

DATED [●]

[●]

and

[●]

CORPORATE RENEWABLE POWER PURCHASE AGREEMENT

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THIS AGREEMENT is made between:

[**PRODUCER**], a [*type of company*], incorporated under the laws of [*jurisdiction of incorporation*], with a share capital of [●], whose registered office is [*address*], [*postal code*] [*city*], France, registered at the [*competent trade or company registry*] under number [●], represented by the person identified on the signature page hereof (the **Producer**);

[**BUYER**], a [*type of company*], incorporated under the laws of [*jurisdiction of incorporation*], with a share capital of [●], whose registered office is [*address*], [*postal code*] [*city*], [*country*], registered at the [*competent trade or company registry*] under number [●], represented by the person identified on the signature page hereof (the **Buyer**).

The Producer and the Buyer shall hereinafter be referred to together as the **Parties** and individually as a **Party**.

IT IS AGREED as follows:

- (A) The Producer is a power producer which operates the [*name of the Wind Farm*], further described in Annex 1 thereto (the **Wind Farm**).
- (B) [*if the Wind Farm is eligible to the Energy Premium Regime*] With respect to this Wind Farm, the Producer is eligible to benefit from the energy premium (*complément de rémunération*) regime within the meaning of subparagraph 2 of article L.314-19 and article R.314-29 of the French *Code de l'énergie* (the **Energy Premium Regime**) and entered into or is to enter into an energy premium contract (*contrat de complément de rémunération relative aux installations de production d'électricité utilisant l'énergie mécanique du vent*) with EDF setting forth the terms and conditions under which the Producer shall be entitled to receive the energy premiums (the **Energy Premium Contract**.)
- (C) The Producer intends to sell to the Buyer and the Buyer intends to acquire from the Producer all of the electrical energy generated from the Wind Farm on the terms and conditions set out in this Agreement.
- (D) The Buyer has designated [●] as Balance Responsible Entity. Accordingly, on the date hereof, the Producer and [●] entered into an agreement for the provision of balancing and related services, in the form attached as Schedule [●] (the **Initial Balancing Agreement**).

IT IS HEREBY AGREED AS FOLLOWS:

1 Definitions and interpretation

1.1 Definitions

In this Agreement:

"**Affected Party**" has the meaning ascribed to it in Clause 16.1.

"**Affiliate**" means, in respect of any person, any entity:

- (a) which controls such person;
- (b) over which such person has control; or
- (c) which an entity referred to in paragraph (a) above controls,

where "control" means control (*contrôle*) within the meaning of article L.233-3-I of the French Code de Commerce.

"**Agreement**" means this agreement, including its recitals and annexes.

"**Anti-Money Laundering Provisions**" has the meaning ascribed to it in Clause 13.1(b)(iv).

"**Applicable Law**" means all law, regulation, order, decree, circular, Balance Responsible Entity Regulations, CRE decisions, rules of calls for tenders, all established legal precedent and directive with a general or limited scope, issued by a competent legislative, administrative or judicial authority having an impact on the purchase and sale of the Power and/or the Guarantees of Origin as, but not limited to, [the decree no. 2016-682 of 27 May 2016, the ministerial order defining the applicable energy premium (*complément de rémunération*) and] the ministerial order dated November 29, 2016 related to the Capacity Mechanism or any other subsequent order enacted to implement article R.335-2 of the French Energy Code.

"**Balance Responsible Entity**" means an entity which has entered into a participation agreement (*accord de participation*) with the Transmission System Operator to act as a balance responsible entity (*responsable d'équilibre*) in accordance with the Balance Responsible Entity Regulations.

"**Balance Responsible Entity Regulations**" means the balance responsible entity regulations entitled "*Règles relatives au dispositif de Responsable d'Equilibre*" issued by RTE dated 1 April 2017 (as amended from time to time).

"**Balancing Agreement**" means any agreement for the provision of balancing and related services entered into between the Producer and a Balance Responsible Entity designated by the Buyer through the duration of the Agreement.

"**Balancing Group**" means, in accordance with article L.321-15 of the French *Code de l'énergie* and the Balance Responsible Entity Regulations, all means of power injection into and of power withdrawal from the transmission or distribution network the Balance Responsible Entity is responsible for.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in Paris [and in [●]].

"**CARD**" means the consumer network access contract (*contrat d'accès au réseau de distribution*) (CARD), referred to in article L.111-91 of the French *Code de l'énergie*, entered into between the Producer and a Distribution System Operator with respect to the Wind Farm.

"**CART**" means the consumer network access contract (*contrat d'accès au réseau de transport*) (CART), referred to in article L.111-91 of the French *Code de l'énergie*, entered into between the Producer and the Transmission System Operator with respect to the Wind Farm.

"**Change in Law**" has the meaning ascribed to it in Clause 17.2.

"**Commissioning Date**" means the date on which the Wind Farm has an installed and commissioned capacity equal to the installed capacity specified in Schedule 1.

"**Commissioning Long-stop Date**" means [●][*To be agreed upon between the Parties*].

"**Confidential Information**" has the meaning ascribed to it in Clause 19.1.

"**CRE**" means *Commission de régulation de l'énergie*.

"**Day**" means the twenty-four (24)-hour period - twenty-three (23) or twenty-five (25) during the biennial legal time change - commencing every day at 00:00 hour and ending at 23:59:59 hours.

"**Day-Ahead Price**" means the power price for the day-ahead period displayed on the relevant page of the EPEX SPOT's website (or any replacement EPEX SPOT's page which displays that price) or on the appropriate page of such other information service which publishes that price from time to time in place of EPEX SPOT. If such page or service ceases to be available, the Parties shall agree upon another page or service displaying the relevant price.

"**Deemed Energy**" means the amount of electrical energy, in kWh, that the Producer would have generated and delivered at the Delivery Point in accordance with the terms of this Agreement (i) if the Balance Responsible Entity designated by the Buyer had complied with its commitments under the Balancing Agreement, and/or (ii) if the Buyer had complied with its obligation to designate a Balance Responsible Entity in accordance with Clause 8.2. *[Calculation method of the Deemed Energy to be agreed upon between the Parties]*

"**Delivery Point**" means the physical delivery point (*point de livraison*) as at the date hereof where the power produced or consumed by the Wind Farm is injected into or withdrawn from the power grid, respectively, as specified in the grid connection agreement in accordance with the provisions of article D.342-11 of the French *Code de l'énergie*.

"**Diligent Practice**" means, in relation to the Producer, that degree of skill, diligence, prudence and foresight which could reasonably be expected from a skilled and experienced person engaged in the wind power industry.

"**Distribution System Operator**" means any distribution system operator (*gestionnaire des réseaux publics de distribution*) competent with respect to the Wind Farm, being as of the date hereof Enedis [*Option* : [●], a local distribution company (*entreprise locale de distribution*)].

"**EDF**" means Electricité de France, a *société anonyme* incorporated under the laws of France, having its registered office at 22-30 avenue de Wagram, 75008 Paris.

"**Energy Premium Contract**" has the meaning ascribed to it in paragraph (B) of the Recitals.

"**Energy Premium Regime**" has the meaning ascribed to it in paragraph (B) of the Recitals.

"**Excusable Events**" means any of the following events:

- i. a Force Majeure Event;
- ii. fire, explosion, lightning, hail storms or vandalism;
- iii. an unavailability of part or all of the transport and/or distribution network to which the Wind Farm is connected;
- iv. a judicial or administrative order requiring an interruption of the operation of the Wind Farm, provided it does not result from a default of the Producer;
- v. an emergency or safety issue on the Wind Farm site.

"**Facilities Agreement**" means the facilities agreement to be entered into between the Producer and the Lenders for the purposes of financing the development, the construction and the operation of the Wind Farm.

"**Force Majeure Event**" has the meaning ascribed to it in Clause 16.1.

"Guarantee of Origin" means, in, accordance with article L.314-16 of the French *Code de l'énergie* an electronic document providing proof that one MWh was produced from the Wind Farm.

"Hour" means any period of time equal to sixty (60) consecutive minutes starting and ending on the hour.

