidder are set out on this web page¹³ , which should be referred to before completing these questions. Please indicate if, within the past five years your organisation, or any other person who has powers of representation, decision or control in the organisation has been convicted anywhere in the world of any of the offences within the summary below and listed on the same webpage .	
	<ul style="list-style-type: none"> • Participation in a criminal organisation 	
	<ul style="list-style-type: none"> • Corruption 	
	<ul style="list-style-type: none"> • Fraud 	
	<ul style="list-style-type: none"> • Terrorist offences or offences linked to terrorist activities 	
	<ul style="list-style-type: none"> • Money laundering or terrorist financing 	
	<ul style="list-style-type: none"> • Child labour and other forms of trafficking in human beings 	
2.1A(b)	If you have answered yes to question 2.1A(a), please provide further details in the box below, including: <ul style="list-style-type: none"> • Date of conviction, specifying which of the grounds listed the conviction was for, and the reasons for conviction; • The identity of who has been convicted; and • If the relevant documentation is available electronically please provide the web address, issuing authority and precise reference of the documents. 	
2.2A	If you have answered 'yes' to any of the points above, have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)	
2.3A(a)	Regulation 57(3) of the Public Contracts Regulations 2015 Has it been established, for you by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the	

¹³https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

	organisation is in breach of obligations related to the payment of tax or social security contributions?	
2.3A(b)	If you have answered yes to question 2.3A(a), please provide further details in the box below. Please confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.	

Section 2B: Grounds for discretionary exclusion

Bidders whose responses are not sufficient to demonstrate their reliability as a potential OFTO may be excluded from the Tender Exercise.

Where we consider the measures taken by the Bidder to be insufficient, and therefore the Bidder will be excluded from the Tender Exercise, we will give the Bidder a statement of reasons for that decision.

Where the Bidder is formed of a Bidder Group, the Bidder must submit a separate completed table (see below) for each Bidder Group member unless the answers to all questions 2.1B to 2.3B below are 'no' for each Bidder Group member. Where all responses from all Bidder Group members are 'no' to the questions below, the Bidder need only submit one response to this section. If this is the case, please confirm by ticking this box:

Section 2B	Grounds for discretionary exclusion	
	Please type 'yes' or 'no' in the space provided as applicable. Where you have indicated 'yes', further details should be provided at 2.2B.	
2.1B	<p>Regulation 57(8) of the Public Contracts Regulations 2015</p> <p>The detailed grounds for discretionary exclusion of a Bidder are set out on this web page¹⁴, which should be referred to before completing these questions.</p> <p>Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your Bidder Group members, Supporting Organisations or any other person who has powers of representation, decision or control in the organisation(s).</p>	
2.1B(a)	Breach of environmental obligations?	
2.1B(b)	Breach of social obligations?	
2.1B(c)	Breach of labour law obligations?	
2.1B(d)	Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State?	
2.1B(e)	Guilty of grave professional misconduct?	
2.1B(f)	Entered into agreements with other economic operators aimed at distorting competition?	
2.1B(g)	Aware of any conflict of interest within the meaning of regulation 24 of the Public Contracts Regulations 2015 due to the participation in the Tender Exercise?	
2.1B(h)	Been involved in the preparation of the Tender Exercise?	
2.1B(i)	Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to	

¹⁴https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

	early termination of that prior contract, damages or other comparable sanctions?	
2.1B(j)	Please answer the following statements:	
2.1B(j)-(i)	The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the Selection Criteria.	
2.1B(j)-(ii)	The organisation has withheld such information.	
2.1B(j)-(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	
2.1B(j)-(iv)	The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the Tender Exercise, or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.	
2.2B	If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)	

Section 2.3B	Grounds for discretionary exclusion: tax related offences <i>(Please type 'yes' or 'no' in the space provided as applicable)</i>	
We reserve the right to use our discretion to exclude a Bidder where we can demonstrate by any appropriate means the Bidder is in breach of its obligations relating to the non-payment of taxes or social security contributions.		
2.3B	For your organisation and your Bidder Group, have any of the organisation(s)' tax returns submitted anywhere in the world on or after 1 October 2012 given rise to a criminal conviction for tax related offences which is unspent, or to a civil penalty for fraud or evasion? If you have answered 'yes' to this question, please provide further details in the box below.	

Section 2.4B	Grounds for discretionary exclusion: energy licence issues	
2.4B	The Bidder should provide details of the circumstances of any licences granted under the Electricity Act 1989 (as amended) or Gas Act 1986 (as amended) which have been revoked or where an application was not successful, and to which Bidder Group member(s) this applies.	
Please state to which members of the Bidder Group this question applies and list details of the supporting documentation you have provided.		
Name:		Supporting information:
Name:		Supporting information:

PART 2: ECONOMIC AND FINANCIAL STANDING

Section 3: Economic and Financial Standing

Please respond to all applicable questions relating to the Bidder's financial standing. If the Bidder is formed of a Bidder Group, the lead member of the Bidder group should complete all questions in Part 2 on behalf of the Bidder Group.

Notes to questions [3A] to [3C] of this EPQ Questionnaire:

Bidders should take into consideration the following instructions when responding to this section:

- (i) If the assessment of the Bidder, Bidder Group member or Supporting Organisation (as appropriate) is to be based on the parent company/group, the Bidder or Bidder Group member will need to demonstrate that the parent company/group will further participate in the process. This should be evidenced by the provision of letters of support at an appropriate level offering unqualified guarantees.
- (ii) When submitting financial statements disclosed in foreign currencies, Bidders are required to provide their balance sheets in Pounds Sterling at the average annual exchange rate for the financial statement year presented.
- (iii) Where there has been a significant reduction in either net assets or exchange rates since the latest balance sheet date such that the net assets do not meet the 110% requirements in [3A] and [3B] (as applicable) the impact and reason should be disclosed.

Questions [3A] and [3B] require Bidders to demonstrate their capacity to finance the Qualifying Project(s) for which they are bidding.

Please note that it is expected that financing solutions for each Qualifying Project will be based on either corporate financing or project financing. In the case of **corporate financing** please answer question [3A]. In the case of **project financing** please answer question [3B].

In the event that a Bidder plans to bid for more than one Qualifying Project and to use more than one financing solution, please answer both [3A] and [3B] and specify (in Section 7¹⁵) which financing solution applies to which Qualifying Project(s).

[3A] Where the Bidder anticipates funding one or more Qualifying Project(s) using **corporate finance** please provide the information requested in **(a) and (b)** below, being:

(a) evidence to demonstrate that the net assets of the Bidder, Bidder Group or relevant obligors¹⁶ are equal to or more than 110%¹⁷ of the proposed investment, i.e. the Initial Transfer Value, in the Qualifying Project(s). Net assets should be reconciled to the latest

¹⁵ Note that Section 7 requires Bidders to explain their approach for determining an appropriate financing solution for a given Qualifying Project.

¹⁶ In the case of a Bidder Group, each Bidder's net assets multiplied by the Bidder's share of the consortium (reflecting each Bidder Group member's proposed equity shareholding) and then summed for all Bidders in the Bidder Group. Where such obligations are guaranteed by an obligor of the Bidder/Bidder Group member, the net assets of the obligor can be used subject to note (i) above.

