

Dated

2017

SONI Limited (1)
and
Service Provider (2)

**SYNCHRONOUS COMPENSATION
SERVICE AGREEMENT**

FOR Service Provider

PROVIDING UNIT NO.

Contents

Clause		Page
1.	Definitions and Interpretation	4
2.	Commencement and Duration of Agreement	6
3.	Provision of Synchronous Compensation Service	7
4.	Payment	9
5.	Monitoring and Metering	9
6.	Assignment	10
7.	Variations	11
8.	Termination	13
9.	Effect of Termination	15
10.	Force Majeure	16
11.	Limitation of Liability	16
12.	Confidentiality	20
13.	Dispute Resolution	23
14.	Miscellaneous	23
15.	Governing Law and Jurisdictions	26

SCHEDULE 1	Definitions	28
SCHEDULE 2	Synchronous Compensation Service	36
SCHEDULE 3	Not Used	38
SCHEDULE 4	Not Used	39
SCHEDULE 5	Billing and Payment Plan	40
SCHEDULE 6	Dispute Resolution Procedure	42
SCHEDULE 7	Address Details and Billing Address	45
SCHEDULE 8	Not Used	46
SCHEDULE 9	Providing Unit and Operating Parameters	47

THIS AGREEMENT is made the day of 2017

BETWEEN:

- (1) **SONI Limited**, a limited liability company incorporated under the laws of Northern Ireland with registered number NI 038715 and having its registered office at Castlereagh House, 12 Manse Road, Belfast BT6 9RT (hereinafter called the “**Company**”); and
- (2) **Service Provider** a limited liability company incorporated under the laws of Northern Ireland with registered number (Insert Number)whose registered office is situated at (Insert Registered Address) (hereinafter called the “**Service Provider**”)

WHEREAS:

- (A) The Company has responsibility amongst other duties for the operation of the Transmission System and the procurement of System Support Services under the TSO Licence.
- (B) The Service Provider is now entering into this Agreement in order to provide the Company with the Synchronous Compensation service from the Providing Unit with effect from (Insert Date) .

IT IS HEREBY AGREED as follows:

1 Definitions and Interpretation

- 1.1 In this Agreement (including the recitals hereto) except where the context otherwise requires the words and expressions set out in Schedule 1 shall have the meanings ascribed to them therein.
- 1.2 In this Agreement, unless the context requires otherwise, any reference to:
 - 1.2.1 the singular shall include the plural and vice versa;
 - 1.2.2 any gender reference shall be deemed to include references to the masculine, feminine and neuter genders;
 - 1.2.3 this “Agreement” shall mean this Agreement and its Schedules;
 - 1.2.4 “writing” or “written” shall include all methods of reproducing words in a legible and non-transitory form;
 - 1.2.5 any words importing persons or parties shall include individuals, firms and corporations, joint ventures, trusts, unincorporated associations and organisations,

partnerships and any other entity, in each case whether or not having a separate legal personality and any references to persons shall include their legal successors and permitted assignees;

1.2.6 legislation, regulations, Directives, orders, instruments, codes or other enactments shall include any amendments, modifications extensions, replacements or re-enactments thereof then in force;

1.3 Unless otherwise specified:

1.3.1 any reference in this Agreement to a "Clause" is a reference to a Clause contained in this Agreement;

1.3.2 any reference to a "Schedule" is a reference to a Schedule to this Agreement;

1.3.3 any reference to a "Section" is a reference to a Section of a Schedule to this Agreement;

1.3.4 any reference to another agreement or document, or any deed or other instrument (including but not limited to Statute, Statutory Instrument, the Grid Code, the Metering Code, the Distribution Code or the Trading and Settlement Code) shall be construed as a reference to that other agreement, or document, deed or other instrument as the same may have been, or may from time to time be, amended, varied, supplemented, substituted or novated;

1.3.5 any reference to a month or year shall be construed as reference to a calendar month or year, as the case may be;

1.3.6 the table of contents and Clause headings are inserted for ease of reference only and shall be ignored for the purpose of the construction of this Agreement;

1.3.7 all terms which have been defined in this Agreement shall have their initial letters in capital typescript whenever and wherever they appear in this Agreement; and

1.3.8 any reference to "including" shall be construed without limitation.

1.4 In the event of inconsistency between the provisions of this Agreement and the Grid Code, the provisions of the Grid Code shall prevail to the extent of such inconsistency unless the contrary intention is explicit.

- 1.5 Where a provision of this Agreement conflicts with the Northern Ireland Fuel Security Code, the provisions of the Northern Ireland Fuel Security Code shall prevail to the extent of the inconsistency or conflict.
- 1.6 To the extent that the Service Provider is a party to the Trading and Settlement Code, if either Party reasonably believes that a conflict exists between any provision of this Agreement and the provisions of the Trading and Settlement Code, it shall notify the other Party of that belief and the Parties shall meet and discuss in good faith whether such a conflict exists, and if so whether amendments should be made to this Agreement to resolve the conflict (and if appropriate the nature of those amendments). If the Parties are in dispute as to whether a conflict exists, whether amendments should be made to this Agreement to resolve the conflict and/or the nature of those amendments, either Party shall be entitled to refer the dispute to the Regulatory Authority for determination (which determination shall be binding on the Parties). For the avoidance of doubt the Parties agree that any amendment to this Agreement to resolve a conflict with the Trading and Settlement Code shall require the prior written approval of the Regulatory Authority.

2 Commencement and Duration of Agreement

2.1 Term of Agreement

- 2.1.1 This Agreement commences and shall be deemed to take legal effect, as and from 1 October 2016 and continues in full force and effect until 1 May 2018 unless terminated in accordance with Clause 8 (*Termination*) or otherwise agreed between the Parties in accordance with this Agreement.
- 2.1.2 If the commencement or completion of a procurement process in respect of a contract which the Company intends to use as a partial or total replacement for this Agreement is delayed due to a legal challenge (or threat of a legal challenge) or for any other reason whatever, the Company may, at its absolute discretion (as to the decision to extend the Agreement), but subject to the written consent of the Service Provider (as to whether to accept such extension), extend the term in respect of the Agreement by a period of up to eighteen (18) months by notice in writing to the Service Provider.

2.2 Survival of Rights on Termination

- 2.2.1 Termination of this Agreement shall not affect:
- (i) rights or obligations which may have accrued prior to such termination; or
 - (ii) continuing obligations of each of the Parties under this Agreement which are expressed to continue after termination of this Agreement.

2.3 Conditions Precedent

- 2.3.1 The Parties' rights and obligations under this Agreement (save for those set out in Clauses 2.3.2 and 2.3.3) shall in all respects be conditional on the fulfilment by the Service Provider of its obligations under Clauses 2.3.2 and 2.3.3 by not later than the date falling thirty (30) days after the date of this Agreement.
- 2.3.2 To the extent that the Service Provider participates in the Single Electricity Market the Service Provider shall, to the extent that it is required, be a party to the TSC and the Service Provider shall, to the extent that it is required, be registered as a Participant (as defined in the TSC) for the Providing Unit under the TSC.
- 2.3.3 The Service Provider shall be a party to a Connection Agreement or Interface Agreement for the Providing Unit.

3 Provision of Synchronous Compensation Service

- 3.1 Duty to provide Synchronous Compensation Service in accordance with the applicable Operating Parameters
- 3.1.1 In consideration of the Company's agreement to pay the Synchronous Compensation Service Payments to the Service Provider on the terms and subject to the conditions of this Agreement, the Service Provider shall at all times during the term of, and subject to, this Agreement maintain, repair, fuel and operate the Providing Unit as required by Good Industry Practice and any legal requirements in order to provide the Synchronous Compensation Service in accordance with the applicable Operating Parameters.
- 3.1.2 The Service Provider shall reasonably endeavour not to issue or allow to remain outstanding an Availability Notice, a Technical Parameters Notice or an Additional Grid Code Characteristics Notice which declares the Availability, applicable Technical Parameters or additional technical data (respectively) of a Providing Unit at levels or values inferior to those that the Providing Unit could achieve at that time except:
- (i) during periods of Scheduled Outage or forced outage or otherwise with the consent of the Company;
 - (ii) where necessary to avoid an imminent risk of injury to persons or material damage to property (including the Providing Unit);
 - (iii) where it is not lawful for the Service Provider to operate the Providing Unit;

- (iv) to the extent that the Service Provider is affected by Force Majeure; or
- (v) in the event of a test of the Providing Unit under OC11 of the Grid Code or a System Test under OC10 of the Grid Code,

provided that this Clause 3.1.2 shall not require the Service Provider to declare levels or values better than those specified in Schedule 9.