"Initial Balancing Agreement" has the meaning ascribed to it in paragraph (D) of the Recitals.

"Law" has the meaning ascribed to it in Clause 17.2.

"Lenders" means the banks or financial institutions, trusts, funds or other entities which have granted facilities to the Producer for the construction of the Wind Farm, including their successors, transferees and assignees.

"Long-Stop Date" has the meaning ascribed to it in Clause 2.4.

"Metering Data" means the metering data (*données de comptage*) related to the Wind Farm's Power measured by the Distribution System Operator [or Transmission System Operator].

"Next Possible Technical Settlement Date" means the earliest on the date on which the Wind Farm can be de-registered from the Balancing Group.

"Non-Affected Party" has the meaning ascribed to it in Clause 16.2.

"Original Balance" has the meaning ascribed to it in Clause 17.3.

"Partial Shutdown" means a shutdown of [●]% of the Wind Farm during a period of [●] consecutive Days;

"Power" means all the active power provided by the Wind Farm at the Delivery Point, as metered by the Distribution System Operator. For the avoidance of doubt, it is specified that the Power shall be net of self-consumption by the Wind Farm.

"Scheduled and Unscheduled Maintenance" means the Scheduled Maintenance and the Unscheduled Maintenance, as those terms are defined under the O&M agreement entered into by the Producer in relation to the Wind Farm, it being specified that the definition of those terms shall be extended to the electrical infrastructure of the Wind Farm up to the connection to the transport or distribution network.

"SCADA Data" means the Wind Farm's Supervisory Control and Data Acquisition data. *Provision of the SCADA Data to the Buyer to be negotiated between the Parties*

"Supply Period" has the meaning ascribed to it in Clause 2.3(a).

"Supply Period Commencement Date" has the meaning ascribed to it in Clause 2.3(b).

"Supply Termination Date" has the meaning ascribed to it in Clause 2.3(c).

"System Operators" means the Transmission System Operator and/or the Distribution System Operator, as applicable.

"Tax(es)" means all existing or future legal, statutory or regulatory taxes, levies, impost, duties, contributions, fees, royalties, costs, expenses, penalties, interest for late payment, and dues, or other charge or withholding of a similar nature

"**Testing Period**" has the meaning ascribed to it in Clause 2.2.

"**Total Shutdown**" means a shutdown of 100% of the Wind Farm lasting more than [twenty four (24)] Hours;

"**Transmission System Operator**" means the transmission system operator (*gestionnaire du réseau public de transport*), being as of the date hereof *Réseau de transport d'électricité* (RTE).

"**VAT**" means any tax imposed in accordance with the council directive of 28 November 2006 on the common system of the value added tax (EC Directive 2006/112) and any other tax of a similar nature, whether imposed in a member state of the European Union or elsewhere, in substitution for or levied in addition to such tax.

"**Wind Farm**" has the meaning ascribed to it in paragraph (A) of the Recitals and is further described in Annex 1 thereto.

Wind Study means the yield assessment carried out by the Producer, as validated by the technical adviser of the Lenders, attached as Annex°4 thereto.

1.2 Constructions

- (a) Unless a contrary indication appears, any reference in this Agreement to:
- (i) the "Producer" or the "Buyer" shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Agreement;
 - (ii) a "balancing group", a "balance responsible entity", a "distribution system operator", an "energy premium", an "installed capacity", a "management premium", a "metering point", a "wind farm", a "producer" and a "transmission system operator" shall be construed so as to have the meaning ascribed to their French translation under French law;
 - (iii) an "annex" shall, subject to any contrary indication, be construed as reference to an Annex to this Agreement and form an integral part thereof;
 - (iv) "assets" includes present and future properties, revenues and rights of every description;
 - (v) a "bank account" includes each sub or ledger account of that account and any replacement account;
 - (vi) a "Clause" shall, subject to any contrary indication, be construed as a reference to a clause of this Agreement;
 - (vii) "€", "EUR", "Euro" and "euro" means the single currency of the member states of the European Union that have the euro as their lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union;
 - (viii) "law(s)" shall be construed as a reference to applicable law;
 - (ix) "MW" means megawatt;
 - (x) "MWh" means megawatt hour;

- (xi) a "person" includes any person, firm, company, corporation, partnership, government, state or agency of a state or any association, joint venture, consortium or partnership or other entity (whether or not having separate legal personality) or two or more of the foregoing;
 - (xii) a "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (xiii) a provision of law is a reference to that provision as amended or re-enacted; and
 - (xiv) unless a contrary indication appears, a time of day is a reference to Paris time.
- (b) Section, Clause and Annex headings are for ease of reference only.
 - (c) The words "include" and "including" are to be construed without limitation.
 - (d) Words incorporating the singular number include the plural and vice versa.

2 Effective date - Testing Period - Supply Period – Term

2.1 Effective date

This Agreement shall come into force on its date of signature.

2.2 Testing Period

- (a) As from *[date determined by the Parties]*, the Producer shall be entitled to inject Power into the network provided that the following conditions precedent are fulfilled (the **Testing Period**):
 - (i) all conditions precedent to the first utilisation of the Facilities Agreement have been fulfilled or waived as confirmed by a statement provided by the Lenders;
 - (ii) the Wind Farm has been attached to the Balancing Group by way of designation by the Producer of the entity designated as Balance Responsible Entity by the Buyer;
 - (iii) the Producer has notified the Buyer in writing at least *[five (5)]* Business Days prior to such date of the beginning of the Testing Period.
- (b) The Testing Period shall be automatically terminated on the Supply Period Commencement Date, in accordance with the provisions of Clause 2.3 below.

2.3 Supply Period

- (a) The supply of Power under this Agreement shall (i) commence on the Supply Period Commencement Date and (ii) cease on the Supply Termination Date (the **Supply Period**).
- (b) The date of commencement of the Supply Period shall be the earlier of (i) *[duration determined by the Parties]* after the beginning of the Testing Period, provided that the condition specified in Clause 2.2(a)(ii) is still fulfilled and (ii) the date notified by the Producer to the Buyer (the **Supply Period Commencement Date**). Such notice shall be

served by email with return receipt or registered letter with acknowledgement of receipt, substantially in the form attached in Annex^{°2} thereto, at least [*duration to be determined by the Parties*] Business Days prior to the Supply Period Commencement Date. The Parties agree that the Supply Period Commencement Date shall be the first day of the month following the date on which the aforementioned notice is served.

- (c) The Supply Period shall cease on the date provided for in Clause 2.5 or on the date on which this Agreement is terminated pursuant to Clause 13 (the **Supply Termination Date**).

2.4 Long-Stop Date

In the event the Supply Period Commencement Date has not occurred within [*duration determined by the Parties*] from the execution date of this Agreement (the **Long-Stop Date**), either Party shall have the right to terminate this Agreement and each Party shall be discharged from its respective rights and obligations under this Agreement.

2.5 Term

- (a) Unless otherwise terminated pursuant to the provisions of Clause 13, this Agreement shall be for a period of [*duration determined by the Parties*] from the Supply Period Commencement Date.
- (b) This Agreement shall be renewable for additional periods of [*duration determined by the Parties*], unless notice of termination is given in writing by either of the Parties at least six (6) months before the date of expiry of the initial period or each additional period.

3 Power volumes & prices

3.1 Supply and purchase of Power

- (a) During the Supply Period, the Producer shall sell to the Buyer and the Buyer shall buy from the Producer the entire Power at the Delivery Point. For the avoidance of doubt, the power generated by the Wind Farm during the Testing Period shall be sold by the Producer to a third party of its choice.
- (b) The Power sold by the Producer to the Buyer shall be sold with full title guarantee, free from all charges, liens, other encumbrances and third-party claims.
- (c) The transfer of risks and ownership of the Power by the Wind Farm takes place at the Delivery Point, where the Metering Data is measured.