¹⁷ The rationale for the minimum 110% is to cover potential variation from the Initial Transfer Value to the Indicative Transfer Value and/or future incremental investments.

audited accounts available as at the EPQ Submission date and adjusted for any significant changes since that balance sheet date.

If more than one Qualifying Project is being bid for (as outlined in question [1A(ii)] above), Bidders/Bidder Groups should demonstrate net assets on the basis of 110% of the proposed investment, i.e. the Initial Transfer Value, for the largest of the Qualifying Projects for which they are bidding; and

(b) a letter(s) from the Bidder, Bidder Group or Supporting Organisations detailing a proven track record in the last five years of financing projects of a similar size (and complexity) to the proposed investment (i.e. the Initial Transfer Value) in the largest of the Qualifying Project(s) for which they are bidding. The letter should include, as a minimum, the following:

- The name and type of project for which the finance was put forward;
- The amount of finance put forward;
- The key funding terms and conditions;
- Details of the corporate finance sources (for example, cash reserves or finance raised at a corporate level). Where finance was raised at a corporate level, please include the relevant terms.

Where Bidder Group track records are cited, each such track record can be multiplied by the Bidder’s share of the consortium and then summed for all Bidders in the Bidder Group.

[3B] Where the Bidder anticipates funding one or more Qualifying Project(s) using **project finance**, please identify the expected debt and equity/risk capital split and respond to the relevant sections below (including [3B](a) and [3B](b)) taking account of this debt and equity/risk capital split.

(a) Where **debt finance** is proposed, the Bidder must provide evidence of its track record/support letter for its anticipated funding structure by providing the information requested in **one of [3B](a)(i) or [3B](a)(ii)**. If the Bidder answers more than one of **[3B](a)(i)** and **[3B](a)(ii)**, the first answer only (in this order) will be evaluated.

(i) A proven track record in the last five years of raising similarly sized limited recourse / project finance debt, for projects of similar complexity, to the proposed debt finance requirement, i.e. the debt funded proportion of the Initial Transfer Value, in the largest of the Qualifying Project(s) for which they are bidding. Evidence of raising debt finance in the last five years should provide information as to:

- The name and type of project for which the finance was raised;
- The amount of finance raised, and when it was raised;
- Role of Bidder (or Bidder Group member) in raising finance;

Name of the project	Type of the project	Amount of finance raised and date	Role of the Bidder / Bidder Group member
Total			N/A

For **each of** the above projects, Bidder should also provide:

- The form of finance raised, including the nature of the providers of the debt finance, the term of the debt and the identified sources of repayment;
- The timescale for the successful issue of such finance; and
- Details of any equity provision alongside the debt raised.

Where Bidder Group track records are cited, each such track record can be multiplied by the Bidder's share of the consortium and then summed for all Bidders in the Bidder Group.

Or

(ii) A support letter from one or more acceptable independent financial institutions (for example having at least an 'A' category credit rating (that is, at least any of A-, A or A+/A1, A2 or A3 or equivalent from a recognised credit rating agency) stating its/their intent to provide debt finance to the Qualifying Project(s) which states:

- The level of support being provided (whether for all or a proportion of the funding requirement);
- Availability of funds and period of availability;
- Source of funds, with detail of where new funds may be raised;
- Key terms and conditions of finance, including required levels of contractual/Bidder or Bidder Group support; and
- Any relevant approvals which have already been achieved.

If more than one Qualifying Project is being bid for (as outlined in question [1A(ii)] above), Bidders should demonstrate their financial capacity to secure financing solutions on the basis of 110% of the proposed debt requirement, i.e. the debt funded portion of the Initial Transfer Value, for the largest of the Qualifying Projects for which they are bidding.

(b) Where **equity finance** is proposed, the Bidder / Bidder Group¹⁸ must provide evidence of its capacity/track record for its anticipated funding structure by providing the information requested in one of [3B](b)(i) or [3B](b)(ii). If the Bidder answers more than one of [3B](b)(i) and [3B](b)(ii), the first answer only (in this order) will be evaluated.

(i) Evidence to demonstrate net assets, and/or undrawn commitments of the relevant bidding vehicles from which they intend to fund, of at least 110% of its proposed equity/risk capital investment in the Qualifying Projects, i.e. the equity funded portion of the Initial Transfer Value. Net assets should be reconciled to the latest audited accounts available as at the EPQ Submission date and adjusted for any significant changes since that balance sheet date.

If more than one Qualifying Project is being bid for (as outlined in question [1A(ii)] above), Bidders/Bidder Groups should demonstrate net assets/undrawn commitments on the basis of 110% of the proposed equity/risk capital investment, i.e. the equity funded proportion of the Initial Transfer Value, for the largest of the Qualifying Project(s) for which they are bidding.

Or

¹⁸ In this case, each Bidder's net assets (or undrawn commitments) multiplied by the Bidder's share of the consortium and then summed for all Bidders in the Bidder Group.

(ii) A proven track record in the last five years of raising equity, for projects of similar complexity, totalling at least 110% of its proposed equity investment, i.e. the equity funded proportion of the Initial Transfer Value, for the largest of the Qualifying Project(s) for which they are bidding.

Evidence of raising equity finance in the last five years should provide information as to:

- The name and type of project for which the finance was raised;
- The amount of finance raised, and when it was raised;
- Role of Bidder (or Bidder Group member) in raising finance;
- Details on the form of finance raised including, but not limited to the following:
 - The form of finance raised;
 - The timescale for the successful issue of such finance; and
 - The proportion of equity finance of the total finance raised.

Where Bidder Group track records are cited, each such track record can be multiplied by the Bidder’s share of the consortium and then summed for all Bidders in the Bidder Group.

Please indicate which items you have responded to and list details of the supporting documentation you have provided:

Questions answered. Please insert into square bracket:

[]

Please list supporting documentation provided:

[3C] The Bidder (and where applicable each Bidder Group member) should provide the following:

- (i) copies of the last three years’ audited statutory financial accounts (or equivalent) or for the period that is available if trading for fewer than three years. If the Bidder is formed of a Bidder Group, provide this information for each Bidder Group member and (where applicable) the ultimate parent company (or equivalent legal body) of each such entity;
- (ii) a statement, as at the date of the Bidder’s EPQ Submission of any contingent liability or loss (where not otherwise reported) that would require disclosure in accordance with International Accounting Standard 10; **and**
- (iii) if at the time of the EPQ Submission the Bidder's, or where relevant, any Bidder Group member's, most recent audited balance sheet is more than ten months out of date, provide:
 - a statement signed by the Director responsible for financial matters setting out any known significant changes in the current financial position from the last available audited balance sheet; **and**
 - where available, a copy of the Chairman’s half-yearly statement.

Bidders should clearly set out in their response to this question [3C], to the extent relevant or applicable, how their responses to questions [3A] and [3B] are consistent with the information provided in this question [3C]. Bidder’s response should include clear references to the particular sections in their financial statements or accounts or other submissions to substantiate their submissions in questions [3A] and [3B].

Please list supporting documentation provided:

PART 3: TECHNICAL AND PROFESSIONAL ABILITY

Section 4: Experience of Asset Takeover, Management and Operations

*Please provide a response, which must not exceed **15 pages** in total, outlining the following areas. Any project examples provided should be based on projects in which you have been involved within the past five years.*

If the Bidder is formed of a Bidder Group, the lead member of the Bidder group should complete all questions in Part 3 on behalf of the Bidder Group.

