



Planning and Advance Reservation of Capacity Agreement (PARCA)

Dated **[]**

National Grid Gas plc
(NGG)

[]
(Reservation Party)

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Planning and Advanced Reservation of Capacity Agreement

Dated

Between

- (1) **National Grid Gas plc (NGG)** registered in England and Wales with number 2006000 whose registered office is at 1 – 3 Strand, London WC2N 5EH; and
- (2) [] (**Reservation Party**) [registered in [England and Wales] with number [] whose registered office is at [] [a corporation organised and existing under the laws of []] [whose principal place of business is at []].

Recitals

- A NGG is the owner and the operator of the NTS.
- B The Reservation Party wishes:
- (a) NGG to reserve the Reserved Capacity from the Reservation Date;
 - (b) NGG to register on the Allocation Date the Reserved Capacity in the name of the Reservation Party (or where the Reservation Party is not a User, in the name of a User) with effect from the Registration Date (for the purposes of the UNC).
- C NGG agrees to reserve, allocate and register the Reserved Capacity subject to and in accordance with the terms of this Agreement.

It is agreed:

1 Definitions and Interpretation

- 1.1 In this Agreement the following terms shall have the following meanings:

Acceptable Security means a letter of credit, bank guarantee or cash deposit, in each case in a form and/or from a financial institution or corporate entity acceptable to NGG (acting reasonably).

Ad-Hoc Demonstration Date means, where the Reservation Party has not provided NGG with the Demonstration Information by the Third Demonstration Date, such later date as the NGG may agree for the purposes of Clause 5.5.

Allocation Date means:

- (a) the date identified as such in the Phase 1 PARCA Works Report; or
- (b) such other date as NGG may determine in accordance with Clause 9.2.

Confidential Information means all information a Party gets as a result of entering or performing this Agreement which relates to:

- (a) the negotiations leading up to, and the provisions or subject matter of, this Agreement or any ancillary matter;

(b) the other Party's business, financial or other affairs.

Demonstration Information means, in relation to: ¹

- (a) Phase 2 Schedule A Works, information of the type set out in [];
- (b) Phase 2 Schedule B Works, information of the type set out in [];
- (c) Phase 2 Schedule C Works, information of the type set out in [],
- (d) Phase 2 Schedule D Works, information of the type set out in []
- (e) Phase 2 Schedule E Works, information of the type set out in []
- (f) Phase 2 Schedule F Works, information of the type set out in []
- (g) Phase 2 Schedule G Works, information of the type set out in []

as specified in the Phase 1 PARCA Works Report.

Effective Date means the date of this Agreement.

First Demonstration Date means, in relation to each Stage of Phase 2 PARCA Works, the date specified as such in the Phase 1 PARCA Works Report.

Phase 2 PARCA Works means Phase 2 Schedule A Works, Phase 2 Schedule B Works, Phase 2 Schedule C Works, Phase 2 Schedule D Works, Phase 2 Schedule E Works, Phase 2 Schedule F Works, Phase 2 Schedule G Works.

Phase 2 PARCA Works Amount means the amount (excluding VAT) specified as such in the Phase 1 PARCA Works Report (being the amount of costs NGG expects to incur in undertaking the Phase 2 PARCA Works).

Phase 1 PARCA Amount means the amount (excluding VAT) specified in [Appendix1].

Phase 1 PARCA Works means such works to be undertaken by NGG for completion of a Phase 1 PARCA Works Report specified in [Appendix1].

Phase 1 PARCA Works Report means the report to be submitted by NGG following completion of the Phase 1 PARCA Works specifying the details referred to in Clause 3.3.

Insolvent means with respect to a Party, that such Party:

- (a) becomes insolvent or unable to pay its debts as they become due;
- (b) commences any case, proceeding or other action under any bankruptcy or insolvency law or other statute seeking to enter into any composition or other arrangement for the benefit of its creditors generally or any class of creditors;

¹ The Schedule will identify generic Demonstration Information, NGG will pick relevant information and identify this in the Phase 1 PARCA Works Report.

- (c) applies for, consents to, or acquiesces in, the appointment of a trustee, receiver or other custodian for such Party or any of its property, or makes a general assignment for the benefit of creditors;
- (d) in the absence of such application, consents or acquiesces in, permits or suffers to exist the appointment of a trustee, receiver or other custodian for such Party or for a substantial part of its property, and such trustee, receiver or other custodian is not discharged within sixty (60) Business Days;
- (e) permits or suffers to exist the commencement of any bankruptcy, reorganisation, debt arrangement or other case or proceeding under any bankruptcy or insolvency law or other statute or any dissolution, liquidation, winding up or liquidation proceeding, in respect of such Party and, if any such case or proceeding is not commenced by such Party, such case or proceeding is consented to or acquiesced to by such Party or results in the entry of an order for relief or remains un-dismissed or un-stayed for sixty (60) Business Days; or
- (f) takes any corporate action authorising, or in furtherance of, any of the above.

Nominated User has the meaning given in Clause 7.2.

Non User means a Reservation party who is not a User.

Notice has the meaning given in Clause 20.1.

PARCA Request means the details specified in Schedule A Part 1, being indicative values agreed between NGG and the Reservation Party, in respect of which the Reservation Party wishes NGG to undertake the Phase 1 PARCA Works.

Phase 2 Schedule A Works means such works to be completed by NGG for completion of a Strategic Options Report and specified in the Phase 1 PARCA Works Report.