3.2 Power volumes

- (a) Without prejudice to the Producer's obligations set out in Clause 5 and Clause 7, the Producer shall have no volume commitment towards the Buyer.
- (b) The Wind Study is attached as Annex^{°4} for information purposes only.
- (c) The Producer may participate to optional or mandatory system services during the Supply Period. The Buyer shall not be entitled to oppose such participation including if it reduces the volume sold by the Producer.

3.3 Deemed Energy

If and to the extent that, as a result of (i) a failure of the Balance Responsible Entity designated by the Buyer to comply with its commitments under the Balancing Agreement, and/or (ii) a failure of the Buyer to comply with its obligation to designate a Balance Responsible Entity in accordance with Clause 8.2, the Producer is prevented from delivering Power then, for any period that such events or circumstances are continuing, the Buyer shall pay for the Deemed Energy compensation calculated in accordance with formula set out below:

[formula be commercially agreed upon between the Parties].

3.4 Power Purchase Price during the Supply Period

- (a) The Buyer shall pay for the Power generated by the Wind Farm during the Supply Period a price (the **Power Purchase Price**) equal to *[Price and possible indexation to be commercially agreed upon between the Parties]*.
- (b) For the avoidance of doubt, the price determined pursuant to this Clause 3.4 shall decrease to zero Euro (EUR 0) per MWh for each Hour where the Day-Ahead Price for the corresponding Hour is below zero Euro (EUR 0.00) per MWh, it being understood that the Buyer's power purchase obligations under this Agreement shall only apply where Day-Ahead Prices are equal to or higher than zero Euro (EUR 0.00) per MWh.

4 Guarantees of Origin volumes & prices

4.1 Supply & purchase of Guarantees of Origin

- (a) The Producer shall sell to the Buyer and the Buyer shall buy from the Producer all the Guarantees of Origin received by the Producer during the Supply Period.
- (b) The Guarantees of Origin sold by the Producer to the Buyer shall be sold with full title guarantee, free from all charges, liens, other encumbrances and third-party claims.

4.2 Guarantees of Origin volumes

Without prejudice to the Producer's obligations set out in Clause 5 and Clause 7, the Producer shall have no volume commitment towards the Buyer.

4.3 Commitments of the Producer

- (a) The Producer shall:
 - i. register the Wind Farm and create an account in the guarantees of origin national registry;
 - ii. request the issuance of Guarantees of Origin for all Power generated by the Wind Farm; and
 - iii. transfer all Guarantees of Origin to the account designated by the Buyer in the guarantees of origin national registry,in compliance with applicable laws.
- (b) In case the Producer fails to comply with its obligations in this Clause 4.3, the Producer shall pay a penalty calculated as follows: *[Penalty to be commercially agreed upon between the Parties]*.

4.4 Prices

The Buyer shall pay [*Price to be commercially agreed upon between the Parties*] per transferred Guarantee of Origin.

5 Availability

- (a) The Producer warrants that the Wind Farm will be available at all times except in case of Scheduled and Unscheduled Maintenance or Excusable Events.
 - (i) Scheduled and Unscheduled Maintenance events shall not represent more than [●]% of the yearly Power that the Wind Farm can produce based on the wind resource available during the year and taking into account the production lost due to Excusable Events.
 - (ii) The yearly Power that the wind farm can produce is calculated according to a formula defined in Annex°5.
- (b) Should an Excusable Event or an Unscheduled Maintenance affecting more than [●]% of the installed capacity of the Wind Farm during a period of more than [●] Hours occur, the Producer shall:
 - (i) provide information to the Buyer on the Excusable Event, as soon as practicable, and in any event within two (2) Business Days after such Excusable Event, and
 - (ii) undertake all commercially reasonable efforts to minimise and overcome the effects of the Excusable Event,
 - (iii) as long as the Excusable Event persists, keep the Buyer informed, in good faith and to the extent reasonably necessary, of the current status and the degree and anticipated duration of the hindrance from availability.
- (c) The Producer, no later than [31 January - *to be commercially agreed upon between the Parties*] of each year, will present a report to the Buyer on the availability of the Wind Farm and the total amount of Power generated by the Wind Farm during the previous year, based on the Metering Data.
- (d) In case of breach of the availability warranty provided for in paragraph 5(a), i.e. Scheduled and Unscheduled Maintenance events have represented more than [●]% of the yearly Power, the Producer shall indemnify the Buyer having suffered damage as follows: [*indemnity and cap to be commercially agreed upon between the Parties*].

6 Invoicing and payment

6.1 Invoicing by the Producer relating to the Power and Guarantees of Origin purchase

- (a) No later than the [●]th of each month, the Producer shall issue a monthly invoice to the Buyer for the purchase of the Power and Guarantees of Origin comprising:
 - (i) the Power volumes based on the reading of the Distribution System Operator's meter of the Wind Farm (the **Estimated Power**) for M-1;
 - (ii) the final power relating to M-2 (the **Final Power** relating to M-2);]

- (b) The Power purchase revenue invoiced shall be *[if the Wind Farm is eligible to the Energy Premium Regime]* equal to the sum of the following:
- (i) the Estimated Power relating to M-1 multiplied by the Power Purchase Price relating to M-1;
increased or decreased by
 - (ii) the difference between Final Power relating to M-2 multiplied by the Final Price and the Estimated Power relating to M-2 multiplied by the Power Purchase Price relating to M-2;]

[as provided in Clause 3.4].

- (c) The Guarantees of Origin purchase revenue invoiced shall be *[if the Wind Farm is eligible to the Energy Premium Regime]* equal to the sum of the following:
- (i) the Estimated Power relating to M-1 multiplied by the price of the guarantees of origin agreed in Clause 4.4;
increased or decreased by
 - (ii) the difference between Final Power relating to M-2 and the Estimated Power relating to M-2 multiplied by the price of the guarantees of origin agreed in Clause 4.4;]

[as provided in Clause 4.4].

6.2 Invoicing by the Producer relating to the Deemed Energy

[To be completed]

6.3 Regularisation of the invoices

If the Metering Data is updated by the Distribution System Operator [or Transmission System Operator] after the issuance of an invoice, the Producer shall make any appropriate adjustments to the invoice already issued by issuing an additional invoice or a credit note.

6.4 Transmission and payment of invoices

- (a) Invoices shall be payable within [twenty (20) days] from their date of receipt. Failure or delay by a Party to meet any of its payment obligations under this Agreement shall entitle the other Party to terminate this Agreement pursuant to Clause 13.1(a).
- (b) The Parties herewith consent to the issuance and transmission of all invoices exclusively in electronic format and all invoices under this Agreement shall be paid by way of intra-bank electronic wire transfers.

6.5 Late payment penalty

- (a) In case of late payment of all or part of any invoice, the defaulting Party shall be automatically liable to pay to the other Party a late payment penalty on all sums due (inclusive of VAT), without need of any formal notice, at the one-month interbank rate offered in the Euro Zone (EURIBOR 1 month) for the last Business Day of the month preceding the invoicing month (which will always be considered as at least equal to

0,00%) increased by two (2) percentage points. In any case, the applicable rate shall not be less than three (3) times the legal interest rate.

- (b) If the EURIBOR rate ceases to be available, provided that no substitution rate is published, the Parties shall agree upon another rate. In the event that the Parties do not reach an agreement within thirty (30) Business Days from the unavailability of such rate, the new rate to be used shall be determined by the President of the Tribunal de Commerce of Paris at the request of the first Party to act.

6.6 Disputes on invoices

- (a) In case of dispute on an invoice, the disputing Party shall (i) convey to the other Party before the due date a written note explaining its reasons for disputing such invoice and (ii) pay to the other Party the undisputed amount of such invoice within [twenty (20)] days from the date of receipt of such invoice.
- (b) In the event that the disputed amount is proving to be due by the disputing Party, the said Party shall pay to the other Party the amount of the disputed invoice increased by late payment penalty due since the date of payment as set out in Clause 6.5(a) until the effective payment date, in accordance with Clause 6.6.

7 Construction, Operation and Maintenance

7.1 Progress reports [for new installations]

In a format and a periodicity to be agreed between the Parties, the Producer shall supply the Buyer with progress reports containing at least the following information:

- (a) detail of any change in the commissioning schedule (expected lead or lag); and
- (b) [detail of any on-going litigation or recourse against any Administrative Authorisation].