3.2 Compliance with the Grid Code or Distribution Code

3.2.1 The Service Provider shall, during the term of this Agreement, comply with the Grid Code or Distribution Code as appropriate as it relates to the provision of the Synchronous Compensation Service, (including declaring to the Company any inability to comply with the applicable Operating Parameters), subject to any derogations granted to the Service Provider by the Regulatory Authority.

3.3 Dispatch Instructions

3.3.1 The Service Provider shall, subject to Clause 3.4, comply with the terms of all Dispatch Instructions relating to the Synchronous Compensation Service.

3.4 TSC

3.4.1 To the extent that the Service Provider is a party to the TSC or is, to the extent that it is required, registered as a Participant (as defined in the TSC) for the Providing Unit under the TSC, nothing in this Agreement shall prevent the Service Provider from operating the Providing Unit in such a manner so as to comply with its obligations under the TSC.

3.4.2 The Service Provider shall provide Technical Offer Data to the Company in accordance with the TSC. For the avoidance of doubt this clause 3.4.2 shall apply regardless of whether or not the Service Provider is a party to the TSC. Such Technical Offer Data will be subject to validation by the Company.

3.5 Planned Maintenance

3.5.1 The Service Provider shall, without limitation to its obligations under Clause 3.2, plan its maintenance requirements including outage plans for the Providing Unit in accordance with Good Industry Practice.

4 Payment

4.1 Payment for the Synchronous Compensation Service

4.1.1. In consideration of the provision of the Synchronous Compensation Service pursuant to this Agreement the Company shall pay the Service Provider the Synchronous Compensation Service Payments.

4.1.2 For the avoidance of doubt, where the Company determines that the Service Provider is unavailable to provide the Synchronous Compensation Service for any Trading Period in accordance with this Agreement, no payment shall be due to the Service Provider in respect of the Synchronous Compensation Service for that Trading Period;

4.1.3 All amounts payable by the Company under this Agreement are exclusive of any applicable Value Added Tax, sales tax or other lawful taxes or levies applicable by reason of the performance of the Agreement and the Parties agree that an amount equal to any applicable Value Added Tax, sales tax or other lawful taxes or levies lawfully chargeable in respect of the performance of the Agreement shall be payable or repayable, as the case may be, in addition to, at the same time and in the same manner as the amounts to which it relates;

4.1.4 The Company shall have no right to settle amounts due to the Service Provider under this Agreement net of amounts due to the Company by the Service Provider under other agreements.

4.2 Billing and Payment Plan

4.2.1 The provisions of Schedule 5 shall apply in relation to the billing and payment of the Synchronous Compensation Service.

5 Monitoring and Metering

5.1 The Company may use or install Metering Equipment and Monitoring Equipment to ensure that the Service Provider is complying with its obligations to provide the Synchronous Compensation Service from the Providing Unit both in accordance with the Grid Code or Distribution Code where applicable and in accordance with the terms of this Agreement.

- 5.2 The relationship between the Parties with respect to Metering Equipment shall be regulated in accordance with the Metering Code.
- 5.3 Without purporting to exhaustively specify the circumstances in which no payments will be made under this Agreement, no payments will be made under this Agreement in respect of the Synchronous Compensation Service to be provided from a Providing Unit in relation to any period when the Providing Unit or the Service Provider's Installation at any Connection Site used by that Providing Unit, is prevented from providing the Synchronous Compensation Service by reason of a circumstance of a Force Majeure or, the Providing Unit being De-energised, Decommissioned or Disconnected for any reason pursuant to the relevant Connection Agreement, or Use of System Agreement (as applicable) or in accordance with the provisions set out in Schedule 2.
- 5.4 Where the Service Provider serves notice to Decommission or Disconnect the Service Provider's Installation at a Connection Site under the Connection Agreement, the Parties shall discuss in good faith the possibility of terms being offered for the continued provision following the date when Decommissioning or Disconnection would otherwise have occurred of the Synchronous Compensation service which was being provided by the Service Provider at that Connection Site immediately before service of the notice to Decommission or Disconnect and for which the Company is unable to find a reasonable alternative.
- 5.5 The Service Provider will accept the data provided by the Metering Equipment and/or Monitoring Equipment applicable to the Providing Unit and the Company's monitoring system including meters and SCADA or State Estimators unless it has reasonable grounds for believing that such Metering Equipment or Monitoring Equipment is defective, in which case the Service Provider shall notify the Company and the Parties will make every effort to resolve the issue and reconcile the payments. Any dispute under this Clause 5.5 shall be referable to the Expert.

6 Assignment

- 6.1 The Service Provider shall not assign, novate or otherwise transfer nor purport to assign novate or otherwise transfer the benefit or burden of this Agreement save in the following circumstances:-
- (a) the Service Provider may assign or charge its benefit under this Agreement in whole or in part by way of security;

- (b) the Service Provider may transfer its rights and obligations under this Agreement, upon the disposal of the whole of the Service Provider's business or undertaking, to the purchaser thereof, provided that the Company or the Distribution Network Owner (as the case may be) has consented to the transfer of the Service Provider's rights and obligations under the Connection Agreement as applicable; or
 - (c) upon disposal of part of the Service Provider's business or undertaking comprising the Service Provider's Installation at one or more Connection Sites the Service Provider may transfer such of its rights and obligations under this Agreement as relate to the Providing Unit and the Synchronous Compensation Service concerned to the purchaser thereof, provided that the Company or the Distribution Network Owner (as the case may be) has consented to the transfer of the Service Provider's rights and obligations under the Connection Agreement relevant to the part of the business or undertaking to be transferred.
- 6.2 The Company may at any time assign, novate or otherwise transfer all of its rights and obligations under this Agreement to an Affiliate or to another person who by statute becomes legal successor to the Company or, in the event that the Company ceases to be the transmission system operator in Northern Ireland, to its successor Transmission System Operator in Northern Ireland.
- 6.3 No assignment, novation or other transfer pursuant to Clause 6.1 or 6.2 shall be effective unless and until the assignor has procured the proposed assignee to covenant directly with the other Party to observe and perform all the terms and conditions of this Agreement (so far as they apply to the assignee), has provided to the other Party a certified copy of the assignment (omitting the consideration and any other commercial terms) and has procured that any guarantee in respect of the assignor's obligations is extended to the proposed assignee or replaced by another providing the other Party with equivalent security.

7 Variations

- 7.1 Either Party may at any time give written notice to the other proposing that this Agreement be varied. No variation shall be effective unless made in writing and signed by both Parties.
- 7.2 If, after execution of this Agreement, there shall be enacted and brought into force legislation and/or any Directive, rule, regulation, direction, statutory instrument or order of

any Competent Authority arising there from, or change in the Grid Code, Distribution Code, Metering Code or Trading and Settlement Code providing for:

7.2.1 the further reorganisation of all or part the electricity industry in either Northern Ireland or Ireland, or

7.2.2 the facilitation of the introduction of third party interests to the affairs of such electricity industry or any part of it, or

7.2.3 the amendment or variation of any policy of the Company or the manner in which the Transmission System or Distribution System and any agreements or codes related thereto are organised, or

7.2.4 the imposition of a public service obligation on the Company;

which necessitates a variation to this Agreement, the Parties shall, subject always to Clause 7.1, effect such changes to this Agreement as are reasonably necessary so as to ensure that the operations contemplated by this Agreement shall be conducted in a manner which is consistent with the effect of the new legislation, Directive, rule, regulation, direction, statutory instrument or order, or change in the Grid Code, Distribution Code, Metering Code or Trading and Settlement Code and most closely reflect the intentions of the same with effect from the date thereof provided that any such amendment:

(i) will be of no greater extent than is required by reason of the new legislation, Directive, rule, regulation, direction, statutory instrument or order, or change in the Grid Code, Metering Code, the Distribution Code or Trading and Settlement Code; but

(ii) shall not deal with the cost implications under this Agreement of any such new legislation, Directive, rule, regulation, direction, statutory instrument or order, or change in the Grid Code, Metering Code, the Distribution Code or Trading and Settlement Code, which, if any, shall fall to be considered in accordance with the provisions of clause 13 of this Agreement.