[4A] Experience of Asset Takeover

Please outline your experience of the takeover of operational infrastructure assets making specific reference to relevant examples including but not limited to mergers and acquisitions, establishing new business units in the infrastructure sector, and expanding business units. Your response should cover your legal, regulatory, commercial, technical and financial experience in this context; include management control arrangements and your approach taken to stakeholder engagement during asset takeover.

[4B] Capability in Management and Operations

Please outline your management and operational experience of infrastructure projects of a similar size and complexity to the Qualifying Project(s) including, where relevant, reference to your internal policies, codes of conduct and best practice principles. In outlining your experience please use your example projects to highlight the:

- i. approach your organisation takes to managing and operating infrastructure assets;
- ii. operational outcomes that you have required senior management within your organisation to deliver in relation to operation of the relevant project; and
- iii. approach your organisation took to ensuring best practice and compliance with internal codes of conduct and regulatory requirements of the relevant project.

PART 4 – LIMITATION CRITERIA

The questions contained in this section will be used to determine a Bidder's understanding of and ability to meet the requirements of the tender process, and ultimately the role of an OFTO.

If the Bidder is formed of a Bidder Group, the lead member of the Bidder group should complete all questions in Part 4 on behalf of the Bidder Group.

Section 5: Approach to Asset Takeover

*Please provide a response, which must not exceed **5 pages** in total, outlining the following:*

[5A] Please outline the principles you would adopt and the approach you would follow (including your approach to technical due diligence) in taking over the following elements of an offshore transmission system:

- i. onshore substation
- ii. offshore substation
- iii. onshore cable
- iv. subsea cable

[5B] Please outline the approach and principles you would follow when setting up an OFTO business. In particular, the in-house technical and financial expertise would you need to procure and what services you would need to subcontract.

Section 6: Approach to Management and Operations

Please provide a response outlining the following in relation to your approach for management and operations. Any project examples provided should be based on projects in which you have been involved within the past five years.

If you are bidding for more than one Qualifying Project, you should explain whether your approach would vary (and how) for different Qualifying Projects.

*Your response should not exceed **20 pages**.*

[6A] How you would approach operating transmission assets and delivering services for an OFTO project in accordance with the required operational performance standards, including examples from your experience of managing and operating either transmission assets or other infrastructure assets where applicable.

Your response should set out your approach for the full 25-year revenue period including the process and factors you intend to take into account. In particular, you should comment on the following:

- i. Procurement of required O&M services;
- ii. Asset maintenance, repair and inspection;
- iii. Spares management and procurement;
- iv. Outage coordination and management strategy;
- v. Network resilience and restoration; and
- vi. Efficient resourcing of activities.

[6B] How you would manage and mitigate the impact of the key business and operational risks set out below, including examples from your experience managing and operating either transmission or other infrastructure assets where applicable. (Note: you are not required to detail here how you would approach dealing with the financial and/or commercial impact of the risks as this is addressed in Section 8 of this EPQ Questionnaire):

- i. Major failure / outage of the transmission link (once you have ownership of the transmission assets);
- ii. Asset degradation identified during inspection;
- iii. Persistent under-performance of the transmission system sufficient to impact the availability incentive (once you have ownership of the transmission assets);
- iv. Unavailability of vessels for maintenance work;
- v. Failure of supply chain member;
- vi. Variability in insurance costs over time;
- vii. Events such as collision, extreme weather or fatality scenarios impacting O&M; and
- viii. Any additional risks you have identified which could have a significant operational impact.

[6C] How you would approach managing managerial and operational interfaces with key stakeholders and third parties for an OFTO project, referring to past experience of your contract management capability.

[6D] Your understanding of the electricity industry regulatory framework applicable to an OFTO and how you would ensure compliance in operating and managing offshore transmission assets. You should refer to documents referenced under 'Relevant Guidance and Other Documents' in Section 1 of this EPQ Document in considering your response to this question.

[6E] How your past experience with applying principles of best practice and following internal codes of conduct for infrastructure projects would help you ensure compliance when operating and managing a transmission system, in terms of:

- i. Applicable health and safety legislation in managing the key health and safety risks to your employees, subcontractors' employees, members of the public and with respect to the safety of the installations themselves; and
- ii. Applicable environmental and planning legislation.

[6F] How you would approach the decommissioning of OFTO assets (please refer to Department for Business, Energy and Industrial Strategy (**BEIS**) guidance on decommissioning¹⁹, or equivalent from Marine Scotland as appropriate and available).

19

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/916912/decommissioning-offshore-renewable-energy-installations-energy-act-2004-guidance-industry_1.pdf

Section 7: Funding Solution

Please explain your approach for determining a funding solution that would be appropriate for the Qualifying Project(s), including why you consider this to be an efficient and effective approach.

Please also describe the approach you would use to derive the financial components of the TRS for an OFTO project and the assumptions you would expect to make in light of your proposed funding solution.

If you are bidding for more than one Qualifying Project, you should explain whether your approach would vary (and how) for different Qualifying Projects.

*Your response should not exceed **12 pages**.*

[7A] Please explain how you would go about determining an efficient and effective funding solution for the Qualifying Project(s), including:

- (1) **What you currently consider to be a suitable financing structure** for each Qualifying Project (including what type of finance you currently anticipate using) and what considerations and criteria you have taken into account in determining the financing solution;
- (2) **What alternative types** of finance you would propose, and the circumstances under which you would consider these further;
- (3) What **external financing/OFTO specific market factors** have influenced your anticipated financing solution(s), and what further factors you would take into account when proposing a funding solution at the ITT stage;
- (4) The **approach** you would take to **due diligence** in relation to your financing solution(s);
- (5) **From the Preferred Bidder stage onwards**, please outline your approach to ensuring that your **financing solution(s) continues to be the most appropriate** and remains competitive, including what arrangements you would make for external factors, such as a delay to asset transfer and change in market conditions.

Please include any **additional information** that you consider you would take into account to **increase the deliverability** of your proposed financing solution. Additional information will be taken into account (where relevant) in the assessment of sub-questions 7A (1)–(5).

[7B]: Please describe the approach and assumptions for dealing with the following items for the proposed financing solution set out in your response to question 7A.

In particular, please comment on how you would expect to determine:

- i. Indexation approach;
- ii. Taxation;
- iii. Special Purpose Vehicle (**SPV**) and/or management costs;
- iv. Bid Cost Recovery;
- v. Other Income Items; and
- vi. Other foreseen financial costs over the life of the Qualifying Project(s).

Section 8: Financial and Commercial Risk Management

Please provide details of how you would address potential financial and commercial risks related to operation of Transmission Assets. The equivalent technical aspects are addressed in Section 4.

If you are bidding for more than one Qualifying Project, you should explain whether your approach would vary (and how) for different Qualifying Projects.

*Your response should not exceed **8 pages**.*

[8] Please describe your understanding of the following risks, or state why you do not view them as a risk, and what you consider would be the best approach to dealing with their financial and/or commercial impact.

Please provide the reasoning for your potential solution(s), including relevant evidence of your experience dealing with similar risks, and, where applicable, the use of insurance cover to address such risks.