Phase 2 Schedule B Works means such works to be completed by NGG for completion of a Preferred Pipe-line Corridor Report and specified in the Phase 1 PARCA Works Report.

Phase 2 Schedule C Works means such works to be completed by NGG for completion of a Environmental Impact and Assessment Report and specified in the Phase 1 PARCA Works Report.

Phase 2 Schedule D Works means such works to be completed by NGG for completion of [] and specified in the Phase 1 PARCA Works Report.

Phase 2 Schedule E Works means such works to be completed by NGG for completion of [] and specified in the Phase 1 PARCA Works Report.

Phase 2 Schedule F Works means such works to be completed by NGG for completion of [] and specified in the Phase 1 PARCA Works Report.

Phase 2 Schedule G Works means such works to be completed by NGG for completion of [] and specified in the Phase 1 PARCA Works Report.

PARCA Works means the Phase 1 PARCA Works and the Phase 2 PARCA Works.**Planning Permission** means [means any and/or all planning permissions, outline planning permissions, planning approvals of reversed matters, any application to amend any condition

attached to any of the above, any extension of time for approval of reserved matters and detailed planning permissions, listed building consents, conservation area consents and/or other consents or approvals required under the Planning Acts for the performance of reinforcement works [or other works to be undertaken by either Party for purposes related to this Agreement].

Planning Acts means the Planning Act 2008, the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990 and the Planning and Compulsory Purchase Act 2004

Registration Date means:

- (a) the date specified as such in the Phase 1 PARCA Works Report; or
- (b) such other date as NGG may determine in accordance with Clause 9.2,

being the Gas Flow Day from which the Reservation Party (or Nominated User) is first registered as holding the Reserved Capacity (for the purposes of the UNC).

Relevant NTS System Point means the NTS System Point for the time being known as [*To be named*].

Reservation Date means the date on which NGG reserves the Reserved Capacity in the name of the Reservation Party in accordance with Clause 4.1.

Reservation Fee means the fee identified as such during the Phase 1 PARCA Works and notified by NGG to the Reservation Party.

Reserved Capacity means, where the Relevant System Point is:

- (a) a NTS Entry Point, Quarterly NTS Entry Capacity in the amount specified for each relevant calendar quarter;
- (b) a NTS Exit Point, Enduring Annual NTS Exit (Flat) Capacity in the amount specified in for each relevant month,

specified in the Phase 1 PARCA Works Report, as revised from time to time in accordance with Clause 5.8.

Reserved Capacity Profile means, where the Reserved Capacity comprises Quarterly NTS System Entry Capacity, the amount of NTS Entry Capacity specified in the Phase 1 PARCA Works Report for each calendar quarter in respect of the period to which the Reserved Capacity relates.

Reserved Capacity Tolerance [means a tolerance expressed as such in the Phase 1 PARCA Works Report being a percentage (plus and/or minus) of the Reserved Capacity].

Relevant Demonstration Information means, in relation to a Stage, the Demonstration Information which NGG requires prior to undertaking such Stage of Phase 2 PARCA Works and identified in the Phase 1 PARCA Works Report.

Second Demonstration Date means, the date falling [28] Days after the First Demonstration Date or such later date as the Parties may agree.

Stage means stage of the Phase 2 PARCA Works

Technical Options Report means [].

Third Demonstration Date means, the date falling [28] Days after the Second Demonstration Date or such later date as the Parties may agree.

UNC means the Uniform Network Code.

User Nomination has the meaning given in Clause 7.1 (and in the form set out in Schedule D).

1.2 In this Agreement unless the context otherwise requires:

- (a) terms defined in the UNC and not defined in this Agreement shall have the same meanings as given in the UNC;
- (b) [words in the singular may be interpreted including the plural].

1.3 For the avoidance of doubt a breach of this Agreement will not constitute a breach of the UNC.

1.4 The Reservation Party shall be deemed to have obtained and to be fully informed of the terms of the prevailing [Incremental Entry Capacity Release Methodology Statement], [the NTS Entry Capacity Substitution Methodology Statement] and the [Exit Capacity Release Methodology Statement.]

2 Duration

2.1 This Agreement shall take effect on the Effective Date and shall continue in full force and effect until:

- (a) the later of:
 - (i) the date on which no Phase 2 amounts are due and owing by the Reservation Party to NGG pursuant to this Agreement;
 - (ii) the Allocation Date; or
- (b) the date on which this Agreement terminates in accordance with Clause 13.

2.2 Notwithstanding the termination of this Agreement the Reservation Party shall remain liable to NGG for any amounts due and owing to NGG which remain outstanding on termination of this Agreement.

3 Phase 1 PARCA Works

3.1 Subject to payment by the Reservation Party of the Phase 1 PARCA Amount within [] Days of the Effective Date, NGG shall undertake and complete the Phase 1 PARCA Works in respect of the PARCA Request in accordance with the indicative timetable in Schedule A Part 3 and in doing so NGG shall act in accordance with the standards of a Reasonable and Prudent Operator.