7.3 Notwithstanding clauses 7.1 to 7.2 above, the Company shall be entitled to carry out such testing as it deems appropriate for the purpose of confirming all of the Operating Parameters values set out in Schedule 9 and by notice in writing to the Service Provider

to revise such values in accordance with the results of such testing. The Service Provider shall provide all reasonable assistance to the Company in carrying out this testing and shall be responsible for the reasonable costs of the same.

- 7.4 If any variation proposed under this Clause 7 has not been agreed by the Parties within one (1) month of its being proposed, then either Party may refer to the Regulatory Authority for determination and the Parties agree to abide by and to effect the Regulatory Authority's determination, if necessary by entering into an agreement supplemental to this Agreement.

8 Termination

- 8.1 The Company shall be entitled:

8.1.1 without prejudice to the remaining rights and obligations of the Parties under this Agreement, by one (1) month's notice in writing to the Service Provider to terminate the Parties' respective obligations relating to the provision of the Synchronous Compensation Service by a Providing Unit;

- 8.2 The Company may in respect of any of the events of default set out in sub-clauses 8.2 (i) to (x) by notice in writing to the Service Provider terminate this Agreement forthwith upon:

- (i) the Service Provider ceasing to be a signatory to the Trading and Settlement Code to the extent that the Service Provider is required to be a party to the Trading and Settlement Code, otherwise than due to the Trading and Settlement Code being terminated;
- (ii) termination of the Trading and Settlement Code save where the same is replaced with alternative electricity trading arrangements; or
- (iii) the Connection Agreement being properly terminated in accordance with its terms provided always that, where this Agreement relates to the provision of the Synchronous Compensation Service from more than one of the Service Provider's Installations the right for the Company to terminate this Agreement shall be limited to termination of the Parties' respective obligations relating to the Synchronous Compensation Service to be provided from the Service Provider's Installation for which the relevant Connection Agreement has terminated; or

- (iv) the Use of System Agreement being properly terminated in accordance with its terms to the extent that the Providing Unit is connected to the Transmission System; or
- (v) revocation or withdrawal of the TSO Licence or any replacement thereof granted to the Company by a Competent Authority; or
- (vi) revocation or withdrawal of the Generation Licence and/or Supply Licence (as applicable) or any replacement thereof granted to the Service Provider by a Competent Authority; or
- (vii) the Service Provider failing to comply with or failing to operate in conformity with any provisions of this Agreement or the Grid Code where such failure is a material breach of this Agreement or the Grid Code, as the case may be (being one which materially affects the Service Provider's ability to perform its obligations under the Agreement), and, if such failure is capable of remedy but remains unremedied for a reasonable period provided for in this Agreement or, if none is provided for, then twenty (20) Business Days following the date on which the Service Provider is given notice of the default by the Company; or
- (viii) in relation to the Service Provider:
 - (a) an order of the High Court being made or an effective resolution passed for its insolvent winding up or dissolution; or
 - (b) a receiver, administrative receiver or administrator of the whole or any material part of its assets or undertaking being appointed; or
 - (c) any scheme of arrangement being entered into (other than for the purpose of a solvent reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Company); or
 - (d) inability to pay its debts within the meaning of the Relevant Legislation; or
- (ix) the Service Provider failing to pay (other than by inadvertent error in transfer of funds which is discovered by the Company, notified to the Service Provider and corrected within two (2) Business Days thereafter) any amount properly due or owing from it pursuant to this Agreement according to its terms and such failure to pay continues unremedied (and not disputed in good faith and upon reasonable

grounds) at the expiry of fifteen (15) Business Days following receipt of written notice from the Company of such failure;

- (x) the Providing Unit being destroyed or damaged (including by Force Majeure) to such an extent as to be incapable of providing the Synchronous Compensation Service, and it is agreed between the Parties or, determined by an Expert that the Providing Unit is unlikely to be restored to at least seventy-five per cent (75%) of the Registered Capacity within 3 months after the date on which the destruction or damage occurred;

and in any such case in Clause 8.2(viii) within twenty-eight (28) days of appointment of the liquidator, receiver, administrative receiver, administrator nominee or other similar officer, such person has not provided to the Company a guarantee of future performance by the Service Provider of the Agreement in such form and amount as the Company may reasonably require.

8.3 The Service Provider may by notice in writing to the Company terminate this Agreement forthwith upon:

- (i) the Company failing to pay (other than by inadvertent error in funds transmission which is discovered by the Service Provider, notified to the Company and corrected within two (2) Business Days thereafter) any material amount properly due or owing from it pursuant to this Agreement according to its terms and such failure to pay continues unremedied (and not disputed in good faith and upon reasonable grounds) at the expiry of fifteen (15) Business Days following receipt of written notice from the Service Provider of such failure; or
- (ii) the revocation or withdrawal of the TSO Licence or any replacement thereof granted to the Company by a Competent Authority.

8.4 Without prejudice to any other remedy to which either Party may be entitled for breach of this Agreement, this Clause 8 states the only circumstances in which either Party may unilaterally terminate this Agreement.

9 Effect of Termination

9.1 The relevant provisions of this Agreement shall survive expiry or termination of this Agreement to the extent necessary to provide for final billings, adjustments and payments of any payments, charges or other monies due and owing pursuant to this Agreement.

9.2 Termination of this Agreement shall not affect any rights or obligations of the Parties which have accrued at the time of such termination or, where applicable, the continuing obligations of the Parties under this Agreement.

10. Force Majeure

10.1 If during any Trading Period, the Providing Unit cannot provide the Synchronous Compensation Service owing to Force Majeure, the Service Provider shall not be entitled to Synchronous Compensation Service Payments for that Trading Period.

10.2 As soon as reasonably practicable following the occurrence of Force Majeure:

- (a) either Party (the "Notifying Party") shall notify the other Party of the Force Majeure, identifying the nature of the event and the duration of its effect which the Notifying Party believes to be reasonably likely;
- (b) the Notifying Party shall afford the other Party reasonable facilities for obtaining further information about the event including facilities for site inspection; and
- (c) the Notifying Party shall take, at its own cost, all steps reasonably required to remedy the effects of the Force Majeure.

10.3 Subject to the other provisions of this Clause 10, the Notifying Party shall not be in breach of its obligations under this Agreement for so long as and to the extent that the performance of such obligations continues to be prevented by the relevant event of Force Majeure.

11 Limitation of Liability

11.1 Neither Party nor any of their respective officers, employees or agents shall be liable to the other Party for any losses, damages, claims, liabilities, costs or expenses arising from any breach of this Agreement other than for losses, damages, claims, liabilities, costs or expenses directly resulting from a breach which at the date of this Agreement was reasonably foreseeable as likely to occur in the ordinary course of events from such breach in respect of:

- (a) physical damage being occasioned to the property of the other Party, its officers, employees or agents; or

- (b) the liability of the other Party to any other person for loss in respect of physical damage caused directly to the property of such other person as a result of such breach (a claim by a third party in respect of that liability hereafter in Clause 11.5 being referred to as a “legal claim”); or
- (c) (in the case of breach by the Service Provider) purchasing or obtaining services where reasonably and necessarily required to replace the Synchronous Compensaton service which, at the date of this Agreement, the Parties agree and acknowledge is reasonably foreseeable as likely to occur in the ordinary course of events from such breaches,

provided that the liability of either Party in respect of all such losses, damages, claims, liabilities, costs or expenses shall not exceed the Liability Cap.

11.2 Subject to Clause 11.3 and any provision of this Agreement which provides for payment obligations or an indemnity, neither Party nor any of their respective officers, directors, employees or agents shall in any circumstances whatsoever be liable to the other Party for:

- (a) loss of profit, loss of revenue, loss of use, loss of contract (other than this Agreement) or loss of goodwill; or
- (b) indirect or consequential loss, incidental or special damages (including punitive damages); or
- (c) loss resulting from the liability of the other Party to any other person howsoever and whensoever arising save as provided in Clauses 11.1 and 11.3.