Your response should address the following risks:

- i. major failure / outage of the transmission link (post transfer of the Transmission Assets);
- ii. persistent under-performance of the Transmission Assets sufficient to impact the availability incentive (post transfer of the Transmission Assets);
- iii. identification of asset degradation following inspection;
- iv. unavailability of vessels for maintenance or repair operations;
- v. failure of supply chain member;
- vi. change in inflation over the lifetime of the revenue term and how you would take this into account in your approach to indexation;
- vii. changes to decommissioning costs or requirements;
- viii. unavailability of insurance and variability in insurance costs over time; and
- ix. any additional risks you have identified in connection with the Qualifying Project(s) which could have a significant financial and/or commercial impact.

PART 5 – OTHER

Section 9: Draft Transfer Agreement(s) Comments

Based upon your review of the information about the Qualifying Project(s), as well as information available in respect of the offshore electricity transmission regime more generally, you have the option of commenting on the draft Transfer Agreement(s) for the Qualifying Project(s).

If the Bidder is formed of a Bidder Group, the lead member of the Bidder Group should complete Section 9 on behalf of the Bidder Group.

[9] You are invited to provide comments on the draft Transfer Agreement(s) for the Qualifying Project(s) by way of a separate commentary table for each Qualifying Project, using the form of template provided at Appendix 1. The commentary for each Qualifying Project(s) should focus on the potential commercial issues and risk considerations associated with achieving a transfer of assets in accordance with the relevant draft Transfer Agreement, indicating whether the issues are:

- **High:** Significant commercial/legal impact which you expect would materially affect the Tender Revenue Stream you would bid at the ITT Stage or could materially affect the fundability of the transfer;
- **Medium:** Commercial/legal impact which could affect the Tender Revenue Stream you would bid at the ITT Stage, but not in a material way; or
- **Low:** Amendments which you expect would neither affect the Tender Revenue Stream you would bid at the ITT Stage, nor have a significant commercial impact, but which would make the transaction more desirable from your perspective.

As part of the commentary table, where an issue is identified as of high or medium significance, you are invited to explain the nature of these issues and the potential impact on the Tender Revenue Stream you would bid at the relevant ITT Stage.

4. If you wish to also provide a mark-up of any of the relevant draft Transfer Agreements, please provide such a mark-up as a supplementary document.

Bidders have the option of submitting commentary tables and mark-ups of the draft Transfer Agreements. **Section 9 will not be scored, nor will it be considered during the evaluation process.**

As we may make responses to this section available to the Developer (see paragraph 2.22), your responses should not contain any information (including in footnotes) which could identify or allow ready identification of you or any Bidder Group member (if relevant).

Responses which highlight issues for us to address, including issues in relation to the Tender Exercise, Offshore Transmission Licence or regulatory regime, should be raised as clarifications in accordance with the procedure set out in paragraph 2.33.

Section 10: EPQ Certificate

Where a Bidder is formed of a Bidder Group, each Bidder Group member must complete this Certificate individually. Each certificate must be initialled and signed as indicated below by a duly authorised officer of the Bidder or Bidder Group member (as applicable) to indicate confirmation of all of the statements in Sections [10A] to [10I] below. The initialled and signed copy of the EPQ Certificate(s) must then be uploaded to the Portal as part of your EPQ Submission.

In relation to statement [10C] only, if the duly authorised officer is not able to confirm statement [10C] then he or she need not initial this statement, provided that the he or she provides a satisfactory written explanation alongside this statement.

"I, acting as a duly authorised officer of* _____
and on behalf of ** _____,
hereby confirm that:

[10A] The information provided in the EPQ Submission is true, accurate, and complete; and I understand that the information will be used in the selection process to assess my Bidder/Bidder Group (as applicable)'s suitability to be invited to participate further in this tender exercise.	Initial below
[10B] Neither* _____ nor any of [its/their] Related Parties has breached any applicable legislation or regulations including any provision or requirement of the Tender Regulations or the EPQ Document in preparing or making this EPQ Submission.	Initial below
[10C] We are not aware of any application to place the Bidder/Bidder Group member (as applicable), or the shareholders of any of the foregoing in liquidation, administration or receivership, or to commence any analogous process or proceeding in any jurisdiction, and that no such process has been commenced.	Initial below
[10D] The Bidder/Bidder Group member (as applicable) is acting as a principal in the Tender Exercise and not as an agent for any undisclosed person and the Bidder/Bidder Group member (as applicable) has expressly authorised me to act on its behalf in making this EPQ Submission.	Initial below
[10E] The Bidder/Bidder Group member (as applicable) hereby consents to the disclosure by Ofgem to Ofgem's Advisers for the purposes of TR7 of any information given to Ofgem either before or during TR7 by such Bidder or Bidder Group member.	Initial below
[10F] The Bidder/Bidder Group member (as applicable) hereby confirms that they have considered the implications of the Electricity Act 1989 Sections 10A-O (as amended) and understands that if appointed as a transmission licensee who participates in the transmission of electricity they will be required to comply with the ownership unbundling provisions therein.	Initial below
[10G] In compiling this EPQ Submission, neither I personally nor the Bidder/Bidder Group member (as applicable) has obtained an unfair commercial advantage including, in particular such advantage from a preferential or discriminatory arrangement with associated parent companies or affiliates, any user of the Offshore Transmission System or Licensees.	Initial below
[10H] The Bidder/ Bidder Group member (as applicable) understands the obligations of an OFTO to comply with conditions in the OFTO Licence.	Initial below
[10I] The Bidder/Bidder Group member (as applicable) acknowledges and agrees that knowingly or recklessly making a false, incomplete, or misleading statement in support of this EPQ Submission may result in: a) disqualification of the Bidder from the Tender Exercise; b) Licence Grant being refused or revoked if the Bidder reaches this stage in the process; and/or c) criminal proceedings being instituted under section 59 of the Electricity Act 1989 (as amended).	Initial below
In providing this statement, I have made all due enquiries on behalf of the Bidder or Bidder Group member (as applicable)."	

Signed	
Name	
Position	
Dated	

* insert name of Bidder or Bidder Group member (as applicable)

** insert name of Bidder or Bidder Group member (as applicable)

Section 11: Confidentiality

The Freedom of Information Act 2000 provides a general right of access to all information held by public authorities. Ofgem is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

The Bidder should identify which part(s) of its EPQ Submission are provided in confidence and provide reasons why it considers the information is eligible for exemption under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and should therefore be kept confidential. Ofgem is not bound by any such statement but will take it into account in considering whether an exemption applies.

Section of EPQ Submission provided in confidence	Reason(s) for exemption under Freedom of Information Act 2000 and Environmental Information Regulations 2004

4. Evaluation of EPQ Submissions

Section Summary

This Section sets out how we will evaluate EPQ Submissions. This includes guidance in relation to the Evaluation Criteria we will apply and the processes we will follow to evaluate EPQ Submissions.

Evaluation Process

- 4.1. The purpose of the EPQ Stage is to identify a shortlist of Qualifying Bidders, for each Qualifying Project, who will be invited to participate in the ITT Stages for the relevant Qualifying Project(s).
- 4.2. We will conduct our evaluation over the following sequential stages:
 - an assessment of completeness;
 - an assessment of compliance; and
 - an evaluation of compliant EPQ Submissions in accordance with the Evaluation Criteria and Guidance provided in Appendix 2 and Appendix 3 to this document, as applicable.