7.2 Delay in achieving the Commissioning Long-Stop Date

- (a) If the Commissioning Date does not occur at the latest by the Commissioning Long-Stop Date, except as a result of (i) an event of Force Majeure or (ii) any unavailability of the grid due to a failure of the grid operator to complete the grid connection works within the timelines set out in the grid connection agreement, the Producer shall pay the Buyer liquidated damages for the delay in achieving the Commissioning Long-Stop Date (**the Delay Liquidated Damages**), provided that the delay in achieving the Commissioning Long-Stop Date creates an extra cost for the Buyer.
- (b) The amount of the Delay Liquidated Damages shall be EUR [●] per [day of delay][Deemed Energy] until the Commissioning Date is achieved. The Delay Liquidated Damages shall be paid by the Producer to the Buyer on a monthly basis.
- (c) The total amount of Delay Liquidated Damages payable by the Buyer shall not exceed the Delay Liquidated Damages cap of EUR [●].
- (d) If the Delay Liquidated Damages cap is reached, the Parties shall meet to determine the necessary adjustments to be made to their respective obligations under this Agreement.
- (e) In the event that the Parties do not reach an agreement within fifteen (15) Business Days from the beginning of the negotiation, any Party shall have the right to terminate this Agreement with immediate effect, without any prior notice or specific procedure. In case

of termination of this Agreement under this Clause 10.2(e), the Parties shall have no right to claim compensation for any consequences resulting from such termination.

7.3 Construction Security

- (a) The Producer hereby agrees to grant a payment security compliant with the provisions of this Clause 10.3 in favour of the Buyer as security for its obligations to pay the Delay Liquidated Damages (the **Construction Security**).
- (b) The Construction Security shall be [*Option 1 (LC)*]: a letter of credit, substantially in the form attached in Annex°3, with the following characteristics:
- (i) it is unconditional, payable on first demand and of an autonomous nature;
 - (ii) it has a minimum duration of [[●] days] as from the date of its issuance and which shall be either renewed or extended at the latest 30 days before its date of expiry as long as the Commissioning Date has not been reached;
 - (iii) it is issued by a bank acceptable to the Buyer;
 - (iv) it amounts at any time to EUR [*Delay Liquidated Damages cap + default interest*];
 - (v) it may be called by the Buyer if the Producer fails to pay whole or part of the Delay Liquidated Damages, up to the unpaid amount.]

[*Option 2 (parent company guarantee)*]: a parent company guarantee, with the following characteristics:

- (i) it is payable on first demand and of an autonomous nature;
- (ii) its duration is equal to [●];
- (iii) it is issued by [●], the parent company of the Producer, meaning a "controlling company" within the meaning of article L.233-3-I of the French Code de Commerce, having as of the date hereof a rating satisfactory to the Buyer;
- (iv) it secures all amounts due by the Producer in respect of the Delay Liquidated Damages, up to an annual amount of EUR [*Delay Liquidated Damages cap + default interest*];
- (v) if any of the requirements set out in this Clause, including with respect to the rating of the parent company, are no longer satisfied (unless they are waived by the Buyer), it shall be replaced by a letter of credit substantially in the form of Annex°3, within 20 days of occurrence of such event.;
- (vi) it may be called by the Buyer if the Producer fails to pay whole or part of the Delay Liquidated Damages, up to the unpaid amount.]
- (vii) In the event of non-payment of the Delay Liquidated Damages, the Buyer shall be entitled to call up the Construction Security in payment of the unpaid invoice and all related default interest.

7.4 Operation reports

The Producer shall supply the Buyer with [annual][semi-annual][monthly] operating reports, in a format to be agreed between the Parties, containing at least the following information:

- (a) the Power Volume produced by the Wind Farm on a daily and on a monthly basis;
- (b) any Excusable Events;
- (c) any significant operational and maintenance issues in respect of the Wind Farm;
- (d) any material safety or environmental incidents;
- (e) detail of any on-going litigation related to the Wind Farm that could impact the Power Volume produced by the Wind Farm;
- (f) the outcome of any DREAL visit or other regulatory agency if material remedial works are required as a consequence of such visit or if it implies a curtailment of the wind turbines forming part of the Wind Farm;
- (g) any other event known by the Producer likely to have a significant and lasting impact on the Power Volume;
- (h) any reasonable information requested by the Buyer and/or the Balance Responsible Entity during a Partial Shutdown or Total Shutdown of the Wind Farm.

8 Undertakings

8.1 General undertakings of the Producer

On the date hereof and throughout the duration of this Agreement, the Producer undertakes to:

- (a) comply with all applicable laws and regulations, with which the Producer is obliged to comply for the performance of its obligations under this Agreement;
- (b) be the legal operator of the Wind Farm;
- (c) operate the Wind Farm in accordance with all permits and authorizations necessary for the operation of the Wind Farm;
- (d) operate the Wind Farm in accordance with Diligent Practice;
- (e) inform the Buyer of any changes to the necessary permits and authorizations, in case they affect the amount of power injected into the grid, when it is injected, or the capacity of the Wind Farm with regard to the power capacity regime;
- (f) make all necessary arrangements for the purpose of being entitled to inject the electricity produced by the Wind Farm into the grid, including by complying with the requirements of the grid operator set out in the grid connection agreement, the [CARD][CART] and the operation agreement (*convention d'exploiter*);
- (g) make all necessary arrangements for the purpose of joining the entity designated as Balance Responsible Entity by the Buyer, in accordance with article L.321-15 of the French *Code de l'énergie*, within thirty (30) Days as from the date of reception by the Producer of the notice of designation;

- (h) to the extent permitted by applicable law or regulation, refrain from joining any other balancing perimeter without the agreement of the Buyer;
- (i) have the full right to the Power and Guarantees of Origin generated by the Wind Farm, each of them being sold with full title guarantee, free from all charges, liens, other encumbrances and third party claims;
- (j) warrant that the information relating to the Wind Farm set out in Schedule 1 is correct and true.

8.2 General undertakings of the Buyer

On the date hereof and throughout the duration of this Agreement, the Buyer undertakes to:

- (a) pay the Prices in accordance with Clause 6;
- (b) designate the Balance Responsible Entity to which the Producer shall attach its Wind Farm from time to time, at least two (2) months before the expiry date of a Balancing Agreement, failing which the Balance Responsible Entity shall remain the same;
- (c) procure that the entity designated as Balance Responsible Entity (i) is registered as a balance responsible entity in accordance with the Balance Responsible Entity Regulations, (ii) has information and communication systems and data security measures in place in compliance with market standards, (iii) provides balancing services in accordance with applicable laws and good industry practice to enable the Producer to comply with its obligations provided for by article L.321-15 of the French *Code de l'énergie* and (iv) complies with principles of corporate social responsibility described under Clause 13.1(b);
- (d) procure that the entity designated as Balance Responsible Entity agrees to perform balancing and related services for the Producer on substantially the same terms and conditions as set out in the Initial Balancing Agreement;
- (e) procure that any Balance Responsible Entity designated by it complies with its obligations set out in its Balancing Agreement. In case of breach by a Balance Responsible Entity of its obligations under its Balancing Agreement, the Producer shall have the right to send a default notice by registered letter with acknowledgment of receipt to the Balance Responsible Entity and the Producer shall send a copy of any such notice to the Buyer;
- (f) in case the entity designated as Balance Responsible Entity by the Buyer is prevented to act as or is no longer a balance responsible entity for any reasons whatsoever, the Buyer shall (i) send a notice by registered letter with acknowledgment of receipt to the Producer informing the Producer of this situation and (ii) designate the new Balance Responsible Entity to which the Producer shall attach its Wind Farm within [●];
- (g) take delivery of the Power at the Delivery Point;
- (h) comply with all applicable laws and regulations, with which the Buyer is obliged to comply for the performance of its obligations under this Agreement;
- (i) provide any competent authority with all documents, data, certificates or other information relating to the subject matter of this Agreement which such competent authority may request from time to time.