11.3 Nothing in this Agreement shall exclude or limit the liability of one Party “the Party Liable” for death or personal injury to an officer, employee or agent of the other Party, “the Party Not Liable”, resulting directly from the negligence of the Party Liable or any of its officers, employees and agents and, the Party Liable shall indemnify and keep indemnified the Party Not Liable, its officers, employees and agents from and against any losses, damages, claims, liabilities, costs or expenses which the Party Not Liable may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the Party Liable or the negligence of any of its officers, employees or agents (such claim hereafter in Clause 11.6 being referred to as an “injury claim”).

- 11.4 The rights and remedies provided by this Agreement to the Parties are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies expressed or implied and provided by common law or statute in respect of the subject matter of this Agreement, including without limitation any rights either Party may possess in tort which shall include without limitation actions brought in negligence and/or nuisance. Accordingly, each of the Parties hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute, and releases the other Party, its officers, employees and agents to the same extent from all duties, liabilities, responsibilities or obligations provided by common law or statute in respect of the matters dealt with in this Agreement and undertakes not to enforce any of the same except as expressly provided herein.
- 11.5 In the event of any legal claim being made by a third party against the Party Not Liable, the Party Liable shall be promptly notified by the Party Not Liable of the legal claim and, the Party Liable may, at its own expense, conduct all negotiations for the settlement of the claim and any litigation that may arise from the claim. The Party Not Liable shall not, unless and until the Party Liable has failed to unconditionally agree in writing to take over the conduct of the negotiations or litigation in respect of the legal claim within ten (10) Business Days of receiving notice from the Party Not Liable requesting it to do so, make any admission which might be prejudicial to the claim. The conduct by the Party Liable of such negotiations or litigation shall be conditional upon the Party Liable having first given to the Party Not Liable such reasonable security as the Party Not Liable shall from time to time notify the Party Liable that it requires to cover the amount ascertained or agreed or estimated, as the case may be, of any losses, damages, claims, liabilities or costs for which the Party Not Liable may become liable in respect of the legal claim. The Party Not Liable shall, at the request of the Party Liable, afford all available assistance for the purpose of contesting the legal claim and shall be paid by the Party Liable (within ten (10) Business Days of the date of its Self Billing Invoice therefor) all reasonable expenses incurred in so doing.
- 11.6 In the event of any injury claim being made by a third party against the Party Not Liable, the Party Liable shall be promptly notified by the Party Not Liable of the injury claim and, the Party Liable may at its own expense, conduct all negotiations for the settlement of the claim and any litigation that may arise from the claim. The Party Not Liable shall not, unless and until the Party Liable has failed to unconditionally agree in writing to take over the conduct of the negotiations or litigation in respect of the injury claim within ten (10) Business Days of receiving notice from the Party Not Liable requesting it to do so, make any admission which might be prejudicial to the claim. The conduct by the Party Liable of such negotiations or litigation shall be conditional upon the Party Liable having first given to the Party Not Liable such reasonable security as the Party Not Liable shall from time to

time notify the Party Liable that it requires to cover the amount ascertained or agreed or estimated, as the case may be of any losses, damages, claims, liabilities, costs or expenses for which the Party Not Liable may become liable in respect of the injury claim. The Party Not Liable shall, at the request of the Party Liable, afford all available assistance for the purpose of contesting the injury claim and shall be paid by the Party Liable (within ten (10) Business Days of the date of its Self Billing Invoice therefor) all reasonable expenses incurred in so doing.

11.7 Each of the provisions of this Clause 11 shall:

11.7.1 be construed as a separate and severable contract term, and if one or more of such provisions is held to be invalid, unlawful or otherwise unenforceable the other or others of such provisions shall remain in full force and effect and shall continue to bind the Parties; and

11.7.2 survive termination of this Agreement.

11.8 Each of the Parties agrees that the other Party holds the benefit of Clauses 11.1, 11.2 and 11.3 for itself and as trustee and agent for its officers, directors, employees and agents.

11.9 For the avoidance of doubt nothing in this Clause 11 shall prevent or restrict either Party enforcing any obligation (including suing for a debt) owed to it under or pursuant to this Agreement.

11.10 Nothing in this Clause 11 shall exclude or restrict or otherwise prejudice or affect any:

- (a) rights and obligations of either Party which are conferred or created by the Order, the TSO Licence or the Service Provider's Generation Licence or Supply Licence (as the case may be), or statutory regulations; or
- (b) rights, powers, duties and obligations of the Regulatory Authority or any other Competent Authority under the Order, any licence granted under the Order or otherwise howsoever.

11.11 Subject to Clause 11.10 and unless expressly provided otherwise in this Agreement, this Clause 11 insofar as it excludes or limits liability shall override any other provisions of this Agreement.

11.12 Each Party hereby acknowledges and agrees that the provisions of this Clause 11 are fair and reasonable having regard to the circumstances as at the date of this Agreement.

12 Confidentiality

- 12.1 Each Party shall treat any and all information and data disclosed to it by the other Party in connection with this Agreement in any form whatsoever, and this Agreement itself, (the “Confidential Information”) as confidential and proprietary, shall preserve the secrecy of the Confidential Information and shall not use the Confidential Information for any purpose other than solely in connection with this Agreement.
- 12.2 For the purposes of this Clause 12, the term “Confidential Information” shall not include information which:
- 12.2.1 at the time of disclosure or at any time thereafter is in, or becomes part of, the public domain other than through a breach of the provisions of this Clause 12;
 - 12.2.2 the Party receiving the information can prove that the information was already known to it or was independently acquired or developed by it without being in breach of its obligations under this Clause 12;
 - 12.2.3 became available to the Party receiving the information from another source in a non-confidential manner otherwise than in breach of an obligation of confidentiality; or
 - 12.2.4 is published by or the publication of which is required by a Competent Authority.
- 12.3 Notwithstanding the provisions of Clause 12.1, Confidential Information may be disclosed by a Party:
- 12.3.1 to those of the shareholders, owners, directors, officers, employees, agents, consultants, contractors, advisers, investors, proposed assignees, insurers, lenders or bona fide prospective purchasers of all or substantially all of the shares of such Party or its Affiliates who need to know the Confidential Information provided that:
 - (a) the recipient agrees to keep the Confidential Information confidential on terms no less onerous than contained in this Clause 12; and
 - (b) the disclosing Party shall be responsible for ensuring that the recipient observes and complies with such obligation to keep the Confidential Information confidential and shall accordingly be responsible for any failure of the recipient to do so;

- 12.3.2 as may be ordered or required by any applicable law or a Competent Authority;
- 12.3.3 as may be required by the regulations of any recognised stock exchange upon which the share capital of the Party (or any parent undertaking of the Party) is or is proposed to be from time to time listed or dealt in, and the Party making the disclosure shall, if reasonably practicable prior to making the disclosure, and in any event as soon as reasonably practicable thereafter, supply the other Party with a copy of such disclosure or statement and details of the persons to whom the Confidential Information is to be, or has been, disclosed. Where a copy of such disclosure or statement has been supplied prior to making the disclosure, the other Party may give comments on that disclosure or statement to the Party proposing to make it. The Party proposing to make the disclosure shall, if reasonably practicable in the time available, consult with the other Party as to any such comments and consider whether the disclosure is to be amended to take into account the comments;
- 12.3.4 as may be permitted by or required to comply with the requirements of the Grid Code, Distribution Code, Metering Code or the Trading and Settlement Code;
- 12.3.5 by either Party as may be necessary to comply with any obligation under any licence (or any document referred to therein) granted to it under the Order;
- 12.3.6 (by the Company) to the Other TSO and otherwise as may be necessary to enable the Company to operate the Transmission System and carry out its obligations in relation thereto in accordance with Good Industry Practice (including in relation to the application by any person for connection to the Transmission System), provided that:
- (a) only Confidential Information which is necessary for such purpose is disclosed by the Company; and
 - (b) the Company notifies the recipient in advance of such disclosure that the information is confidential and should not be disclosed by the recipient to third parties;
- 12.3.7 as may be required by a Court, arbitrator or administrative tribunal or an expert in the course of proceedings before it to which the disclosing Party is a party; or
- 12.3.8 as may be agreed in writing by the Parties prior to disclosure by the Party disclosing such Confidential Information; or