Assessment of Completeness

- 4.3. Prior to the formal evaluation process and following receipt of the EPQ Submissions, we will undertake a completeness check of the information received. If this check identifies any omission(s) in the information required to be provided, we will notify the Bidder of the omitted information. At our discretion, the Bidder will be given a period of time, to be notified by us, in which to rectify the omission(s). In this event, we will only commence evaluation of the EPQ Submission following receipt of the requested information.
- 4.4. We may decline to consider a Bidder's EPQ Submission if the information omitted is substantial or any omitted information requested is not provided within the required time.

Assessment of Compliance

- 4.5. Following the completeness check, we will assess whether EPQ Submissions received are compliant. An EPQ Submission will be considered compliant if all the information requested under paragraph 2.27 to 2.31 is provided.
- 4.6. We may decline to consider a Bidder's EPQ Submission if it does not comply in any material respect with the requirements specified in this EPQ Document.

Scoring

- 4.7. EPQ Submissions consist of five parts, of which the first four will be evaluated.
- 4.8. **Part 1** (sections 1 and 2) of the EPQ Questionnaire focuses on suitability. Evaluation of Part 1 will be on a pass/fail basis.
- 4.9. **Part 2** (section 3) of the EPQ Questionnaire focuses on the economic and financial standing of the Bidder. Evaluation of Part 2 will be on a pass/fail basis.
- 4.10. **Part 3** (section 4) of the EPQ Questionnaire focuses on the technical and professional ability of the Bidder. Evaluation of section 4 will be on a pass/fail basis.
- 4.11. A Bidder's EPQ Submission will only be considered further if it passes the Selection Criteria, as set out in Appendix 2. Bidders that pass sections 1 to 4 will be considered to have met the Selection Criteria.
- 4.12. **Part 4** (sections 5 to 8) of the EPQ Questionnaire assesses Bidders' sufficient understanding of key aspects of the OFTO business, as set out in Appendix 3:
- 4.12.1. Section 5: Bidders will be evaluated on the basis of their degree of understanding of asset takeover and the viability of their approaches.
- 4.12.2. Section 6: Bidders will be evaluated on the basis of their degree of understanding of operating transmission assets and the viability of their approaches.
- 4.12.3. Section 7: The Bidder will be evaluated on the basis of the viability of the expected funding strategy.
- 4.12.4. Section 8: Bidders will be evaluated on their understanding of the financial and commercial risks and the viability of their expected approach to managing and mitigating the key risks.
- 4.13. Part 4 will be evaluated on a scored basis, as set out below. Each of the questions in sections 5 to 8 will be scored using a four-mark evaluation scale ranging from A to D. There is an averaged minimum threshold of 'B-' to be reached for each individual section for a Bidder to pass and to be shortlisted for the ITT Stage in respect of a relevant Qualifying Project. Where there are more than 8 such bidders, paragraph 4.16 below will apply.
- 4.14. **Part 5, Other:**
- 4.14.1. Sections 9 of the EPQ Questionnaire invites Bidders to provide comments on the draft Transfer Agreement(s) for a Qualifying Project(s). This is not evaluated, it is optional;
- 4.14.2. Section 10 of the EPQ Questionnaire, the EPQ Certificate, must be signed by a duly authorised officer of the Bidder or, if a Bidder is formed of a Bidder Group, each member of the Bidder Group to meet the compliance assessment. A Bidder or Bidder Group who does not do so will have its EPQ Submission rejected and it will not be considered further;
- 4.14.3. Section 11 of the EPQ Questionnaire invites Bidders to identify confidential information in their EPQ Submissions for the purposes of Freedom of Information

requests. This is not evaluated, it is optional. This is requested for information only.

Determining the Shortlist

4.15. The Bidders that satisfy Parts 1 to 4 inclusive and section 10 of Part 5 of the EPQ Questionnaire will be shortlisted for the relevant Qualifying Project(s) and so invited to the ITT Stage for such projects subject to paragraphs 4.16 to 4.17 below.

4.16. Where there are more than 8 such Bidders for a Qualifying Project, their B- to A+ score for each section in Part 4 will be converted to the following corresponding numeric score. These numerical scores will only be used to limit and determine which Bidders are invited to participate in the ITT stage for a Qualifying Project to comply with the maximum 8 Qualifying Bidder limit for each Qualifying Project:

Mark	Numeric score
A+	10
A	9
A-	8
B+	7
B	6
B-	5

4.17. The scores for Part 4 will be weighted as set out below, to determine a score for each Bidder for the relevant Qualifying Project(s):

Section	Multiplier
Section 5	15 per cent
Section 6	40 per cent
Section 7	25 per cent
Section 8	20 per cent

For the avoidance of doubt, each section will be scored as a whole (rather than individual questions within a section having its own score).

Evaluation Scale for Scored Sections

4.18. As noted above, each of section 5 to 8 of the EPQ Questionnaire will be awarded an overall grade based on the average of the grades awarded for each question within the section. Bidders that do not meet the minimum threshold of an overall 'B-' grade for any of sections 5 to 8 will not be selected for the competition for the relevant Qualifying Project(s). The Evaluation Criteria is set out in Appendix 2, detailing the standard of responses expected at each grade. In particular:

4.18.1. Where a section contains one question, the grade for that section will be the grade awarded to that question.

4.18.2. Where a section contains more than one question, the overall grade awarded to that section will be the average of the grades awarded for each question.

- 4.18.3. A question may contain numbered sub-questions. The overall grade awarded for such a question will be the average of the grades awarded for each of the numbered sub-questions.
- 4.19. Evaluators may mark a question within a section, or a sub-question within a question, with a + or – where the response generally attracts a particular grade but there is some variation that requires a grade above or below is awarded. An “A+” is awarded where evaluators consider that the requirements for an “A” grade are exceeded.
- 4.20. A question may contain multiple components listed in roman numerals. These components are not individually graded but a response in relation to these components may require that a + or – is awarded for the question.

Notification to Bidders and Publication of Qualifying Bidder Shortlist

- 4.21. We will notify each Bidder (via the Portal) as to whether its EPQ Submission has been successful or unsuccessful.
- 4.22. We are sensitive to the likely level of investment which Qualifying Bidders will have to undertake during the ITT Stage and we consider that it would not be beneficial, either for Ofgem or Bidders, to take too many Bidders beyond the EPQ Stage. Therefore, we limit the maximum number of Bidders who will be invited to take part in the ITT Stage in relation to the Qualifying Project(s) whilst ensuring that effective competition is maintained.
- 4.23. The notices given to Bidders who are invited to the ITT stage will set out the next steps they will need to take in order to participate in the ITT Stage for the Qualifying Project(s).
- 4.24. Once all Bidders have been notified, we will publish the Qualifying Bidders shortlist in respect of the Qualifying Project(s) on the Portal and on our website. We may also make a general public announcement.

Bidder Feedback

- 4.25. We will provide confidential feedback to any Bidder upon request following completion of the EPQ Stage. Requests for feedback should be made within one month of the notification referred to in paragraph 4.22.

ITT Award Criteria

- 4.26. The quality of bid (or ‘underlying assumptions’) for all tender submissions at the ITT stage will be marked as a pass/fail. Of the tender submissions which pass the quality aspect, the submission with the lowest TRS will be selected as the Preferred Bidder. Details of the award criteria will be set out in the ITT Document for each relevant TR7 Project.