- 3.2 NGG shall keep the Reservation Party regularly informed of NGG's progress in completing the Phase 1 PARCA Works and of the costs incurred by NGG in undertaking the Phase 1 PARCA Works. Where NGG expects that completion of the Phase 1 PARCA Works will not take place in accordance with the indicative timetable in Schedule A (or such other timetable agreed with the Reservation Party) or that the costs incurred by NGG will exceed the Phase 1 PARCA Amount, NGG shall inform the Reservation Party as soon as reasonably practicable. NGG shall not be liable to the Reservation Party for any delay in completion of the Phase 1 PARCA Works or in the event the costs incurred by NGG exceed the Phase 1 PARCA Amount.
- 3.3 Following completion of the Phase 1 PARCA Works NGG shall submit to the Reservation Party the [Phase 1 PARCA Works Report] which shall identify:
- (a) the Relevant NTS System Point;
 - (b) the Reserved Capacity;
 - (c) the Reserved Capacity Tolerance;
 - (d) if applicable, the Reserved Capacity Profile;
 - (e) the Allocation Date;
 - (f) the Registration Date;
 - (g) the proposed Capacity Charges payable in respect of the Reserved Capacity;
 - (h) any reinforcement works NGG anticipates it will need to undertake for the purposes of making the Reserved Capacity available with effect from the Registration Date;
 - (i) the Reservation Fee, where applicable;
 - (j) where NGG anticipates the need for reinforcement works:
 - (i) the scope of each Stage of the required Phase 2 PARCA Works;
 - (ii) the Demonstration Information required by NGG in relation to each Stage of the Phase 2 PARCA Works;
 - (iii) in respect of each Stage of the Phase 2 PARCA Works the First Demonstration Date;
 - (iv) any local or national Planning Permission NGG will require for the purposes of undertaking reinforcement works;
 - (v) an indicative timetable for completion of each Stage of the Phase 2 PARCA Works; and
 - (vi) the Phase 2 PARCA Works Amount; and
 - (k) the costs incurred by NGG in undertaking the Phase 1 PARCA Works [(together with a reasonable details of the make up of such costs)] specifying whether the costs incurred are greater or less than the Phase 1 PARCA Amount.

- 3.4 The details referred to in Clause 3.3 and set out in the Phase 1 PARCA Works Report shall wherever possible be consistent with the PARCA Request, provided however NGG shall not be required to submit a Phase 1 PARCA Works Report which is consistent with the PARCA Request where following completion of the Phase 1 PARCA Works NGG reasonably concludes its is unable to make the Reserved Capacity available consistent with details in the PARCA Request.
- 3.5 Where the costs incurred by NGG in undertaking the Phase 1 PARCA Works:
- (a) are greater than the Phase 1 PARCA Amount, the Reservation Party shall pay NGG;
 - (b) are less than the Phase 1 PARCA Amount, NGG shall pay the Reservation Party, an amount equal to the difference within [] Days of the date on which NGG submitted the Phase 1 PARCA Works Report.
- 3.6 By no later than [] Days following receipt of the Phase 1 PARCA Works Report the Reservation Party shall submit a notice to NGG indicating whether or not its wishes NGG:
- (a) where the Phase 1 PARCA Works Report does not anticipate the need for reinforcement work, to proceed or not with the reservation of the Reserved Capacity;
 - (b) where the Phase 1 PARCA Works Report anticipates the need for reinforcement works, to proceed or not with the reservation of the Reserved Capacity and the Phase 2 PARCA Works.
- 3.7 Notwithstanding NGG may identify the need for reinforcement works in the Phase 1 PARCA Works Report nothing in this Agreement shall oblige NGG to undertake such reinforcement works or other physical works.

4 Reservation

- 4.1 Following receipt of the Reservation Party's notice under Clause 3.6 indicating the Reservation Party wishes NGG to reserve the Reserved Capacity NGG will reserve the Reserved Capacity with effect from a date no later than [] Days following the date on which:
- (a) the proposed Capacity Charges in respect of the Reserved Capacity where comprising Quarterly NTS Entry Capacity satisfy the [NPV test]; and ²
 - (b) where the Phase 1 PARCA Works Report indicates the need for Phase 2 PARCA Works, provision by the Reservation Party to NGG of Acceptable Security in an amount not less than the Phase 2 PARCA Works Amount; and
 - (c) payment by the Reservation Party of the Reservation Fee in the event no Phase 2 PARCA Works are identified in the Phase 1 PARCA Works Report.
- 4.2 NGG shall notify the Reservation Party of the Reservation Date.
- 4.3 For the purposes of giving effect to Clause 4.1 the Reserved Capacity shall be treated as [PARCA Reserved Capacity] for the purposes of TPD Section B[].³

² NGG to consider what this test comprises.

- 4.4 NGG shall cancel a reservation made in accordance with this Clause 4.1 where:
- (a) the Reservation Party fails to provide Acceptable Security for any additional amount required by NGG under Clause 4.1 within [] Days of NGG requesting additional Acceptable Security;
 - (b) NGG terminates this Agreement in accordance with Clause 13.
- 4.5 No reservation will be made NGG pursuant to this Clause 4 unless NGG has obtained, where required, the approval of the Authority.

5 Phase 2 PARCA Works

- 5.1 Subject to:
- (a) the Reservations Party's confirmation that it wishes NGG to proceed with reservation of the Reserved Capacity and (if appropriate) the Phase 2 PARCA Works; and
 - (b) provision by the Reservation Party to NGG of Acceptable Security in an amount not less than the Phase 2 PARCA Works Amount,

NGG shall, subject to the terms of this Clause 5, undertake and complete the Phase 2 PARCA Works in respect of the Reserved Capacity identified in the Phase 1 PARCA Works Report in accordance with the indicative timetable specified in the Phase 1 PARCA Works Report and in doing so NGG shall act in accordance with the standards of a Reasonable and Prudent Operator.