- 12.3.9 (for the avoidance of doubt) in compliance with the requirements of Article 38 of the Order or the provisions of the Northern Ireland Fuel Security Code.
- 12.4 All information supplied by or on behalf of a Party shall remain the sole and exclusive property of such Party and this Agreement shall not operate to transfer ownership or any interest whatsoever therein, and the other Party shall, if requested by the Party disclosing the information following termination of this Agreement, promptly return to such Party all documents and any copies, extracts, notes or similar materials containing or based in whole on such information.
- 12.5 With effect from the date of this Agreement both Parties shall adopt procedures within their organisations for ensuring the confidentiality of all information which they are obliged to preserve as confidential under Clause 12.1. Those procedures shall be as follows:
- 12.5.1 the Confidential Information will be disseminated only to persons who need such information for the purpose of carrying out those functions which they are employed to carry out;
- 12.5.2 the Confidential Information shall not be used by either Party for the purpose of obtaining for itself or any of its Affiliates or for any other person any contract or arrangement for the supply of electricity to any person without the prior consent of the Party disclosing such Confidential Information;
- 12.5.3 employees, directors, Affiliates, agents, proposed assignees, bona fide prospective purchasers of all or substantially all of the shares of a Party, consultants and professional advisers of both Parties in receipt of Confidential Information will be made fully aware of the Party's obligations of confidence in relation thereto and the Party will be responsible for any failure by such persons to comply with such obligations as if they were parties to this Agreement; and
- 12.5.4 any copies of the Confidential Information will, insofar as is reasonably practicable, whether in hard copy or computerised form, clearly identify the Confidential Information as confidential.
- 12.6 The provisions of this Clause 12 shall continue to bind a Party after termination of this Agreement, in whole or in part, for five (5) years.
- 12.7 Subject to Clause 12.3, no public announcement or statement regarding the signature, performance or termination of, or otherwise in relation to, the Agreement shall be issued or made by a Party unless the other Party shall have first been furnished with a written

copy of the proposed announcement or statement and shall have approved it (such approval not to be unreasonably withheld or delayed).

13 Dispute Resolution

13.1 If any dispute or difference arises between the Parties in connection with this Agreement, it shall, subject to any express provision to the contrary, be resolved in accordance with the provisions set out in Schedule 6.

14 Miscellaneous

14.1 Counterparts

This Agreement may be executed in any number of counterparts and by each Party on a separate counterpart, each of which when executed and delivered shall be an original, but all the counterparts together shall constitute one and the same document.

14.2 Entire Agreement

This Agreement contains and expressly refers to the entire agreement between the Parties with respect to its subject matter and expressly excludes any warranty, condition or other undertaking implied at law or by custom and with effect from 1 October 2016 supersedes all previous agreements and understandings between the Parties (other than as provided for in this Agreement) with respect to its subject matter and each of the Parties acknowledges and confirms that it does not enter into this Agreement in reliance on any representation, warranty or other undertaking by the other Party not fully reflected in this Agreement.

14.3 Severability

If any provision of this Agreement is or becomes invalid, unenforceable or illegal by a judgement or decision of any court of competent jurisdiction or any Competent Authority to which it is subject or by order of the relevant body of the European Union, the same shall be deemed severable and the remainder of this Agreement shall remain in full force and effect. In any such case, the Parties will negotiate in good faith with a view to agreeing one or more provisions which may be substituted for such invalid or unenforceable provision in order to give effect, so far as practicable, to the spirit of this Agreement.

14.4 Waivers

No delay or forbearance by either Party in exercising any right, power, privilege or remedy under this Agreement shall operate to impair or be construed as a waiver of the right, power, privilege or remedy. For the avoidance of doubt any waiver by either Party of the obligations of the other Party shall be evidenced by an agreement in writing signed by both Parties. A single or partial exercise of any such right, power, privilege or remedy shall not preclude any further exercise thereof or the exercise of any other right, power, privilege or remedy.

14.5 Notices

Except for notices to be given pursuant to the Grid Code (as to which, for the avoidance of doubt, the provisions of the Grid Code shall apply) or the Distribution Code (as to which, for the avoidance of doubt, the procedures provided for in the Distribution Code shall apply), any notice given by one Party to the other under this Agreement shall be in writing unless emergency conditions exist reasonably preventing such notice from being given and shall be sent or delivered to the address, and marked for the attention of the person specified in Schedule 7. Either Party may, by notice to the other, given in compliance with this Clause 14.5, change the address or the person to which such notices are to be sent or delivered.

All such written notices shall either be personally delivered or be sent by pre-paid registered post (airmail if overseas) or facsimile transfer. Communication by facsimile shall be confirmed by forwarding a copy of same by pre-paid registered post.

Any notice so delivered, posted or transferred shall be deemed to have been given:

- (a) in the case of personal delivery, when delivered;
- (b) in the case of pre-paid registered post, on the second day following the date of posting (or, if airmailed to or from overseas, on the fifth day following the date of posting); and
- (c) in the case of facsimile transfer on the date of dispatch provided:
 - (i) such date is a Business Day; and
 - (ii) time of dispatch is within the hours of 0900 hours and 1730 hours at the place of receipt,

otherwise on the next following Business Day.

14.6 Compliance with the Law

The Parties agree that, in performing their respective obligations pursuant to this Agreement, the Company and the Service Provider shall be required to comply with relevant statutes, statutory instruments and the general law. Neither Party shall be liable for any failure to perform its obligations in accordance with this Agreement where to do so would put it in breach of any such statute, statutory instrument or general provision of law.

14.7 Survival

The cancellation, expiry or termination of this Agreement shall not affect any rights or obligations which may have accrued prior to such expiry or termination and shall not affect any continuing obligations of either of the Parties under this Agreement including obligations that, by their nature should survive such termination, cancellation or expiry or any other terms of this Agreement by which rights or obligations are expressed to continue after expiry or termination of this Agreement.

14.8 Independent Contractors

The relationship between the Company and the Service Provider shall be that of two independent contracting parties. Each Party shall be solely liable for the payment of all wages, taxes and other costs related to the employment by that Party of persons to meet its obligations under this Agreement.

14.9 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Service Provider and the Company. Neither the Service Provider nor the Company shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or to be an agent or representative of, or to otherwise bind, the other Party.

14.10 No Third Party Beneficiaries

This Agreement is intended solely for the benefit of the Parties to it. Other than as specifically provided in this Agreement, nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person or entity not a party to this Agreement.

14.11 Language

Each notification, notice, submission, demand, consent, request or other communication given by one Party to the other under this Agreement shall be in the English language.

15 Governing Law and Jurisdictions

- 15.1 This Agreement shall be interpreted, construed and governed by the laws of the Jurisdiction.
- 15.2. Subject to the terms of the Dispute Resolution Procedure, resolution of any dispute shall unless the Parties otherwise agree be subject to the non-exclusive jurisdiction of the Courts of the Jurisdiction.
- 15.3 Each Party further agrees that a lawful finding or conclusion of the Regulatory Authority under this Agreement shall be conclusive and binding upon such Party and may be enforced in the courts of any jurisdiction.
- 15.4 Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any proceedings in any court as is referred to in this clause and any claim that any proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any proceedings brought in the courts of the Jurisdiction shall be conclusive and binding upon each Party and may be enforced in the courts of any other jurisdiction.

IN WITNESS WHEREOF this Agreement has been executed on the day and year first above written.