Appendices

Index

Appendix	Name of Appendix	Page No.
1	Table of Commentary to draft Transfer Agreement	46
2	Evaluation Criteria and Guidance: Selection Criteria, Parts 1 to 3 of EPQ Questionnaire	47
3	Evaluation Criteria and Guidance: Limitation Criteria, Part 4 of the EPQ Questionnaire	48
4	Disclaimer and Notices	49
5	Glossary	52

Appendix 1- Table of Commentary to draft Transfer Agreement

Form of Commentary Tables

A1.1. Bidders are invited and encouraged to provide commentary tables using the information provided on the Qualifying Project(s) to prepare the commentary table using the form below and provide it in MS Word format. However, it is not required that Bidders provide commentary, and any commentary provided will not be subject to evaluation. The commentary table is to be provided on an anonymous basis and not contain any information (including in footnotes) which could identify or allow ready identification of the Bidder or any Bidder Group member (if relevant). Bidders must ensure that each commentary table submitted refers to one Qualifying Project only.

PART A: HIGH IMPACT: Significant commercial and/or legal impact which will materially affect the Tender Revenue Stream being bid at the ITT Stage or could materially affect the fundability of the transfer.

No.	Headline issue	Relevant Clause(s)	Commentary
A.1			

PART B: MEDIUM IMPACT: Commercial and/or legal impact which could affect the Tender Revenue Stream being bid at the ITT Stage but not in a material way.

No.	Headline issue	Relevant Clause(s)	Commentary
B.1			

PART C: LOW IMPACT: Amendments which you would expect which would neither affect the Tender Revenue Stream that you would bid at the ITT Stage, nor have a significant commercial impact, but which would make the transaction more desirable from your perspective.

No.	Headline issue	Relevant Clause(s)	Commentary
C.1			

A1.2. Comments which are issues for Ofgem to address, including issues in relation to the Tender Exercise, Tender Round, OFTO Licence or regulatory regime, should be raised as clarifications in accordance with the procedure set out in this EPQ Document.

Appendix 2 – Evaluation Criteria and Guidance: Selection Criteria, Parts 1 to 3 of the EPQ Questionnaire

Please see separate document.

Appendix 3 – Evaluation Criteria and Guidance: Limitation Criteria, Part 4 of the EPQ Questionnaire

Please see separate document.

Appendix 4 – Disclaimer and Notices

Non-reliance, Accuracy of Information and Exclusion of Liability

- A2.1. It is the responsibility of each Bidder to ensure that it has all of the information it needs to prepare its EPQ Submission(s).
- A2.2. While information provided by Ofgem and/or its Advisers in this EPQ Document or otherwise in relation to the Tender Round has been prepared in good faith, neither Ofgem nor any of its Advisers make any representation or warranty (express or implied) in relation to the Tender Round or any information provided by Developers through the Portal or otherwise. Ofgem and its Advisers expressly disclaim any and all liability (other than in respect of fraudulent misrepresentation) based on or relating to any such information or representations or warranties (express or implied) contained in, or errors or omissions from, this EPQ Document (and other related documentation) or based on or relating to its use by a Bidder and/or any other interested party.

Use of Information

- A2.3. This EPQ Document is not intended to provide the basis of any investment decision, nor is it intended to be considered as an investment recommendation by Ofgem or by any of its Advisers. Each Bidder and any other interested party must make its own independent assessment of the Qualifying Project(s) after making such investigation and taking such professional advice as it deems necessary.
- A2.4. The material in this EPQ Document is not and should not be regarded as legal or professional advice. Bidders and other interested parties should seek their own legal or other professional advice where appropriate.
- A2.5. Nothing in this EPQ Document is intended to, or shall be deemed to establish any partnership or joint venture between Ofgem and any Bidder.
- A2.6. Advisers acting for Ofgem in relation to the Tender Round will not regard any Bidder or other interested party as their client or be responsible to anyone other than Ofgem for providing the protections afforded to their clients or for advising any other person on the Tender Round or any matter related to it.

Freedom of Information

- A2.7. The Freedom of Information Act 2000 provides a general right of access to all information held by public authorities. The Environmental Information Regulations 2004 provide a general right of access to all environmental information held by public authorities. Ofgem is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- A2.8. Bidders should identify which parts, if any, of their submissions are provided to Ofgem in confidence and provide reasons why they consider the information to be eligible for exemption under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 and should be kept confidential. Ofgem will take any such statement of confidentiality into account in considering whether an exemption applies, but Ofgem is not bound by any such statement.

A2.9. Although Ofgem is not under any statutory obligation to consult with a Bidder in relation to requests for information made under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, Ofgem will endeavour to inform the relevant Bidder of requests wherever it is reasonably practicable to do so. However, all decisions in respect of disclosure of information will be made at the sole discretion of Ofgem regardless of whether or not a Bidder has identified any information as being in its opinion eligible for exemption. For further information and guidance, Bidders' attention is drawn to the Codes of Practice issued under Sections 45 and 46 of the Freedom of Information Act 2000²⁰.

Data Protection

A2.10. In participating in the Tender Round, Bidders must comply with the Data Protection Act 2018, General Data Protection Regulation 2018, and all other relevant regulations, together with any codes of conduct and guidance issued by the Information Commissioner. Bidders must not do, or cause or permit to be done, anything which may cause or otherwise result in a breach by Ofgem of such requirements. BravoSolution UK Ltd, on behalf of Ofgem, will collect, hold and use personal data obtained from and about Bidders. In order to participate in the Tender Round, Bidders must agree to such data being collected, held and used.

Confidentiality and Publicity

A2.11. Bidders must comply with their obligations under the Confidentiality Agreement they are required to sign with the Developer of the Qualifying Project(s) at the start of each EPQ Stage. Bidders must procure compliance by their directors, employees, advisers, subcontractors, etc., as provided for under such agreements.

A2.12. Bidders shall not undertake (or permit to be undertaken) at any time during the Tender Round any publicity activity with any section of the media in relation to the Qualifying Project(s) other than with the prior written agreement of Ofgem. Such agreement shall extend to the content of any publicity. In this paragraph the word 'media' includes (without limitation) radio, television, newspapers, trade and specialist press, the internet (including social media) and e-mail accessible by the public at large and the representatives of such media.

Copyright

A2.13. The information contained within this EPQ Document is subject to Crown copyright protection unless otherwise indicated. The Crown copyright protected material may be reproduced free of charge in any format or medium provided it is reproduced accurately and not in a misleading or derogatory manner. Where any of the Crown copyright material in this EPQ Document is being published or copied to others, the source of the material must be identified and the copyright status acknowledged.

²⁰ <http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/code-of-practice>

National Audit Office

A2.14. The Comptroller and Auditor General of the National Audit Office is the auditor for central government. Ofgem and any documents and information held by Ofgem in connection with the Tender Round (including commercially sensitive information and information marked as confidential) may be subject to audit by the Comptroller and Auditor General.

A2.15. Accordingly, Bidders should be aware that for the purposes of the National Audit Act 1983 the Comptroller and Auditor General may:

- examine and take copies of documents and information held by Ofgem in connection with the Tender Round (including commercially sensitive information and information marked as confidential) and request such information as he may reasonably require; and
- has the right to publish information related to the Tender Round (including commercially sensitive information and information marked as confidential) in its report to Parliament. In this context, please refer to the report published by the National Audit Office in June 2012 on the Offshore Transmission regime²¹.