8.3 Visit of the Wind Farm

The Producer shall enable the Buyer to visit [or to have people visit] the Wind Farm whenever duly justified and requested by the Buyer for reasons of [●][to be determined contract by contract], subject to a reasonable prior written notice and in any case not more frequently than [to be determined contract by contract] during the operation phase.

The Buyer shall bear all reasonable and documented costs and losses incurred by the Producer in connection with this visit.

8.4 Production of the Payment Security

(a) [**Option 1 (rating requirement) (+ select option 2 to cover the case where the rating requirement is no longer met)**]: If the rating of the Buyer does no longer satisfy the rating requirement of at least [A-] or equivalent from at least one reputable credit agency,] The Buyer hereby agrees to grant a payment security compliant with the provisions of this Clause 8.4 in favour of the Producer as security for its obligations to pay the Power Purchase Price [and the price of the Guarantees of Origin] throughout the duration of this Agreement¹ (the **Payment Security**).

(b) The Payment Security shall be [**Option 2 (LC)**]: a letter of credit, substantially in the form attached in Annex°3, with the following characteristics:

- (A) it is unconditional, payable on first demand and of an autonomous nature;
- (B) it has a minimum duration of [364 days] as from the date of its issuance and which shall be either renewed or extended at the latest 30 days before its date of expiry as long as the Agreement is in force;
- (C) it is issued by a bank acceptable to the Producer;
- (D) it amounts at any time to EUR [one year of winter time production of Power and Guarantees of Origin]. Notwithstanding paragraph (v) below, within ten (10) days after each draw, it shall be replenished by the guarantor at the initial amount;
- (E) it shall be replaced within 20 days if any of the requirements set out in this Clause are no longer satisfied (unless they are waived by the Producer);
- (F) it may be called by the Producer if the Buyer fails to pay whole or part of the Power Purchase Price [or of the price of the Guarantees of Origin], up to the unpaid amount.]
- (G) it shall replenished within twenty (20) days in case of partial or full use.

[**Option 3 (parent company guarantee)**]: a parent company guarantee, with the following characteristics:

- (H) it is payable on first demand and of an autonomous nature;
- (I) its duration is equal to the duration of this Agreement and on an autonomous nature, meaning that it constitutes an autonomous obligation of the guarantor towards the beneficiary. Accordingly, the guarantor may not

¹ The Payment Security could also cover penalties and termination indemnities to be paid by the Buyer.

invoke any defence that the Buyer could assert against the beneficiary, nor rely on any exceptions arising out of the relationship between the beneficiary and/or the Buyer, in each case for the purpose of deferring or releasing itself from the performance of its obligations under the guarantee;

- (J) it is issued by [●], the parent company of the Buyer, meaning a "controlling company" within the meaning of article L.233-3-I of the French Code de Commerce, having as of the date hereof a rating satisfactory to the Lenders;
 - (K) it secures all amounts due by the Buyer in respect of the Power Purchase Price and of the price of the Guarantees of Origin under this Agreement, up to an annual amount of EUR [one year of winter time production];
 - (L) if any of the requirements set out in this Clause, including with respect to the rating of the parent company, are no longer satisfied (unless they are waived by the Producer), it shall be replaced by letter of credit substantially in the form of Annex°3, within 20 days of occurrence of such event. It being specified that in the event the parent company of the Buyer changes and the Producer did not exercise its right to terminate the Agreement upon notification of such change pursuant to Clause 16.1(f), the existing parent company guarantee shall, within 20 days of occurrence of such event, be replaced by a parent company guarantee issued by the new parent company which complies with all characteristics set out in this paragraph (b);
 - (M) it may be called by the Producer if the Buyer fails to pay whole or part of the Power Purchase Price and of the price of the Guarantees of Origin, up to the unpaid amount.
- (c) In the event of non-payment of the Power Purchase Price and of the price of the Guarantees of Origin within the delay set out in Clause 8.5 above, the Buyer shall have additional payment time of ten (10) Business Days. Upon expiration of such additional payment time, the Producer shall be entitled to call up the Payment Security in payment of the unpaid invoice and all related default interest. It is further specified that this Agreement cannot be terminated by the Buyer except in accordance with Clause 16.1(a) below.

8.5 Metering data

- (a) The Producer shall ensure that the Power sold to the Buyer at the Delivery Point is measured by a meter (*dispositif de comptage*) complying with applicable laws and regulations, and more specifically with the grid connection agreement, the [CARD][CART] and the operation agreement (*convention d'exploiter*).
- (b) The Producer shall make available to the Buyer and the Balance Responsible Entity all Metering Data.
- (c) The Producer shall ensure that its supply or acceptance of the Power at the Delivery Point is metered and documented in accordance with the relevant procedures of the Distribution System Operator.
- (d) The metering shall be made by the Distribution System Operator [or Transmission System Operator] of that meter (*dispositif de comptage*) pursuant to the provisions of article L.322-8 of the French *Code de l'énergie* and the data disclosure and processing shall be made in accordance with the provisions of articles L.341-4 and R.341-4 et seq. of the French *Code de l'énergie*. In accordance with the provisions of article R.111-27 of the

French *Code de l'énergie*, the Producer hereby agrees to provide the Buyer and the Balance Responsible Entity with, or that the Distribution System Operator remits directly to the Buyer and the Balance Responsible Entity, all Metering Data upon receipt, and shall take all necessary actions for that purpose.

- (e) If a faulty or temporally delayed or other non-fault-free performance of the meter or metering service by the Distribution System Operator of that metering point is detected, the Producer upon discovery of such malfunctioning of the meter shall request the Distribution System Operator to remedy such failure without delay and the Producer may bring before the dispute resolution committee (*Comité de règlement des différends et des sanctions*) of the CRE a claim in that respect in accordance with the provisions of articles L.134-19 *et seq* of the French *Code de l'énergie*. Should the Balancing Responsible Entity of the Balancing Group have access to proper metering data for the relevant metering point, the Parties may request the latter to provide the Transmission System Operator with such metering data in accordance with the provisions of article C.18 of the Balance Responsible Entity Regulations.
- (f) The Producer shall communicate to the Buyer and the Balance Responsible Entity without delay any faults in or damage to the metering equipment of which it becomes aware.

8.6 *[if the Wind Farm is eligible to the Energy Premium Regime* Energy Premium Contract

The Producer shall be solely responsible for claiming and receiving from EDF all compensation and premiums to which the Producer is entitled under the Energy Premium Contract.]

8.7 Direct agreement

The Buyer and the Producer acknowledge that the Lenders may require entering into a direct agreement pursuant to which the parties will agree, *inter alia*, the terms of their mutual cooperation in case of failure by the Producer to comply with its obligations under this Agreement. Accordingly, the Buyer and the Producer undertake to negotiate in good faith with the Lenders for the purpose of entering into such direct agreement.

9 Representations and warranties

Each Party represents and warrants to the other Party that, as at the Effective date:

- (a) it is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation (and, if relevant under those laws, in good standing);
- (b) it has the power (i) to execute this Agreement and any other documentation relating to this Agreement to which it is a party, (ii) to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver, and (iii) to perform its obligations under this Agreement and has taken all necessary action to authorise that execution, delivery and performance;
- (c) the execution, delivery and performance referred to in paragraph (b) above do not violate or conflict with any Applicable laws, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;
- (d) its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally;

- (e) no litigation, arbitration or administrative suit or proceeding before any court, tribunal, governmental body, agency, official or arbitrator is pending or, so far as it is aware, threatened against it or any of its Affiliates which would, if adversely determined, result in a material adverse change in such Party's financial condition or its ability to perform its obligations under this Agreement, or that is likely to affect the legality, validity or enforceability against it of this Agreement;
- (f) it is not relying upon any representations of the other Party other than those expressly set out in this Agreement;
- (g) it has negotiated, entered into and executed this Agreement as principal (and not as agent or in any other capacity, fiduciary or otherwise);
- (h) it has entered into this Agreement with a full understanding of the material terms and risks of this Agreement and it is capable of assuming those risks; and
- (i) the other Party is not acting as a fiduciary or an advisor for it, nor has the other Party given to it any advice, representation, assurance or guarantee as to the expected performance, benefit or result of this Agreement.