Signed for and on behalf of:-

SONI Limited

Signed for and on behalf of:-

Service Provider

Schedule 1

DEFINITIONS

“Active Power” has the meaning given to it in the Grid Code;

“Additional Grid Code Characteristics Notice” has the meaning given to it in the Grid Code;

“Affiliate” means, in relation to either Party, any holding company or subsidiary or any subsidiary of a holding company of the relevant Party, in each case within the meaning of section 1159 of the Companies Act 2006;

“All Island Transmission Network” means the Transmission System and the Ireland transmission system together;

“Automatic Voltage Regulation” or AVR means the automatic maintenance of a Providing Unit's terminal voltage or the automatic maintenance of a Providing Unit's Voltage setpoint, Reactive Power setpoint or Power Factor setpoint at its Connection Point, as appropriate;

“Availability” has the meaning given to it in the Grid Code;

“Availability Notice” has the meaning given to it in the Grid Code;

“Business Day” means a weekday which is not a public holiday or bank holiday in the Jurisdiction;

“Charging Period” means a period of one calendar month;

“Company” means SONI Limited and any legal successors in title under any restructuring of SONI Limited;

“Competent Authority” means the Regulatory Authority or any local, national or supra-national agency, authority, department, inspectorate, minister, official, Court, tribunal or public or statutory person (whether autonomous or not) of the United Kingdom (or the government thereof) or the European Union which has jurisdiction over a Party on the subject matter of the Agreement;

“Confidential Information” has the meaning set out in Clause 12;

“Connection Agreement” means in relation to a Service Provider's Installation the agreement between the Company or the Distribution Network Owner and the Service Provider which provides the right for that Service Provider's Installation to be and remain connected to the Transmission System or the Distribution System;

“Connection Point” means the physical point where the Providing Unit is joined to the Power System;

“Connection Site” has the meaning given to it in the Grid Code;

“Decommission” means cessation of use by the Service Provider of the Service Provider’s Installation at any given Connection Site for a continuous period exceeding 12 months and **“Decommissioned”** shall be construed accordingly;

“De-Energise” has the meaning set out in the Connection Agreement;

“Demand” has the meaning given to it in the Grid Code;

“De-synchronised” has the meaning given to it in the Grid Code;

“Directive” means any present or future legislation, statutory instrument, directive, requirement, instruction, order, direction or rule of any Competent Authority binding on either or both of the Company and the Service Provider (but only, if not having the force of law, if compliance with the Directive is in accordance with the general practice of persons to whom the Directive is addressed) and includes any modification, extension or replacement thereof then in force;

“Disconnection” has the meaning set out in the Grid Code and **“Disconnected”** and **“Disconnect”** shall be construed accordingly;

“Dispatch” means the issue by the Company of instructions to a Service Provider in respect of the Providing Unit and the term **“Dispatched”** shall be construed accordingly;

“Dispatch Instruction” means an instruction given by the Company to the Service Provider in respect of the Providing Unit to change the output, fuel or manner of operation of the Providing Unit and **“Instruct”** and **“Instructed”** shall be construed accordingly;

“Dispute Resolution Procedure” means the procedure set out in Schedule 6;

“Distribution Code” has the meaning given to it in the Grid Code;

“Distribution System” has the meaning given to it in the Grid Code;

“Distribution Network Owner” has the meaning given to it in the Grid Code;

“DS3 System Services Framework Agreement” means the agreement between the Service Provider and the Company for Power System support services dated October 1 2016;

“DSUSOIA” means an agreement between the Service Provider and the Company which provides the right for the Providing Unit to be and remain connected to the Transmission System or the Distribution System to the extent that the Providing Unit is a Demand Side Unit;

“Expert” means the person appointed to determine a dispute under this Agreement in accordance with the Dispute Resolution Procedure;

“Force Majeure” means any event or circumstance or number of events or circumstances or combination thereof which is beyond the reasonable control of a Party and which could not have been avoided through the use of Good Industry Practice and which results in or causes the failure of the Party to perform any of its obligations under the Agreement and is limited to the following events:

- (a) acts of terrorists;
- (b) war (whether declared or undeclared), threat of war, act of public enemy, blockade, revolution, riot, insurrection, public demonstration, civil commotion, invasion or armed conflict;
- (c) sabotage or acts of vandalism, criminal damage or the threat of such acts;
- (d) extreme weather or environmental conditions including lightning, earthquake, flood, wind, drought, storm, fire, landslip, accumulation of snow or ice, natural disasters and phenomena including meteorites, the occurrence of pressure waves caused by aircraft or other aerial devices travelling at supersonic speeds, impact by aircraft, volcanic eruption, explosion including nuclear explosion, radioactive or chemical contamination or ionising radiation;
- (e) any change of legislation, governmental order, restraint or Directive without justifiable cause by any relevant governmental authority having the effect of shutting down or reducing the supply of electricity to the Service Provider’s Installation or which prohibits (by rendering unlawful) the operation of the Service Provider’s Installation and such operation cannot be made lawful by a modification to the Service Provider’s Installation or a change in operating practice;
- (f) any strike which is part of a labour dispute of a national character occurring in Northern Ireland or which is part of a national electrical industry strike within Northern Ireland;
- (g) (in the event that the Providing Unit is not a Demand Side Unit) the inability at any time or from time to time of the Transmission System or Distribution System to be capable of lawfully or safely importing electricity from the Service Provider's Installation; or

(h) failure or disruption of the systems for transferring funds between banks in the United Kingdom;

“**GASOA**” means an agreement between the Service Provider and the Company which provides a right for the Providing Unit to be and remain connected to the Transmission System or Distribution System to the extent that the Providing Unit is an Aggregated Generating Unit;

“**Generation Unit**” has the meaning given to it in the Grid Code;

“**Generation Licence**” means a licence to generate electricity granted pursuant to the Order;

“**Good Industry Practice**” means the exercise of that degree of skill, diligence, prudence and foresight which would be reasonably and ordinarily expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;

“**Grid Code**” means the code for Northern Ireland prepared by the Company pursuant to the TSO licence, and approved by the Regulatory Authority, as from time to time revised, amended, supplemented or replaced with the approval of or at the instance of the Regulatory Authority;

“**Hz**” means hertz;

“**Interconnector**” has the meaning given to it in the Grid Code;

“**Interface Agreement**” means a DSUSOIA or GASOA;

“**Jurisdiction**” means Northern Ireland;

“**kVA**” means kilovoltamperes;

“**kW**” means kilowatts;

“**Liability Cap**” for the purposes of Clause 11.1, means £100,000 per occurrence and an overall annual cap of £1,000,000 in any period of twelve consecutive calendar months during the term of this Agreement;

“**Metering Code**” means the subset of the Grid Code pertaining to meter reading, meter data processing and meter data communications;

“**Metering Equipment**” has the meaning given to it in the Metering Code;

“**Meters**” has the meaning set out in the Metering Code;

“**Minimum Generation**” has the meaning given to it in the Grid Code;

“Monitoring Equipment” means equipment used to assess the performance of a Providing Unit in providing a DS3 System Service and shall include but not be limited to meters, SCADA, State Estimators, Phasor Monitoring Units and Disturbance Recorders and their associated data storage and data communications equipment;

“ms” means milliseconds;

“MW Output” has the meaning given to it in the Grid Code;

“MW Reduction” means a reduction in Demand;

“Nominal Voltage” means the reference value of the Voltage by which any section of the Power System is designated and identified by the Company;

“Northern Ireland Fuel Security Code” means the Northern Ireland Fuel Security Code designated by the Department of Enterprise, Trade and Industry as a condition of licences granted under Article 10 of the Order;

“Notifying Party” means, as the context requires, a Party who gives notification of a Force Majeure event to the other Party.