- 5.2 NGG shall keep the Reservation Party regularly informed of NGG's progress in completing each Stage of the Phase 2 PARCA Works and of the costs incurred by NGG in undertaking the Phase 2 PARCA Works. Where NGG expects that completion of any Stage of the Phase 2 PARCA Works will not take place in accordance with the indicative timetable in the Phase 1 PARCA Works Report (or such other timetable agreed with the Reservation Party) or that the costs incurred by NGG will exceed the amount of in respect of which the Reservation Party has provided Acceptable Security, NGG shall inform the Reservation Party as soon as reasonably practicable. NGG shall not be liable to the Reservation Party for any delay in completion of any Stage of the Phase 2 PARCA Works.
- 5.3 Where NGG notifies the Reservation Party the costs of the Phase 2 PARCA Works will exceed the amount in respect of which the Reservation Party has provided Acceptable Security NGG shall not be required to continue the Phase 2 PARCA Works until such time as the Reservation Party has provided additional Acceptable Security for the relevant amount.
- 5.4 In respect of each Stage of Phase 2 PARCA Works:
- (a) the Reservation Party agrees to provide NGG with the Relevant Demonstration Information by the First Demonstration Date;
 - (b) NGG shall undertake the Stage of the Phase 2 PARCA Works following receipt of the Relevant Demonstration Information;

³ In other words the PARCA Reserved Capacity (or similar new term) will thereafter be deducted from the 'unsold' capacity for the purposes of an annual auction under TPD B2 or B3.

- (c) NGG shall not be required to undertake the Stage of Phase 2 PARCA Works until it is in receipt of the Relevant Demonstration Information.
- 5.5 In the event NGG has not received the Relevant Demonstration Information in respect of any Stage of the Phase 2 PARCA Works by the Third Demonstration Date (or where agreed with NGG, an Ad-Hoc Demonstration Date) NGG may terminate this Agreement.
- 5.6 Following completion of the:
- (a) Phase 2 Schedule A Works NGG shall submit to the Reservation Party the [Strategic Options Report];
 - (b) Phase 2 Schedule B Works NGG shall submit to the Reservation Party the [Preferred Pipe-line Corridor Report];
 - (c) Phase 2 Schedule C Works NGG shall submit to the Reservation Party the [Environmental Impact Assessment Report];
 - (d) Phase 2 Schedule D Works NGG shall submit to the Reservation Party the [];
 - (e) Phase 2 Schedule E Works NGG shall submit to the Reservation Party the [];
 - (f) Phase 2 Schedule F Works NGG shall submit to the Reservation Party the [];
 - (g) Phase 2 Schedule G Works NGG shall submit to the Reservation Party the [];
- 5.7 [Where following submission of a report in accordance with Clause 5.6 NGG has already received the Relevant Demonstration Information for the next Stage of the Phase 2 PARCA Works NGG shall proceed to undertake such Stage of the Phase 2 PARCA Works without delay.]
- 5.8 During the period between the Reservation Date and the Allocation Date NGG shall keep the Reservation Party regularly notified of the Reserved Capacity it expects to make available with effect from the Registration Date provided such amount of Reserved Capacity shall always be amount falling within the Reserved Capacity Tolerance.
- 5.9 [For the purposes of Clauses 7 and 8 references to Reserved Capacity shall be to such amount of Reserved Capacity as specified in the Phase 1 PARCA Works Report or such other amount as NGG may notify the Reservation Party from time to time in accordance with Clause 5.8.]

6 Planning Permission

- 6.1 In the event the Phase 1 PARCA Works Report identifies a need for NGG to obtain Planning Permission in relation to reinforcement works NGG shall submit an application for Planning Permission as soon as reasonably practicable after the date on which the Reservation Party provides Acceptable Security to NGG in accordance with Clause 4.1.
- 6.2 In the event the Reservation Party needs to obtain Planning Permission for works to be undertaken by the Reservation Party the Reservation Party shall submit an application for

Planning Permission; [and following the receipt of Planning Permission the Reservation Party shall provide NGG with evidence of having obtained the Planning Permission].⁴

6.3 A Party submitting an application for Planning Permission shall notify the other Party of:

- (a) the submission of the application for Planning Permission;
- (b) the progress of the application for Planning Permission and all material issues arising in relation to the application; and
- (c) the granting or refusal of Planning Permission and the terms on which the grant or refusal was made.

7 User Nomination

7.1 Where the Reservation Party is a Non User the Reservation Party may, on any between the Reservation Date and the date falling one (1) month before the Allocation Date, submit a notice (**User Nomination**) to NGG.

7.2 A User Nomination shall specify:

- (a) the identity of a User whom the Reservation Party wishes NGG to register on the Allocation Date as holding the Reserved Capacity with effect from the Registration Date (the **Nominated User**);
- (b) the Relevant NTS System Point; and
- (c) the amount of Reserved Capacity in respect of which the User Nomination is made, provided such amount shall not be:
 - (i) greater than the Reserved Capacity; or
 - (ii) less than 100,000 kWh/Day;
- (d) where the Reserved Capacity comprises Quarterly NTS Entry Capacity, the Reserved Capacity Profile;
- (e) [without prejudice to Clause 7.6, the Registration Date or any later date being:
 - (i) where the Reserved Capacity comprises Quarterly NTS Entry Capacity, the first day of a calendar quarter;
 - (ii) where the Reserved Capacity comprises Enduring Annual NTS Exit Capacity, the first day of a calendar month,]

and NGG shall be permitted to disclose the contents of a User Nomination to the Nominated User.