²¹ http://www.nao.org.uk/publications/1213/offshore_electricity.aspx

Appendix 5 – Glossary

A

Advisers

In relation to Ofgem, its employees, officers, directors, officials, insurers, agents, consultants, advisers, contractors, sub-contractors (of any tier) and affiliates.

Authority

The Gas and Electricity Markets Authority established by section 1(1) of the Utilities Act 2000. The Authority governs Ofgem.

B

Best and Final Offer (BAFO) Submission

A selected Bidder's response to the BAFO Document.

BAFO Stage

A stage of a Tender Exercise which the Authority may decide to run after the ITT Stage in order to determine which Bidder shall become the Preferred Bidder in respect of a Qualifying Project(s). This stage starts from the distribution by Ofgem of the BAFO Document to selected Bidders, including BAFO preparation, Submission and evaluation, and ending when a Preferred Bidder is selected and notified.

Bid

The submission made by a Bidder to Ofgem in response to the EPQ Document.

Bidder

Any person or Bidder Group that is intending to make, or makes, an EPQ Submission, a Preferred Bidder or a Successful Bidder (as applicable).

Bidder Group

Two or more persons acting together as a consortium for the purposes of any EPQ, ITT or BAFO Submission to Ofgem in accordance with the Tender Regulations. This includes both equity and non-equity consortium members.

C

Certification

The process for demonstrating compliance with ownership unbundling requirements as set out in the Third Package, and CEP as appropriate.

Clean energy for all Europeans package or CEP

The 2019 update of the EU energy policy framework, including amendments to the Third Package through the introduction of a new electricity regulation (Regulation on the internal market for electricity (EU) 2019/943), and amending electricity directive (Directive on common

rules for the internal market for electricity (EU) 2019/944). References to Third Package requirements therefore will include those requirements as updated by the CEP if the CEP is implemented into GB law.

Confidentiality Agreement

The agreement between a Developer and a Bidder or Bidder in respect of confidential information disclosed in connection with a Tender Exercise.

Corporate Finance

Any finance provided by the company without recourse to external parties, e.g. intercompany loans, where the shareholders or parent company are the sole source of finance.

Crown Estate Scotland

The body that manages Crown property in Scotland and that is responsible for awarding leases for access to the seabed to wind farm operators for the windfarm and sub-station sites. Each OFTO must enter into, or be assigned an interest in, a lease or leases with Crown Estate Scotland to have the right to run and operate the Offshore Transmission System.

D

Data Room

In respect of a Qualifying Project(s), a secure electronic data room populated and maintained by Ofgem with information provided by Ofgem, the relevant Developer and other third parties, which is made available to Bidders through the Portal.

Debt Finance

Any non-recourse or limited recourse senior debt finance including any enhancement or mezzanine structures.

Default Availability Standard

98% asset availability including planned/unplanned outages which is the default availability standard applicable under the Tender Exercise.

Developer

The Tender Regulations define a 'developer' as 'any person within section 6D(2)(a) of the 1989 Act or within a developer group'. Section 6D(2)(a) of the Electricity Act 1989 defines such person as 'the person who made the connection request for the purposes of which the tender exercise has been, is being or is to be, held'. In practice, such person is also the entity responsible for the construction of the generation assets and, under Generator Build, the transmission assets. Under Generator Build, this is the person who requests that Ofgem commences a Tender Exercise in respect of a proposed Qualifying Project(s).

Developer Group

The Tender regulations define a 'developer group' as two or more persons acting together for the purpose of developing a Qualifying Project.

E

Electricity Act

The Electricity Act 1989 as amended from time to time.

Enhanced Pre-Qualification (EPQ) Stage

The stage of a Tender Exercise starting from the publication of the EPQ Document, including the preparation, submission and evaluation of EPQ Submissions and ending once Ofgem has published the shortlist of Qualifying Bidders who have been invited to participate in the ITT Stages of the Tender Exercise.

EPQ Document

The document prepared and issued by Ofgem for the purpose of selecting a shortlist of Bidders to progress to the ITT Stage, and which sets out the rules and requirements of the EPQ Stage.

EPQ Questionnaire

The questionnaire that forms part of the EPQ Document.

EPQ Submission

A Bidder's response to the EPQ Document.

Evaluation Criteria

The criteria against which Ofgem will evaluate EPQ Submissions set out in Section 4.

G

Generator Build

A model for the construction of offshore transmission assets. Under the generator build option, the Developer carries out the preliminary works, procurement and construction of the Transmission Assets. The OFTO operates, maintains and decommissions the Transmission Assets.

I

Indicative Transfer Value

Ofgem's estimate of the economic and efficient costs which ought to be incurred in connection with:

- (a) for a Generator Build Tender Exercise, the development and construction of the relevant Transmission Assets; or
- (b) for an OFTO Build Tender Exercise, obtaining the relevant preliminary works.

Information Memorandum (IM)

The document prepared by, or on behalf of, the Developer for a Qualifying Project containing detailed information for such Qualifying Project which is issued to Bidders at the EPQ Stage via the Portal, providing they have returned the completed Confidentiality Agreement and COI declarations via the Portal.

Initial Transfer Value

The initial transfer value for a Qualifying Project(s) based on information provided by the relevant Developer.

Invitation to Tender (ITT) Stage

The stage of a Tender Exercise during which the Authority may determine which Bidder becomes the Preferred Bidder or whether to hold a BAFO stage. This stage starts from the distribution of the ITT Document to Bidders by Ofgem, and includes the preparation, submission and evaluation of ITT Submissions.

ITT Document

The document prepared and issued by Ofgem to each Qualifying Bidder invited to make an ITT Submission, and which sets out the rules and requirements of the ITT Stage.

ITT Submission

A Bidder's response to the ITT Document.

L

Licence Grant

Following its determination to grant an OFTO Licence to the Successful Bidder, the Authority confirms such determination in accordance with regulation 28(2) of the Tender Regulations and grants such OFTO Licence to the Successful Bidder pursuant to section 6(1)(b) of the Electricity Act 1989.

Limitation Criteria

Part 4 (comprising sections 5 to 8) of the EPQ Questionnaire.

M

Marine Scotland

Marine Scotland is the directorate of the Scottish Government responsible for the integrated management of Scotland's seas on behalf of the Scottish Ministers, including the issuance of guidance on decommissioning, the granting of consent for the construction and operation of generating stations, and the granting of marine licences for the construction, alteration or improvement of works in relation to offshore wind farms and transmission works within the Scottish marine area and the Scottish offshore region.

N

National Electricity Transmission System (NETS)

The system consisting (wholly or mainly) of high voltage electric lines owned or operated by transmission licensees within Great Britain, in the territorial sea adjacent to Great Britain and in any Renewable Energy Zone and used for the transmission of electricity from one

generating station to a sub-station or to another generating station or between sub-stations or to or from any interconnector and includes any electrical plant or meters owned or operated by any transmission licensee within Great Britain, in the territorial sea adjacent to Great Britain and in any Renewable Energy Zone in connection with the transmission of electricity.

National Electricity Transmission System Operator (NETSO)

The National Electricity Transmission System Operator is the entity responsible for coordinating and directing the flow of electricity over the NETS.

O

Offshore Transmission Owner Licence (OFTO Licence)

The licence awarded under section 6(1)(b) of the Electricity Act 1989 following a Tender Exercise authorising an OFTO to participate in the transmission of electricity in respect of the relevant Offshore Transmission System. The licence sets out an OFTO's rights and obligations as the offshore transmission asset owner and operator.