“Operating Parameters” means the performance and operating specifications of each Providing Unit (certain of which are referred to in the Grid Code as Technical Parameters) for which values are specified, as are more fully set out in Part 2 of Schedule 9 as may be amended from time to time in accordance with this Agreement;

“Order” means the Electricity (Northern Ireland) Order 1992 as may be amended;

“Other Transmission System” has the meaning given to it in the Grid Code;

“Other TSO” means EirGrid plc (a company registered in Ireland with company number 338522 and having its registered office at The Oval, 160 Shelbourne Road, Ballsbridge, Dublin 4), or any of its legal successors or assigns, in its role as the transmission system operator in Ireland;

“Party” means, as the context requires, the Company or the Service Provider; and the term “Parties” shall be construed accordingly;

“Payment Rate” means the rate (expressed in £/MWh, £/Mvarh or £/MWs²h as appropriate) for the calculation of payments for DS3 System Services as specified in the Charging Statement;

“Pound” or **“£”** means £GBP the official currency of the United Kingdom of Great Britain and Northern Ireland;

“Power System” means the Transmission System or Distribution System;

“Providing Unit” means the unit described in Part 1 of Schedule 9;

“Reactive Power” or **“Mvar”** means the product of voltage and current and the sine of the phase angle between them measured in units of volt-amperes reactive and standard multiples thereof;

“Reactive Power (Lagging)” means the production of Reactive Power by a Providing Unit;

“Reactive Power (Leading)” means the absorption of Reactive Power by a Providing Unit;

“Registered Capacity” for Generation Units has the meaning defined in the Grid Code and for all other Providing Units means the maximum Capacity, expressed in whole MW, that a Providing Unit can deliver on a sustained basis, without accelerated loss of equipment life, at the Connection Point;

“Regulatory Authority” means the Northern Ireland Authority for Utility Regulation;

“Relevant Legislation” means Article 103 of the Insolvency (Northern Ireland) Order 1989 (and the Service Provider shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by the Service Provider with recourse to all appropriate measures and procedures). For the purpose of this definition, Article 103 of the Insolvency (Northern Ireland) Order 1989 shall have effect as if for “£750” there was substituted £50,000” or such higher figure as the Company may from time to time notify in writing to the Service Provider;

“SCADA” or **“Supervisory Control and Data Acquisition”** means the metering data collection system used by the TSO for the storage, display and processing of metering data by the TSO (currently comprising a communication system and computer system) or such other data collection system as the TSO may reasonably specify to be used for such purpose with the prior agreement of the Regulatory Authority and after consultation;

“Scheduled Outage” has the meaning given to it in the Grid Code;

“Self Billing Invoice” means an invoice prepared by the Company on behalf of a Service Provider in respect of amounts payable for Synchronous Compensation Service to that Service Provider;

“Service Provider’s Installation” means any structures, equipment, lines, appliances or devices used or to be used by any Service Provider and connected or to be connected directly or indirectly to the Transmission System or to the Distribution System;

“Shutdown” means the condition of a Providing Unit where the generator rotor is at rest or on barring.

“Single Electricity Market” has the meaning given to it in the TSC and shall include any replacement wholesale all-island electricity market for Ireland and Northern Ireland;

“Start-Up” means the action of bringing a Providing Unit from Shutdown to the speed required by the Providing Unit to enable it to be Synchronised to a Power System.

“Start-Up Cost” has the meaning given to it in the Grid Code

“State Estimator” means a system for estimating the value of a parameter;

“Steady-State Reactive Power” or “SSRP” means Reactive Power (Leading) and Reactive Power (Lagging);

“Supply Licence” means a licence to supply electricity granted under the Order to Northern Ireland Electricity plc and transferred to the NII Energy Limited on 1 November 2007 pursuant to a scheme made pursuant to the Electricity Regulations (Northern Ireland) 2007;

“Synchronised” (and like terms) has the meaning given to it in the Grid Code;

“Synchronous Compensation Service” has the meaning given to it in Schedule 2;

“Synchronous Compensation Service Payments” has the meaning given to it in Section 4 of Schedule 2;

“Synchronous Providing Unit” means a Providing Unit which is connected and Synchronised to the Transmission System or Distribution System;

“System Support Services” for the purposes of this Agreement means the Synchronous Compensation Service as set out in Schedule 2;

“Technical Offer Data” has the meaning given to it in the Trading and Settlement Code;

“Technical Parameters” has the meaning given to it in the Grid Code;

“Technical Parameters Notice” has the meaning given to it in the Grid Code;

“Trading and Settlement Code” or “TSC” means the Single Electricity Market Trading and Settlement Code or any replacement thereof which sets out the rules for trading in electricity and settling energy imbalances and the responsibilities of parties to the code;

“Trading Period” has the meaning set out in the TSC;

“Transmission Owner” or “TO” means Northern Ireland Electricity Networks Limited in its capacity as owner of the Transmission System and the Distribution System;

“Transmission System” has the meaning given to it in the Grid Code;

“Transmission System Operator” or **“TSO”** has the meaning given to it in the Grid Code;

“TSO Licence” means the licence to operate the Transmission System granted pursuant to Article 10(1)(b) of the Order;

“Use of System Agreement” means the agreement between the Company and the Service Provider which provides the right for the use of the All-Island Transmission Network;

“Value Added Tax” or **“VAT”** means the value added tax or any tax on the supply of goods and or services which may hereafter replace or supplement value added tax;

“Voltage” means the voltage of the relevant section of the Power System;

Schedule 2

Synchronous Compensation Service

1. Definition of Service

Synchronous Compensation Service is a service whereby a Service Provider can declare a Providing Unit available to provide Steady-State Reactive Power and Automatic Voltage Regulation (AVR) services to the Company while synchronised to the Transmission System and not generating Active Power (MW).

2. Minimum Technical Requirements

The Service Provider, if not providing an existing Synchronous Compensation Service, will require Synchronous Compensation Service equipment to be installed to provide this service. The Service Provider will have installed and successfully tested, as witnessed by the Company, such equipment to provide the Synchronisation Compensation Service prior to the execution of this contract. The Providing Unit will need to import power from the Transmission System in order to provide this service.

3. Synchronous Compensation Mode

The Service Provider must provide the Synchronous Compensation Service in accordance with the technical requirements of the Grid Code and the technical requirements approved at the time of testing by the Company, if applicable. The Synchronous Compensation Service will be subject to the relevant Operating Parameters for the Providing Unit as detailed in Schedule 9.

The Company may dispatch the Providing Unit to synchronise, to generate 0 MW and to a MVar leading or MVar lagging value.

4. Synchronous Compensation Service Payments

Where the Providing Unit is dispatched to provide the Synchronous Compensation Service and complies with that Dispatch Instruction, the Company shall reimburse to the Service Provider:

- a) the costs for imported energy used while providing the Synchronous Compensation Service. Such costs will be paid in accordance with Schedule 5 and will be treated as a pass through cost following receipt of a valid invoice and evidence of vouched costs from the Service Provider.

Start-Up Costs

- b) a Start-Up Cost, where the Providing Unit is Started-Up and Synchronised to the Transmission System to provide the Synchronous Compensation Service and is not providing energy to the Single Electricity Market;

For the avoidance of doubt, if the Providing Unit is in Synchronous Compensation Service mode and is then Started-Up to provide energy to the Single Electricity Market, the associated Start-Up Cost will be paid through the Single Electricity Market and shall not be paid by the Company under this Agreement.

In the event that the Providing Unit has been Started-Up to provide energy to the Single Electricity Market and is subsequently Dispatched to provide the Synchronous Compensation Service without first De-synchronising, no Start-Up Cost will be paid by the Company under this Agreement.

The Start-Up Cost will have the same value as that submitted by the Service Provider to the Single Electricity Market for the relevant Trading Period.

5. Failure to Provide the Service

In the event that a Service Provider fails to provide the Synchronous Compensation Service then the Service Provider will not be paid under the terms of this Schedule 2. The Company reserves the right to test the Providing Unit's Synchronous Compensation Service capability as a consequence of a failure to provide the service and the Company shall be liable for the costs of such test.

Schedule 3

Not Used

Schedule 4

Not Used

Schedule 5

Billing and Payment Plan

1. Statement of Account and Invoicing

- 1.1 Within twenty five (25) Business Days after the end of each Charging Period, the Company shall submit to the Service Provider a statement of account (the “**Statement**”) specifying the costs for imported energy used while providing the Synchronous Compensation Service and any Start-up costs associated with the Synchronous Compensation Service provided.
- 1.2 The Company shall use its reasonable endeavours to provide to the Service Provider such reasonable information as may be required to enable the Service Provider to verify the Synchronous Compensation Service provided for that Charging Period. Such information shall be based on data from meters and other systems the Company may use. If, following a Charging Period, the Company is unable to obtain all or part of the information necessary to prepare a Statement, in respect of that Charging Period, then the Company shall make such estimates as are necessary to prepare a Statement for the Charging Period and provide the Service Provider with the basis for such estimates. Following confirmation by the Company that the Synchronous Compensation Service has been provided and calculation of the correct payments due, then the Statement for the subsequent Charging Period will be revised up or down accordingly.
- 1.3 Within twenty (20) Business Days after the date on which the Company submits to the Service Provider a Statement, the Service Provider shall either:
 - (a) where the Service Provider agrees with the Statement’s accuracy, accept the Self Billing Invoice from the Company for the same aggregate amount as is specified in the Statement; or
 - (b) where the Service Provider disputes the Statement’s accuracy, acting in good faith, submit to the Company a written notice (the “**Claim**”) specifying the sum disputed and the grounds of such dispute. Any Claim under this Section 1.3 shall be subject to the dispute resolution mechanism set out in Section 3 below.
- 1.4 The Service Provider shall be deemed to have agreed with the accuracy of the Statement if it fails to submit the Claim to the Company in accordance with Section 1.3.
- 1.5 Nothing in Sections 1.3 or 1.4 above shall prevent either Party from disputing information contained in or referred to in a Statement or a Self Billing Invoice at any time where it is reasonable in all circumstances to do so, which includes in the case of fraud or manifest

error. No dispute in respect of a Statement and/or Self Billing Invoice shall be raised after the first anniversary of the date of such Statement or Self Billing Invoice.