10 Events of Default

10.1 Events of Default of the Producer

- (a) A failure by the Producer to procure a Construction Security in accordance with Clause 7.3.
- (b) A failure by the Producer to pay any undisputed amount due and outstanding to the Buyer under this Agreement within [twenty (20)] days following notice from the Buyer stating that such payment is overdue.
- (c) A failure by the Producer to comply with undertakings set out in Clause 8.1 which could materially and adversely affect its ability to perform under this Agreement and which is not remedied within [thirty (30)] days following notice from the Buyer requiring such failure to be remedied.
- (d) A failure by the Producer to comply with its information obligations set out in Clauses 7.1 and 7.4, which is not remedied within [thirty (30)] days following notice from the Buyer requiring such failure to be remedied.
- (e) A transfer or assignment of this Agreement by the Producer to a third party, except where such transfer or assignment is effected in accordance with Clause 20.
- (f) A failure by the Producer to comply with its obligations under the Balancing Agreement, which is not remedied within [thirty (30)] days following notice from the Buyer requiring such failure to be remedied.

10.2 Events of Default of the Buyer

- (a) A failure by the Buyer to procure a Payment Security in accordance with Clause 8.4.
- (b) A failure by the Buyer to pay any undisputed amount due and outstanding to the Producer under this Agreement within [twenty (20)] days following notice from the Producer stating that such payment is overdue.

- (c) A failure by the Buyer to comply with undertakings set out in Clause 8.2 which is not remedied within thirty (30) days following notice from the Producer requiring such failure to be remedied.

11 Partial Shutdown or Total Shutdown of the Wind Farm

11.1 In the event of a Partial Shutdown or Total Shutdown of the Wind Farm, the Producer shall:

- (a) provide information to the Buyer on the event having led to the Partial Shutdown or Total Shutdown of the Wind Farm, as soon as practicable, and in any event within [two (2) Business Days] after such event,
- (b) deliver to the Buyer a remediation plan, as soon as practicable, and in any event within [fifteen (15) Business Days] after the event having led to the Partial Shutdown or Total Shutdown of the Wind Farm, and
- (c) undertake all commercially reasonable efforts to minimise and overcome the effects of the Partial Shutdown or Total Shutdown of the Wind Farm,

it being specified that during the Partial Shutdown of the Wind Farm period the Buyer shall buy all the power generated by the Wind Farm.

11.2 In case of a Partial Shutdown of the Wind Farm, if no remediation plan is delivered by the Producer within the time limit fixed in Clause 11.1(b) or if the remediation plan is not implemented within 12 months of the date on which the event having led to the Partial Shutdown of the Wind Farm occurred, the Parties shall meet to determine the necessary adjustments to be made to their respective obligations under this Agreement. In the event that the Parties do not reach an agreement within fifteen (15) Business Days from the beginning of the negotiation, any Party shall have the right to terminate this Agreement with immediate effect, without any prior notice or specific procedure. In case of termination of this Agreement under this Clause 11.2, the Parties shall have no right to claim compensation for any consequences resulting from such termination.

11.3 In case of a Total Shutdown of the Wind Farm, Clause 12(d) shall apply.

12 Suspension of the Agreement

This Agreement shall be suspended in the following circumstances:

- (a) in case part or all of the transport or distribution network is unavailable due to a scheduled maintenance, the Producer shall send a notice by registered letter with acknowledgement of receipt to the Buyer at the latest [*time frame determined by the Parties*] prior to the scheduled maintenance and this Agreement shall be suspended for the duration of the planned maintenance;
- (b) in case part or all of the transport or distribution network is unavailable for an event other than a scheduled maintenance, the Producer shall send a notice by registered letter with acknowledgement of receipt to the Buyer as soon as possible and this Agreement shall be suspended from receipt of this notice by the Buyer until the distribution network is fully available again;
- (c) in case of a Force Majeure Event as defined in Clause 16.1, this Agreement shall be suspended from the receipt by the Non-Affected Party of the notice sent by the Affected Party with acknowledgment of receipt under Clause 16.2 until the end of the Force

Majeure Event unless the latter persists for more than ninety (90) days in which case this Agreement may be terminated under Clause 16.6;

- (d) in case of a Total Shutdown of the Wind Farm, subject to Clause 11.1, this Agreement shall be suspended from the receipt of this notice until the end of the Total Shutdown unless the latter persists more than [six (6)] continuous months or [twelve (12)] discontinuous months in which cases this Agreement may be terminated under Clause 13.1(d).

The Parties shall have no right to claim compensation for any consequences resulting from such suspension. [*To be negotiated between the Parties*]

13 Termination of the Agreement

13.1 Events of Termination

This Agreement may be terminated in the following circumstances:

- (a) Termination in case of an Event of Default

Upon the occurrence of an Event of Default and following any applicable cure period, the non-defaulting Party, without prejudice to any remedy provided herein, may, by written notice to the defaulting Party, terminate this Agreement.

- (b) Termination for breach of the principles of corporate social responsibility

If either Party breaches any principles of corporate social responsibility described below, the other Party shall have the right to terminate this Agreement.

A "breach of the principles of corporate social responsibility" shall exist in the event:

- (i) a Party has an interest in the distribution, dissemination or production of weapons or pornography;
- (ii) a competent authority, court or other authorized agency brings evidence against either Party (and/or an Affiliate of either Party or the legal successor thereof) that such entity has violated (i) human rights (e.g. murder, torture, deprivation of liberty, forced labour, child labour or any other type of exploitation of minors) or (ii) [personality rights] in war or conflict situations or has participated in or promoted such violations; and/or
- (iii) either Party caused severe environmental damages;
- (iv) either Party thereof violates the provisions of the French anti-money laundering regulation notably set out in articles 324-1 of the French Code pénal (the **Anti-Money Laundering Provisions**). This shall include in particular the retention of information and documents which the other Party requires to collect to ascertain the information prescribed by the Anti-Money Laundering Act.

If this Agreement is to be terminated pursuant to this paragraph (b), the Party requesting the termination shall notify the other thereof beforehand in writing, granting such Party a period of two (2) weeks in order to take specific steps to remedy the reason for termination. The reason for termination may be remedied in particular if the involved executive leaves the company as soon as possible as permitted by law.

(c) Termination in case of prolonged Force Majeure Event

This Agreement may be terminated in case of prolonged Force Majeure Event as set out in Clause 16.6.

(d) Termination in case of a Total Shutdown of the Wind Farm

In the event:

- (A) that a Total Shutdown persists for a continuous period of more six (6) months or a discontinuous period of more than twelve (12) months on a 24-month sliding period, or
- (B) of definitive Total Shutdown as set out in Clause 12(d), any Party shall have the right to terminate this Agreement with immediate effect, without any prior notice or specific procedure. In that case, the Parties shall have no right to claim compensation for any compensation resulting from such termination.

(e) Termination in case of a definitive Partial Shutdown of the Wind Farm

This Agreement may be terminated in case of a definitive Partial Shutdown of the Wind Farm as set out in Clause 11.2.

(f) Termination in case of change of control

- (A) In case either Party's control (within the meaning of article L.233-3 of the French Code de commerce) changes, such Party shall inform in writing the other Party of such event within one (1) month of its occurrence.
- (B) Within three (3) months following receipt of such notice of change of control, the Producer shall have the right to terminate this Agreement by sending a notice by registered letter with acknowledgment of receipt to the other Party, provided that the rating of the Buyer or of the issuer of the Payment Security does no longer satisfy the initial rating requirement of the Buyer or of the issuer of Payment Security at the Signing Date of the Agreement.
- (C) In the event the Producer did not terminate this Agreement within a three-month period as provided in the paragraph (B) above, the Producer is deemed to have renounced to the right of termination offered by this Clause (f).
- (D) In the event either Party's control changes and the other Party has not been informed of such event in accordance with the terms of this paragraph (f), the other Party shall have the right to terminate this Agreement at any time thereupon.