7.3 Following receipt of a User Nomination NGG shall within [] Business Days notify the Nominated User of the receipt of the User Nomination from the Reservation Party.

⁴ Add planning permission required by a Nominated User?

- 7.4 NGG may reject a User Nomination:
- (a) which does not comply with Clause 7.2;
 - (b) where NGG would be entitled to reject an application for Reserved Capacity from the Nominated User in accordance with TPD Section V3 of the UNC;
 - (c) where the Nominated User does not confirm to NGG in writing that it wishes to be registered as holding the Reserved Capacity specified in the User Nomination on the Allocation date within [] Business Days of the date of NGG's notice under Clause 7.3.

7.5 The Reservation Party may submit more than one User Nomination provided the aggregate Reserved Capacity in respect of which User Nominations are submitted does not exceed the Reserved Capacity.

8 Allocation⁵

8.1 Not less than [] Days prior to the Allocation Date NGG shall notify the Reservation Party and any Nominated User of the amount of Reserved Capacity which will be allocated to the Reservation Party or Nominated User on the Allocation Date, provided such amount of Reserved Capacity shall always be an amount falling within the Reserved Capacity Tolerance.

8.2 No allocation will be made on the Allocation Date pursuant to this Clause 8 unless:

- (a) the proposed Charges in respect of the Reserved Capacity where comprising Quarterly NTS Entry Capacity satisfy the [NPV test];⁶
- (b) NGG obtains Planning Permission in relation to reinforcement works on satisfactory terms;
- (c) [the Reservation Party obtains Planning Permission which the Reservation Party requires for the purposes of its facilities to be located at the Relevant NTS System Point (and provides NGG with satisfactory evidence of having obtained such Planning Permission);]
- (d) where Phase 2 PARCA Works are required, the Phase 2 PARCA Works have been completed;
- (e) there are no outstanding sums due for payment by the Reservation Party to NGG under this Agreement;
- (f) [the Reservation Party or a Nominated User notifies NGG that it does not wish to be allocated the Reserved Capacity];
- (g) NGG has obtained, where required, the approval of the Authority; or

⁵ We will need a rule in the UNC that allows for registration for UNC purposes following allocation under the PARCA.

⁶ NGG to consider what this test comprises.

(h) []⁷

8.3 Where the Reservation Party is a User NGG will on the Allocation Date register the Reservation Party as holding the Reserved Capacity at the Relevant NTS System Point with effect from the Registration Date (for the purposes of the UNC).

8.4 Without prejudice to Clause 8.5, where the Reservation Party has submitted a User Nomination in accordance with Clause 7, NGG will on the Allocation Date register the Nominated User as holding the Reserved Capacity at the Relevant NTS System Point with effect from the Registration Date (for the purposes of the UNC).

8.5 Where a Reservation Party who is a Non User fails to submit a User Nomination in respect of the full amount of Reserved Capacity by the date falling one (1) month before the Allocation Date NGG may terminate this Agreement.⁸

9 Change to Allocation Date or Registration Date

9.1 Subject to Clause 9.2, the Allocation Date and Registration Date specified in the Phase 1 PARCA Works Report shall only be changed with the agreement of the Parties.

9.2 In the event following submission by NGG of the Phase 1 PARCA Works Report to the Reservation Party, the Reservation Party:

- (a) fails to submit a notification to NGG under Clause [] within [] Days of receipt of the Phase 1 PARCA Works Report;
- (b) fails to provide NGG with Applicable Security in the relevant amount within [] Days of the receipt of the Phase 1 PARCA Works Report;
- (c) fails to provide NGG with additional Applicable Security within [] Days of a request for such by NGG;
- (d) fails to pay the Reservation Fee within [] Days of the date on which NGG submits the Phase 1 PARCA Works Report to the Reservation Party;
- (e) fails to provide Relevant Demonstration Information by the [Third] Demonstration Date (or where agreed with NGG, an Ad-Hoc Demonstration Date); or
- (f) []⁹

and NGG is of the opinion [(acting reasonably)] that such delay means NGG will no longer be able to make available the Reserved Capacity with effect from the Registration Date NGG may (in its sole discretion) revise the Allocation Date and Registration Date.

⁷ Others?

⁸ Presumably Reservation Party could submit nominations for a start date later than the Registration Date provided that by the Allocation Date all the Reserved Capacity (i.e. from the Registration Date) must be subject of a nomination to NGG.

⁹ Other circumstances giving rise to a right for NGG to delay the Allocation Date and the Registration Date; assume no reason to delay one and not the other?