2. Invoice Payment Date

- 2.1 Within ten (10) Business Days after the Company's receipt of the Self Billing Invoice, the Company shall pay to the Service Provider the sum due in respect of the Self Billing Invoice by electronic transfer of funds to such bank account as communicated in writing to the Company, quoting the Self Billing Invoice number against which payment is made.
- 2.2 Subject to Section 3, if any amount included in the Self Billing Invoice remains unpaid after the time period stated in Section 2.1, then the Service Provider shall be entitled to charge interest on the amount unpaid, including interest on any Value Added Tax unpaid, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).

3. Billing and Payment Reconciliation and Dispute Resolution Mechanism

- 3.1 Where the Service Provider pursuant to Section 1.3 (b) disputes the Statement or the Self Billing Invoice and submits a Claim to the Company:
- (a) the Parties shall use reasonable endeavours to resolve the dispute in good faith; or
 - (b) where the dispute remains unresolved forty (40) Business Days after the Company's receipt of the Claim, either Party may refer the dispute for resolution by the Expert in accordance with the Dispute Resolution Procedure; and
- (c) following resolution of the dispute, any amount agreed or determined to be payable shall be paid within ten (10) Business Days after such agreement or determination and interest shall accrue on such amounts plus Value Added Tax (if any) from the date such amount was originally due until the date of payment in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).

Schedule 6

Dispute Resolution Procedure

1. Internal Discussion

- 1.1 Either Party may notify the other Party following the occurrence or discovery of any item or event which the notifying Party acting in good faith considers to be a dispute under this Agreement.
- 1.2 Within twenty (20) Business Days of the notice in Paragraph 1, either Party ("first Party") may, if considered appropriate and by further notice to the other Party ("second Party"), appoint a senior company official with expertise in the area of dispute to represent it. The second Party shall then also appoint a senior company official with expertise in the area of dispute to represent it and shall notify the first Party accordingly within a further ten (10) Business Days. The Parties shall procure that their respective representatives meet within ten (10) Business Days after the date of the second Party's notice and attempt in good faith to satisfactorily resolve the dispute.

2. Referral to Arbitration

If the dispute shall fail to be resolved pursuant to Paragraph 1.2 within thirty five (35) Business Days of the meeting referred to then, save where expressly stated to the contrary, either Party may refer the matter to the Expert or the Regulatory Authority for resolution and subject to any contrary provision of the Order or a Licence or the rights, powers, duties and obligations of the Regulatory Authority or the Secretary of State under the Order, any Licence or otherwise, either Party may refer such dispute to arbitration pursuant to the rules of the Electricity Arbitration Association ("**EAA**") in force from time to time.

3. Expert

If a dispute shall fail to be resolved pursuant to Paragraph 1.2 within thirty five (35) Business Days of the meeting referred to then, where any provision of this Agreement provides for any matter to be referred to or resolved by the Expert, any dispute or difference arising in connection with any such provision between the parties shall be and is hereby referred to the Expert. The following provisions shall apply between the Parties with respect to any matter, difference or dispute under this Agreement which is to be referred to an Expert:

- (a) The Expert shall be appointed by the Parties, or in default of agreement upon such appointment within seven (7) days of a Party notifying the other Party of its decision to refer the matter to an Expert, the Expert shall be appointed by the President for the time being of the EAA.

(b) The Expert will resolve or settle such matter or dispute in such manner as he shall in his absolute discretion see fit and shall act as expert and not as arbitrator. The Expert shall be requested to reach his decision within thirty (30) days of the matter being referred to him. Any decision of the Expert shall, subject to any provision to the contrary in this Agreement, be final and binding on the Parties.

(c) Unless otherwise determined by the Expert, the costs of the Expert in settling or determining such matter or dispute shall be borne equally by the Parties.

4. Proper Law

Whatever the nationality, residence or domicile of either Party and wherever the dispute or difference or any part thereof arose the law of Northern Ireland shall be the proper law of any reference to arbitration hereunder and in particular (but not so as to derogate from the generality of the foregoing) the provisions of the Arbitration Act 1996 shall apply to any such arbitration wherever the same or any part of it shall be conducted and the place of the arbitration shall be in England and Wales.

5. Third Party Claims (1)

Subject always to paragraph 8, if any third party (being a person who is not a party to this Agreement) brings any legal proceedings in any court against either Party to this Agreement (the "Defendant Contracting Party"), and the Defendant Contracting Party wishes to make a Third Party Claim (as defined in paragraph 7) against the other Party (a "Contracting Party") which would but for this paragraph 5 have been a dispute or difference referred to arbitration by virtue of paragraph 2 then, notwithstanding the provisions of paragraph 2 which shall not apply and in lieu of arbitration, the court in which the legal proceedings have been commenced shall hear and completely determine and adjudicate upon the legal proceedings and the Third Party Claim not only between the third party and the Defendant Contracting Party but also between either or both of them and the other Contracting Party whether by way of third party proceedings or otherwise as may be ordered by the court.

6. Third Party Claims (2)

Where a Defendant Contracting Party makes a Third Party Claim against the other Contracting Party and such Contracting Party wishes to make a Third Party Claim against the other Contracting Party the provisions of paragraph 5 shall apply mutatis mutandis as if such Contracting Party had been the Defendant Contracting Party and similarly in relation to any such further Contracting Party.

7. Third Party Claims (3)

For the purposes of this Schedule 6 "Third Party Claim" shall mean:

7.1 any claim by a Defendant Contracting Party against a Contracting Party (whether or not already a party to the legal proceedings) for any contribution or indemnity;

7.2 any claim by a Defendant Contracting Party against such a Contracting Party for any relief or remedy relating to or connected with the subject matter of the legal proceedings and substantially,

the same as some relief or remedy claimed by the third party; or

7.3 any requirement by a Defendant Contracting Party that any question or issue relating to or connected with the subject matter of the legal proceedings should be determined not only as between the third party and the Defendant Contracting Party but also as between either or both of them and a Contracting Party (whether or not already a party to the legal proceedings).

8. Limitation

Paragraph 5 shall apply only if at the time the legal proceedings are commenced no arbitration has been commenced between the Defendant Contracting Party and the other Contracting Party raising or involving the same or substantially the same issues as would be raised by or involved in the Third Party Claim. The tribunal in any arbitration which has been commenced prior to the commencement of legal proceedings shall determine the question, in the event of dispute, whether the issues raised or involved are the same or substantially the same.

Schedule 7

Address Details, Billing Address of SONI and Address Details of The Service Provider

1. SONI Limited

a) Registered Address

SONI Limited
Castlereagh House
12 Manse Road
Belfast BT6 9RT

For the attention of

Contracts and Settlement
Department

b) Billing Address

SONI Limited
Castlereagh House
12 Manse Road
Belfast BT6 9RT

For the attention of

Contracts and Settlement
Department

2. SERVICE PROVIDER

Insert Address

For the attention of

Commercial Department

Schedule 8

Not Used

Schedule 9

Part 1 – Providing Unit
Service Provider- Unit Name

Part 2 - Operating Parameters

All relevant Operating Parameters are as defined in Schedule 9 of the DS3 System Services Framework Agreement for (Schedule 9 may be amended from time to time in accordance with the provisions of the DS3 System Services Framework Agreement).