(g) Termination in case the Delay Liquidated Damages cap is reached

This Agreement may be terminated if the Delay Liquidated Damages cap is reached as set out in Clause 7.2(e).

(h) Termination in case the Supply Period Commencement Date does not occur by the Long-Stop Date

This Agreement may be terminated in case the Supply Period Commencement Date does not occur by the Long-Stop Date as set out in Clause 2.4.

13.2 Consequences of Termination

- (a) The Parties agree that this Agreement may only be terminated pursuant to the provisions of Clause 13.1 and that the termination ground shall be specified.
- (b) If this Agreement is to be terminated pursuant to Clauses 13.1(a), 13.1(d), 13.1(e) and 13.1(f), it shall be automatically terminated upon expiration of a fifteen (15) Business Days' period following the receipt of the notice of default, if such default has not been remedied.
- (c) If this Agreement is terminated pursuant to Clauses 13.1(c), 13.1(d), 13.1(e), 13.1(g) and 13.1(h), the Parties shall have no right to claim compensation for any consequences resulting from such termination.
- (d) If this Agreement is terminated pursuant to Clauses 13.1(a), 13.1(b) and 13.1(f), the defaulting Party shall have no right to claim compensation for any consequences resulting from such termination.
- (e) If the Buyer is the defaulting Party and this Agreement is terminated pursuant to Clauses 13.1(a), 13.1(b) and 13.1(f), the Buyer shall pay to the Producer, without prejudice to the provisions of Clause 14, compensation for any damages suffered by the Producer in connection with the termination of this Agreement, including:
 - (A) any loss of revenue for the Producer in case of negative difference between the prices agreed upon between the Parties under this Agreement and the market prices of the Power and the Guarantees of Origin throughout the remaining original duration of this Agreement as provided for in Clause 2.5, as assessed by an independent third party with appropriate qualifications and experience; plus
 - (B) [all duly evidenced outstanding amounts due to the Lenders in relation to costs of breaking or restructuring the hedging debt instruments; plus]
 - (C) any amounts payable by the Buyer to the Producer under this Agreement prior to the termination date,

within [●] Days from the date of termination.

14 Indemnification

- 14.1 In the event that a Party fails to comply with any of its obligations under this Agreement, the defaulting Party shall indemnify and hold harmless the other Party for its demonstrable and direct damages within the limit of EUR [●]. [*To be negotiated between the Parties*]
- 14.2 The said indemnification cap shall not apply in the event of gross or intentional breach of the defaulting Party.
- 14.3 Only properly documented damages, costs and losses can be indemnified.
- 14.4 The Parties shall use reasonable endeavours to minimise the adverse financial effects of an Event of Default or of a termination of the Agreement.

15 Other remedies

Where liquidated damages pursuant to Clause 7.2 are applicable, such liquidated damages shall be the sole remedy available to the Buyer.

16 Force Majeure

16.1 Force Majeure Events

Any event or circumstances that are at once unforeseeable, insurmountable and external to the Party which invokes them (the **Affected Party**), and that make it impossible for the Affected Party to perform all or part of any of its obligations under this Agreement under the conditions laid down when entering into this Agreement shall constitute a force majeure event (a **Force Majeure Event**).

16.2 No events or circumstances shall be considered to constitute a Force Majeure Event unless the following procedure is duly respected:

- (a) The Affected Party shall give notice to the other Party (the **Non-Affected Party**) of the (i) event or circumstances constituting such Force Majeure Event, (ii) the probable impact on the performance of such Party's obligations hereunder, and (iii) the degree and expected duration of its inability to perform its obligations under this Agreement.
- (b) Such notice shall be given as soon as reasonably practicable after the Affected Party becomes aware, or should have become aware, of the relevant event or circumstance constituting a Force Majeure Event.

16.3 The Affected Party shall commit to undertake all commercially reasonable efforts to minimise and overcome the effects of the Force Majeure Event (which includes, in the event of an event or circumstance affecting the operation of the Delivery Point, undertaking all commercially reasonable efforts to ensure that the System Operator minimises and overcomes the effects of the Force Majeure Event); as long as the Force Majeure Event persists, it must keep the Non-Affected Party informed, in good faith and to the extent reasonably necessary, of the current status and the degree and anticipated duration of the hindrance from performance.

16.4 To the extent the Producer is released from its supply duty based on any Force Majeure Event, the Buyer shall also be free of its corresponding off-taking and payment under this Agreement. To the extent the Buyer is released from its off-taking and payment obligation under the Agreement based on any Force Majeure Event, the Producer shall also be free of its supply obligations under this Agreement.

16.5 In the event that the Force Majeure Event persists for more than thirty (30) days from the date of its notification, the Parties shall meet to determine the necessary adjustments to be made to their respective obligations under this Agreement.

16.6 In the event that the Parties do not reach an agreement within thirty (30) days from the notification of such Force Majeure Event, any Party shall have the right to terminate this Agreement with immediate effect, without any prior notice or specific procedure. In case of termination of this Agreement under this Clause 16.6, the Parties shall have no right to claim compensation for any consequences resulting from such termination.

17 Change in Law and Change to the Market Design

17.1 The Parties expressly exclude the application of article 1195 of the French Code civil.

17.2 For the purpose of this Clause 17:

Change in Law shall mean the approval of, entry into force of, amendment to, modification of or suppression of any Law.

Law shall mean all measure, decision, decree, ordinance, law, regulation, directive with a general or limited scope, issued by a competent legislative, administrative or judicial authority having an impact on the purchase and sale of Power.

Market Design shall mean the way in which the French electricity market is conceptually designed, actually structured and/or functioning by virtue of any Law or as a result of any decision from the Transmission System Operator.

Change to the Market Design shall mean any modification of the Market Design which effects the markets for day-ahead and intraday trading, the calculation and distribution methods applied by the Transmission System Operator for the costs of system balancing energy or the costs related to the availability of reserve capacity, it being specified that fluctuation of the power market price shall never qualify as a Change to the Market Design.

17.3 Without prejudice to the terms of Clause 17.1, any unforeseeable

- (a) Change in Law; or
- (b) Change to the Market Design,

which occurs after this Agreement is entered into, beyond the Parties' control, and which causes or is likely to cause a substantial change to the balance of the Parties' rights and obligations under this Agreement as at the date this Agreement is entered into (the **Original Balance**) shall give either Party the right to request a renegotiation of the Agreement, in order to restore the Original Balance between their respective rights and obligations.

17.4 Without prejudice to Clause 17.6, any Change in Law or Change to the Market Design for which this Clause 17 can be invoked does not exempt any Party of its obligations under this Agreement.

17.5 If no agreement can be reached within a period of three (3) months as of the date on which one of the Parties requested a renegotiation, the matter shall be referred to the senior management of the Buyer and the Producer in writing. The senior management of both Parties will endeavour to reach a common decision within fourteen (14) Business Days from such referral.

17.6 If no common decision can be found by the senior management of both Parties within such term, and provided that the Party claiming application of this Clause 17 has demonstrated the abovementioned substantial change to the Original Balance of the rights and obligations under this Agreement, this Agreement can be terminated by either Party as from the Next Possible Technical Settlement Date.

18 Taxes

18.1 General principles

- (a) Each Party shall bear, as far as they are concerned, the Taxes in relation with the signature and execution of the Agreement for which they are liable under Applicable Law. (CSPE – intégration à valider selon le texte de loi)

- (b) Any amendment, change of rate or amount, deletion or creation of Tax directly or indirectly affecting the prices as defined in Clause 3 and 4 will result, at the request of any Party, to a discussion on the possible impact on billing, either upwards or downwards, within the framework of Applicable Law.
- (c) Any VAT amount to be paid by a Party accordingly shall not be payable to the other Party until the first Party has been provided with an invoice including the applicable VAT to the transaction issued in accordance with Applicable Law.
- (d) If, in accordance with Applicable Law, the transactions under this Agreement may be subject to a specific VAT regime (VAT exemption, reverse charge mechanism, etc.), each concerned Party hereby undertakes to take all the appropriate steps and to do everything necessary to ensure that the transactions object of this Agreement are subject to such specific VAT regime in accordance with Applicable Law (which could include providing the invoiced Party with the appropriate, true and precise documentation or any assistance that may reasonably be required by the competent Tax authority). If the reverse charge mechanism applies, the invoiced Party shall determine and pay the applicable VAT in accordance with its Applicable Law.
- (e) If each concerned Party fails to comply with point (d) above, the defaulting Party shall compensate the other Party for all VAT, penalties and interest incurred by the said other Party as a result of the defaulting Party's failure.