10 Payment

- 10.1 The amounts payable by the Reservation Party to NGG under this Agreement shall be paid:
- (a) free and clear of any restriction, reservation or condition; and
 - (b) except to the extent (if any) required by law, without deduction or withholding in respect of tax or on account of any amount due or to become due to the Reservation Party from NGG, whether by way of set off, counterclaim or otherwise.
- 10.2 Where following the commencement of Phase 2 PARCA Works this Agreement is terminated in accordance with Clause 13:
- (a) NGG shall submit an invoice to the Reservation Party in respect of all costs and expenses incurred by NGG in undertaking the Phase 2 PARCA Works;
 - (b) the Reservation Party shall pay the amount specified in the invoice submitted by NGG within [] Days of receipt of the invoice.
- 10.3 Where the Reservation Party fails to make payment of the sum specified in an invoice submitted by NGG in accordance with Clause 10.2 within [] Days of the due date for payment NGG shall be entitled to take such steps as required to enforce the Acceptable Security for the purposes of recovering all amounts due and owing to NGG under this Agreement.
- 10.4 Where the Reservation Party proposes the amount of any Acceptable Security be reduced and NGG shall agree to such proposal provided the requirement in Clause 10.5 is satisfied.
- 10.5 The requirement referred to in Clause 10.4 is that the outstanding payment obligation in respect of which the Acceptable Security is provided shall not exceed the reduced amount of the Acceptable Security proposed by the Reservation Party.
- 10.6 If at any time the outstanding payment obligation in respect of which Acceptable Security is provided is reduced to zero NGG shall release the Acceptable Security provided to it.
- 10.7 In the event the Reservation Party fails to provide NGG with Acceptable Security in accordance with Clause 4 or 5 or such security ceases to be valid, binding on and enforceable against the Reservation Party NGG may terminate this Agreement with immediate effect.

11 Consents, Way leaves and Intellectual Property

All consents, way leaves and other intellectual property rights developed as a result of NGG undertaking the Phase 1 PARCA Works and the Phase 2 PARCA Works shall remain the exclusive property of NGG.

12 Representations and Warranties

- 12.1 Each of the Party represents and warrants to the other Party that, as of the Effective Date:
- (a) it is duly incorporated, validly existing in its jurisdiction of formation and has complied fully with all requirements of the [Companies Act []] and all other Legal Requirements;

- (b) it has full power to carry on its business and to enter into, legally bind itself by, and perform its obligations under, this Agreement;
- (c) this Agreement has been duly authorised, executed, and delivered by and constitutes its legal, valid and binding obligation;
- (d) the execution, delivery, and performance of this Agreement does not, and will not, constitute a violation of:
 - (i) any statute, judgment, order, decree or regulation or rule of any Competent Authority; or
 - (ii) its formational or governance documents, or other document, indenture, contract or agreement to which it is a party or by which it or its property may be bound.

12.2 [In addition each of the Party represents and warrants to the other Party that, as of the Effective Date:

- (a) there are no outstanding judgments against it, and, to the best of its knowledge, no action, claim, suit or proceeding is pending or threatened against it before any Competent Authority that could have a material adverse effect on its financial condition or operations or its ability of it to perform its obligations under this Agreement, or that purports to affect the legality, validity or enforceability of this Agreement; and
- (b) it is not in default under any agreement to which it is a party or by which it or its property may be bound, nor in any material default of any technical or financial obligation, that could have a material adverse effect on its financial condition or operations or its ability of it to perform its obligations under this Agreement, or that purports to affect the legality, validity or enforceability of this Agreement.]

13 Termination

13.1 NGG may terminate this Agreement:

- (a) in the event that:
 - (i) following the Effective Date the Reservation Party notifies NGG that it wishes NGG to cease undertaking PARCA Works;
 - (ii) NGG fails to obtain any Planning Permission on satisfactory terms where the Phase 1 PARCA Works Report or Phase 2 PARCA Works identify the need for NGG to obtain Planning Permission for the purposes of making the Reserved Capacity available;
 - (iii) any information provided to NGG by the Reservation Party for the purposes of this Agreement is found to be false or misleading in a material respect;
- (b) on notice to the Reservation Party in accordance with Clause 5.5, 8.5 and 10.7;
- (c) if:

- (i) any sum payable by the Reservation Party under this Agreement is not paid by the due date;
 - (ii) NGG has, no earlier than seven (7) Business Days after such due date, given notice to the Reservation Party requiring payment of such sum; and
 - (iii) such sum has not been paid in full within seven (7) Business Days after NGG's notice under paragraph (c)(ii);
- (d) where the Reservation Party is a User and the Reservation Party ceases to be User prior to the Allocation Date.

13.2 The Reservation Party may terminate this Agreement if:

- (a) any sum payable by NGG hereunder is not paid by the due date;
- (b) the Reservation Party has, no earlier than seven (7) Business Days after such due date, given notice to NGG requiring payment of such sum; and
- (c) such sum has not been paid in full within seven (7) Business Days after the Reservation Party's notice under paragraph (b).