Offshore Transmission Owner (OFTO)

The holder of an OFTO Licence.

Offshore Transmission System

A Transmission System made up of Transmission Assets that is used for purposes connected with transmission of electricity in offshore waters, where offshore waters means:

- (a) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea;
- (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964; and
- (c) waters within an area under section 84(4) of the Energy Act 2004.

Ofgem

Office of Gas and Electricity Markets. Ofgem, "the Authority" and "we" are used interchangeably in this document.

OFTO Build

A model for the construction of offshore assets. Under the OFTO build option, the Developer obtains the connection offer and undertakes high level design and preliminary works. The OFTO constructs, operates, maintains and decommissions the Transmission Assets.

Ownership Unbundling

The separation of the ownership and operation of a transmission system from the activities of electricity generation, gas production and energy supply. Ownership unbundling is set out in the Third Package and demonstrated through a certification process.

P

PB Matters

The matters to be resolved by the Preferred Bidder to the Authority's satisfaction as specified in regulation 20(4)(a) or (b) of the Tender Regulations, as the case may be, before that Preferred Bidder becomes the Successful Bidder in accordance with regulation 28 of the Tender Regulations.

PB Stage

The stage of a Tender Exercise during which the Preferred Bidder has to resolve certain matters in order that Ofgem may grant the OFTO Licence. This stage starts at the date of Ofgem's notice to a Qualifying Bidder that it has been selected as Preferred Bidder and ending at the date Ofgem determines that the Preferred Bidder has become the Successful Bidder and publishes a notice to that effect in accordance with regulation 28(2) of the Tender Regulations.

Portal

The electronic tendering Portal described in the Tender Process Guidance Document.

Preferred Bidder (PB)

In relation to a Qualifying Project/Projects, the Bidder determined by Ofgem following its evaluation of the submissions received, to which Ofgem intends to grant the OFTO Licence subject to the satisfaction of the conditions specified by Ofgem in accordance with the Tender Regulations in force at that time.

Preliminary Information Memorandum (PIM)

The document issued by Ofgem on the TR7 page of Ofgem's website at the EPQ Stage containing summary information about each Qualifying Project.

Project Finance

Financing based upon a non-recourse or limited recourse financial structure where project debt and equity are used to finance the project.

Public Contracts Regulations

The Public Contracts Regulations 2015 as amended from time to time.

Q

Qualifying Bidder

A Bidder who will be invited to participate in the ITT Stage for a Qualifying Project(s).

Qualifying Project

An offshore transmission project in respect of which Ofgem determines that the Developer has satisfied the requirements described in:

- (a) for Generator Build projects, paragraph 2 of Schedule 1 to the Tender Regulations, or will use its reasonable endeavours to satisfy the Qualifying Project requirements within a period specified by Ofgem; or
- (b) for OFTO Build projects, paragraph 1 of Schedule 1 to the Tender Regulations.

S

SB Stage

The period starting at the date of Ofgem’s notice to a Preferred Bidder that it has become the Successful Bidder and ending at the date when the Successful Bidder is granted an OFTO Licence in relation to a particular Qualifying Project/Projects.

Security

Includes a charge over a bank account or any other asset, a deposit of money, a performance bond or bank guarantee, an insurance policy or a letter of credit.

Selection Criteria

Parts 1 to 3 (comprising sections 1 to 4) of the EPQ Questionnaire.

Submission(s)

A Bidder’s or Qualifying Bidder’s response to the requirements and criteria set out in the relevant stage specific tender document.

Successful Bidder (SB)

The Preferred Bidder in a Tender Exercise who has resolved the PB Matters to the Authority’s satisfaction, such that the Authority intends to grant to it an OFTO Licence.

Supporting Organisations

Entities that are not Bidders or members of a Bidder Group but on whom Bidders or Bidder Groups rely to meet the Selection Criteria as part of their EPQ Submission.

System Operator – Transmission Owner Code (STC)

The industry code that defines the high level relationship between the NETSO and Transmission Owners setting out the roles, responsibilities, obligations and rights etc. of the NETSO and the Transmission Owners.

T

Tender Entry Conditions

The requirements that a Developer must meet before commencement of a Tender Exercise, as described in paragraph 1 (for OFTO Build projects) or paragraph 2 (for Generator Build projects) of Schedule 2 to the Tender Regulations.

Tender Exercise

The competitive process run by Ofgem in accordance with the Tender Regulations in order to identify a Successful Bidder to whom a particular OFTO Licence is to be granted.

Tender Process Guidance Document (TPGD)

Guidance on the tender process published by Ofgem.

Tender Regulations

The Electricity (Competitive Tenders for Offshore Transmission Licences) 2015.

Tender Revenue Stream (TRS)

The revenue established through the tender process, which is the value set out in paragraph 4 of amended standard condition E12–J2 (Restriction of Transmission Revenue: Revenue from Transmission Owner Services) of the OFTO Licence.

Tender Revenue Stream

A constant revenue stream in real terms submitted by the Qualifying Bidder for the Qualifying Project(s).

Tender Round

One or more Tender Exercises being held or to be held by Ofgem with a view to determining the Successful Bidders to whom OFTO Licences are to be granted for each Qualifying Project subject to such Tender Exercises.

Tender Round 7 (TR7)

The seventh competitive Tender Round for the grant of an OFTO Licence for the Triton Knoll and Moray East Qualifying Projects.

The Crown Estate

The body that manages Crown property in England and Wales and that is responsible for awarding offshore wind leases for access to the seabed to wind farm operators in England and Wales. Each OFTO must enter into a lease or licence with The Crown Estate to be able to operate and maintain its Offshore Transmission System on the seabed.

Third Package

A package of European Union legislation on European electricity and gas markets that entered into force on 3 September 2009. See also: Clean energy for all Europeans package.

Third Package Regulations

The Electricity and Gas (Internal Markets) Regulations 2011 (as amended).

Transfer Agreement

The agreement to transfer any:

- (a) property interests, rights or liabilities in relation to Transmission Assets;
- (b) shares or other interests in an undertaking in which any property interests, rights or liabilities in relation to Transmission Assets are vested; or
- (c) beneficial interest in any property interests, rights or liabilities or shares or other interests relating to Transmission Assets;

from a Developer to a Successful Bidder in respect of a Qualifying Project/Projects subject to a Tender Exercise.

Transmission Assets

Are defined in paragraph 1(3)(a) of Schedule 2A of the Electricity Act 1989 as 'the transmission system in respect of which the OFTO Licence is (or is to be) granted or anything which forms part of that system'. The Transmission System is expected to include subsea export cables, onshore export cables, onshore and offshore substations, and any other assets, consents,

property arrangements or permits required by an incoming OFTO in order for it to fulfil its obligations as a transmission operator.

Transmission System

Is defined in Section 4(4) of the Electricity Act 1989 as 'a system which consists (wholly or mainly) of high voltage lines and electrical plant, and is used for conveying electricity from a generating station to a substation, from one generating station to another or from one substation to another'.

Transmission Services

Those services which are provided or are to be provided to the system operator by another transmission licensee pursuant to standard condition E15 (Obligation to provide transmission services) of the OFTO Licence.

U

Ultimate Controller

Is defined in the standard conditions of the OFTO Licence.