18.2 VAT²

(i) Sale and purchase of Power

(A) [Option 1: Sale and purchase of Power to a final consumer

Sale and purchase of Power are subject to French VAT according to applicable law rate, which should be invoiced by the Producer to the Buyer at the rate and according to Applicable Law at the date of the invoice.]

(B) [Option 2: Sale and purchase of Power to a buyer-reseller

Sale and purchase of Power are subject to French VAT under the reverse charge mechanism. Therefore, the invoiced Party shall determine and pay the applicable VAT in accordance with its Applicable Law.]

(ii) Sale and purchase of Guarantees of Origin [Optionnel]

Sale and purchase of Guarantees of Origin are subject to French VAT, which should be invoiced by the Producer to the Buyer at the rate and according to Applicable Law at the date of the invoice.

(iii) Commercialization of Guarantees of Origin [Optionnel]

Commercialization of Guarantees of Origin by the Buyer is subject to French VAT, which should be invoiced separately by the Buyer to the Producer at the rate and according to Applicable Law at the date of the invoice."

² Fiscal rescript from French Ministry of Economic Affairs and Finance dated 21 December 2018 to be taken into account

19 Confidentiality

- 19.1 The Parties shall treat confidential the existence and content of this Agreement, all the data supplied under this Agreement and all information of which they become aware in connection with this Agreement (the **Confidential Information**).
- 19.2 This shall not apply to information which:
- (a) was legally in the possession of a Party as of the date hereof; or
 - (b) legally comes into the possession of a Party after the date hereof; or
 - (c) was developed independently at a later point in time by the recipient of the information; or
 - (d) is in the public domain as at the date hereof or thereafter comes into the public domain by means other than breach of this Agreement; or
 - (e) is communicated to the recipient by a third party without any duty of confidentiality; or
 - (f) have been released in writing for disclosure by the disclosing party; or
 - (g) is disclosed pursuant to applicable law or court order or regulatory directive; or
 - (h) is to be disclosed by the Buyer to ACER and the CRE in order to fulfil the REMIT reporting requirements concerning Registered Reporting Mechanisms (RRM) or, more generally, to any regulatory body to which disclosure is required by law; or
 - (i) is disclosed by the Buyer (or the entity designated as Balance Responsible Entity by the Buyer) acting as Balance Responsible Entity to the System Operators in order to support system stability; or
 - (j) will be made accessible to Affiliates of either Party which have a need to access the confidential information, provided that such Affiliates are aware of the confidentiality nature of the information or are made aware thereof and accept to comply with confidentiality obligations substantially similar to those provided under this Clause ; or
 - (k) is made available to those employees of the Bank or external advisors of a Party who need to access the confidential information and are legally bound by confidentiality duties.
- 19.3 If the Producer's REMIT reporting obligations are delegated to a third party, the confidentiality obligation shall apply to such third party and the Producer shall remain liable towards the Buyer.
- 19.4 The duties provided in Clauses 19.1 to 19.3 shall continue to apply for three (3) calendar years after term of this Agreement as provided for in Clause 2.5.
- 19.5 Upon termination of this Agreement, the Parties shall return or destroy all Confidential Information and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made and use reasonable endeavours to ensure that anyone to whom any Confidential Information has been supplied destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them. This duty applies save to the extent that the Parties or the recipients of any Confidential Information are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body.

20 Transfer and assignment

- 20.1 Any Party may transfer its rights and obligations under this Agreement to a third party by entering into a tripartite transfer agreement to this effect with the other Party and provided that such third party accepts to be bound by all the provisions of this Agreement. The consent of the other Party may only be delayed, refused or withheld in the event of material grounds. A material ground shall exist particularly in the event a ground for termination exists for the Buyer in accordance with any provisions of this Agreement and/or in the event of legitimate doubt on the solvency and/or creditworthiness of the contemplated transferee or if the latter breaches any principles of corporate social responsibility as described under Clause 13.1(b).
- 20.2 Provided that the transfer or assignment of this Agreement has been made pursuant to Clause 20.1, the transferring Party shall be discharged from all its rights and obligations hereunder save for Clause 19 which shall survive.
- 20.3 The Producer may assign by way of security to, or grant a security interest in favour of, any Lenders of all of its rights and interests under or pursuant to this Agreement.

21 Notices

- 21.1 Any communication to be made under or in connection with the Agreement shall be made in English [or in French] and in writing and, unless otherwise provided, may be made by electronic mail, fax or letter, it being specified that any notice relating to the termination of this Agreement shall be made by registered letter with acknowledgment of receipt (*lettre recommandée avec demande d'avis d'accusé réception*).
- 21.2 The e-mail address, address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the Agreement are those identified hereinafter or any substitute e-mail address, address or fax number or department or officer as the Party may notify to the other by not less than five (5) Business Days' notice.

In case of the Buyer:

Address: [●]

Tel: [●]

Fax : [●]

Email : [●]

To the attention of: [●]

In case of the Producer:

Address: [●]

Tel: [●]

Fax : [●]

Email : [●]

To the attention of: [●]

22 Governing law - Jurisdiction

- 22.1 Governing law

This agreement shall be construed in accordance with and governed by the laws of France.

- 22.2 Jurisdiction

- (a) The Parties shall endeavour to resolve amicably all disputes relating to the formation, interpretation, performance or termination of this Agreement.
- (b) In the event that the Parties do not reach an agreement within thirty (30) Business Days from the notification of such dispute to the other Party, such dispute shall be [submitted to the exclusive jurisdiction of the Tribunal de Commerce of Paris at the request of the first Party to act] [shall be finally settled under the rules of arbitration of the International Chamber of Commerce by an arbitrator appointed in accordance with those rules].
- (c) The occurrence of a dispute shall be without prejudice to the enforceability of every provision of this Agreement.

23 Miscellaneous

23.1 Continuing obligations

- (a) The Parties agree that in case of termination of this Agreement, for any reason whatsoever, this Clause 23 and Clauses 19 and 22 will survive and continue to have effect after the termination of this Agreement.
- (b) The Parties further agree that Clauses 3, 4, 5, 6 and 18 shall survive until the date on which all amounts payable by any of the Parties under or in connection with this Agreement have been paid in full and all commitments have been cancelled or otherwise cease to be available.

23.2 Partial invalidity

If, at any time, any provision of this Agreement or any part thereof is or becomes invalid, illegal or unenforceable in any respect under any applicable law of any jurisdiction:

- (a) neither the validity, legality and enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired thereby; and
- (b) the Parties shall promptly negotiate in good faith new provisions to remedy the invalidity, illegality or unenforceability of such provision under the law of the relevant jurisdiction and to restore this Agreement as soon as possible to its original intent and effect.
- (c) Entire agreement

This Agreement constitutes the entire agreement between the Parties in relation to the matters to which it relates and supersedes any previous agreement, whether express or implied, regarding the same. No modification, amendment, supplement or waiver to this Agreement will be effective unless consented to in writing by each of the Parties.

23.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of any Party, any right or remedy under the Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm the Agreement. No election to affirm the Agreement on the part of any Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in the Agreement are cumulative and not exclusive of any rights or remedies provided by law.

Annex°1
Wind Farm and Delivery Point identification

Annex°2
Supply Period Commencement Date Notice

Annex°3
Form of acceptable letter of credit

Annex°4 Wind Study

See attached.

Annex°5 Yearly Power calculation

Signature Page