13.3 In addition to the provisions of Clauses 13.1 and 13.2 this Agreement may be terminated by NGG or the Reservation Party:

- (a) immediately by giving notice of such termination to the other Party if:
 - (i) such other Party is in default of a provision of this Agreement which default is capable of remedy;
 - (ii) such default has a material adverse effect on the non-defaulting Party;
 - (iii) the non-defaulting Party has given notice to the defaulting Party specifying the nature of the default and requiring that it be remedied; and
 - (iv) the defaulting Party has not substantively remedied the default to the fullest practicable extent within a period of thirty (30) Business Days after the non-defaulting Party's notice under paragraph (a)(iii);
- (b) immediately by giving notice of such termination to the other Party if:
 - (i) such other Party is in default of a provision of this Agreement which default is not capable of remedy;
 - (ii) such default has a material adverse effect on the non-defaulting Party;
 - (iii) the non-defaulting Party has given notice to the defaulting Party specifying the nature of the default; and
 - (iv) either:
 - (aa) at any time within the period of six (6) months preceding the non-defaulting Party's notice under paragraph (b)(iii) the defaulting Party

was in default of the same provisions, and such prior default had a material adverse effect on the non-defaulting Party at such time; or

- (bb) the effect of such default is to take away from the non-defaulting Party all or substantially all of the benefit of this Agreement; and
 - (c) on notice to the other Party if such Party becomes Insolvent.
- 13.4 The termination of this Agreement shall be without limitation of or prejudice to any other antecedent right, relief or remedy of any Party under or in connection with this Agreement; provided, however, that in relation to any express right of payment or indemnity under or in connection with this Agreement such right shall be limited to such payments (together with interest thereon) or indemnities actually accruing prior to the date of termination.
- 14 Limitation of Liability**
- 14.1 Neither Party shall be liable to the other Party for loss arising from any breach of this Agreement other than for loss directly resulting from such breach and which at the Effective Date was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach in respect of:
- (a) physical damage to the property of the other Party;
 - (b) the liability (in law) of the other Party to any other person in respect of physical damage to the property of such person.
- 14.2 Neither Party shall in any circumstances be liable in respect of any breach of this Agreement to the other Party for:
- (a) any loss of profit, loss of revenue, loss of use, loss of contract, loss of goodwill or increased cost of working;
 - (b) any indirect or consequential loss;
 - (c) except as provided under Clause 14.1(b), loss resulting from the liability of the other Party to any other person, howsoever and whensoever arising.
- 14.3 Nothing in this Agreement shall exclude or limit liability of a Party for death or personal injury resulting from the negligence of such Party.
- 14.4 The amount or amounts for which a Party may be liable to the other Party under Clause 14.1 in respect of any one event or circumstance constituting or resulting from such Party's breach of this Agreement shall not exceed £[].

15 Confidentiality

- 15.1 Each Party must:
- (a) keep all Confidential Information confidential and not disclose it to any person; and
 - (b) ensure that all the following do the same:
 - (i) its representatives;

- (ii) each person connected with it;
- (iii) the representatives of each connected person,

provided this duty is subject to Clause 15.2.

15.2 A Party may disclose or allow disclosure of Confidential Information:

- (a) to its representatives, officers, employees or professional advisers to the extent necessary to enable the party to perform or enforce of any of its duties or rights under this Agreement; or
- (b) to the extent required in order to comply with the requirements of the Act or any other Legal Requirement; or
- (c) when its legal counsel advises it that disclosure is required by:
 - (i) law; or
 - (ii) the rules or any order of any court, tribunal or agency of competent jurisdiction or any Competent Authority; or
 - (iii) any securities exchange, recognised investment exchange or regulatory or governmental body, wherever situated, including, without limitation, [the UKLA and the Panel]:
 - (aa) which has jurisdiction over it or any of its group companies; or
 - (bb) to which it or any of its group companies normally submits;whether a direction from that body has the force of law or not; or
 - (iv) any contractual duty of that party existing at the date of this Agreement; or ¹⁰
- (d) to the extent the Confidential Information has become publicly available or generally known to the public at the time of the disclosure other than as a result of a breach of this Clause; or
- (e) to a Competent Authority to the extent necessary for the proper management of the taxation affairs of that party or any of its group companies; or
- (f) if some other provision of this Agreement expressly allows the disclosure; or
- (g) if it has the prior written approval of the other Party to the disclosure (that approval not to be unreasonably withheld or delayed).

15.3 If a Party intends to disclose Confidential Information in a way allowed by Clause 15.2 it must to the extent allowed:

¹⁰ This will allow NGG to publish information regarding PARCA Works where required to do pursuant to terms under the UNC.

- (a) give the other Party advance notice of the fact and a copy of the information which it intends to disclose;
- (b) allow the other Party to make representations or objections about the disclosure; and
- (c) take into account the reasonable representations and objections the other Party makes.

15.4 The duties in this Clause shall continue to apply after this Agreement ends [without limit in time] [for a period of [two (2)] years.

16 Force Majeure

16.1 The provisions of GT Section B3 shall apply for the purposes of this Agreement as if set out in full in this Agreement and for which purposes references to:

- (a) a Party shall be construed as being to a Party to this Agreement;
- (b) the Code shall be construed as being to this Agreement.

16.2 Without prejudice to Clause 16.1, if a Force Majeure event occurs prior to the Allocation Date, then such date and the Registration Date shall be delayed by a period equivalent to the duration of the Force Majeure event.¹¹

16.3 For the avoidance of doubt, any other term of the UNC relating to Force Majeure other than the terms set out in GT Section B3 shall not apply for the purposes of this Agreement.

17 Assignment

Neither Party may assign this Agreement, in whole or in part, without the consent of the other Party, such consent not to be unreasonably withheld or delayed.

18 Amendments

Neither Party may amend or change this Agreement without the written consent of the other Party.

19 Waiver

No waiver by a Party of any default by the other Party in the performance of any of the terms of this Agreement shall operate or be construed as a waiver of any other default by the same Party. No waiver by a Party of the performance of any term of this Agreement shall be binding unless such waiver is made in writing.

20 Notices

20.1 This Clause applies to all notices and other communications (except formal notices in legal proceedings) between the parties under this Agreement (**Notices**).

20.2 Each Notice must be in writing in English and signed by the party giving it (or its authorised representative).

¹¹ Force Majeure after Allocation Date will be addressed under UNC.

20.3 Notices must be delivered by one of these methods:

- (a) by hand;
- (b) prepaid first class Recorded Signed For post; or
- (c) prepaid International Signed For post for an address outside the United Kingdom); or
- (d) [fax],

provided if Recorded Signed For service is not available at the relevant time, the Parties may use any widely-used postal service recording delivery instead.

20.4 Notices must be addressed to the Party to be served at the address [and/or fax number] set out below as up-dated or replaced under Clause 20.3:

NGG:

Address: []
Attention: []
[Fax number:] []
[Copy to:] []

Reservation Party:

Address: []
Attention: []
[Fax number:] []
[Copy to:] []

20.5 A Party may change its address in the United Kingdom [or its fax number] for Notices by notifying the other Party. Each change takes effect on the effective date calculated under Clause 21.4, or on any later date set out in the Notice itself.

20.6 A Notice delivered:

- (a) by hand at 17:00 hours or earlier on a Business Day is effective at delivery;
- (b) by hand after 17:00 hours. or on a non-Business day is effective at 09:30 hours on the next Business Day;
- (c) post is effective on the second Business Day after posting. Proof the Notice was properly addressed, prepaid and posted is sufficient evidence the Notice has been duly served;
- (d) [by fax is effective upon sending, if both these conditions are met:
 - (i) a transmission report confirms uninterrupted and error-free transmission; and
 - (ii) the sender does not get a telephone or email message from the recipient saying the fax was not complete and legible by the following time:

- (aa) for faxes sent on a Business Day between 09:00 hours and 14:00 hours, within three (3) hours after sending.
- (bb) for other faxes, by 12:00 hours on the next Business Day after sending.

20.7 A Notice is not validly served under this Agreement if sent by email only and a Party may copy a Notice by email without affecting its validity.

20.8 A Party may not withdraw a Notice without the written consent of the receiving Party.

21 Invalidity

As long as the commercial purpose of this Agreement is unaffected, the invalidity, illegality or unenforceability of any provision of this Agreement under the law of any jurisdiction shall not affect the validity, legality or enforceability of:

- (a) any other provision of this Agreement under the law of that jurisdiction; or
- (b) any provision of this Agreement under the law of any other jurisdiction.

22 Entire Agreement

22.1 This Agreement sets out the entire agreement between the Parties. It supersedes all previous agreements between the Parties on the subject matter of this Agreement.

22.2 No other term, express or implied, forms part of this Agreement. No usage, custom or course of dealing forms part of or affects this Agreement.

22.3 The only claim, right or remedy available to a Party for a representation expressly set out in this Agreement shall be damages for breach of contract.

22.4 Each Party waives all claims, rights and remedies for all representations:

- (a) made to it by any person before entering this Agreement; and
- (b) not set out in this Agreement.

22.5 Each Party acknowledges that, in deciding to enter this Agreement, it has not relied on any such representation.

22.6 This Clause 22 does not exclude or restrict liability for fraudulent misrepresentation or fraudulent concealment.

22.7 If any provision of this Agreement is inconsistent with any provision of [the UNC], this Agreement shall prevail.

23 No Third Party Rights

A person who is not party to this Agreement may not enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999. The Parties may change any term and may rescind this Agreement without the consent of any person who is not party to this Agreement [except where this Agreement expressly states otherwise].

24 Costs

Each Party must pay its own costs in connection with the negotiation, preparation, execution, and implementation of this Agreement.

25 Governing Law and Jurisdiction

25.1 The laws of England and Wales govern:

- (a) this Agreement and its interpretation; and
- (b) any non-contractual obligations arising from or connected with this Agreement.

25.2 The Parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement. Each party agrees to waive any objection to the courts of England and Wales, whether on the grounds of venue or that the forum is not appropriate.

Signed by the parties [or their duly authorised representatives]

DRAFT

Signed by
duly authorised for and
on behalf of
National Grid Gas plc

)
)
)
)

DRAFT

Appendix 1: PARCA Request and Phase 1 PARCA Works

Part 1 – PARCA Request¹²

Location of proposed connection to the NTS and of Reserved Party's facilities

[]

Requirement for NTS Entry Capacity or NTS Exit Capacity

[]

Indicative Reserved Capacity and Reserved Capacity Profile

[]

Indicative Reserved Capacity Tolerance

[]

Indicative Reservation Date

[]

Indicative Allocation Date

[]

Indicative Registration Date

[]

Part 2 – Phase 1 PARCA Works

Phase 1 PARCA Works Amount

£[]

Phase 1 PARCA Works

[Identify relevant Phase 1 PARCA Works]

¹² To be completed on the basis of the Reservation Party's PARCA application and other pre contract discussions.

Schedule A : Phase 2 Schedule A Works

[Strategic Options]

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Schedule B : Phase 2 Schedule B Works

Outline routing & siting

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Schedule D : Phase 2 Schedule D Works

[Proposed DCO Application]

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Schedule F : Phase 2 Schedule F Works

[Submit DCO Application /hearings]

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Schedule F : Phase 2 Schedule F Works

[Sec of State decision]

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