Final v.1

Balancing Agreement

Between

ZESCO LIMITED as System Operator

and

[the Participant]

[Date]

CONTENTS

This Balancing Agreement is made on the [………………] day of [………………] Two Thousand and Twenty-Five

BETWEEN:

(1) [*Name of* "Participant "], a company incorporated in accordance with the Companies Act No.10 of 2017 of the laws of Zambia with registration number […] whose registered office is at […………………...] (the "**Participant**" which expression where the context so admits shall be deemed to include all its successors and permitted assigns) of the one part; and

(2) *ZESCO Limited*, a company incorporated under the Companies Act No.10 of 2017 of the laws of Zambia designated as the System Operator pursuant to the Electricity Act No. 11 of 2019 and the Open Access Regulations, with its registered office at [……………………..….] (the "System Operator" which expression where the context so admits shall be deemed to include all its successors and permitted assigns) of the other part.

Collectively referred to as the "Parties".

WHEREAS:

1. **ZESCO** is licensed by the **Energy Regulation Board** in accordance with the **Energy Regulation Act** as the **System Operator** (**SO**) as that term is construed under the Electricity Act;
2. The **SO** is a **Control Area Operator** for the **Southern African Power Pool** with responsibility for managing the interconnection of the Interconnected Power System (**IPS)** within the region;
3. The **SO** is responsible under the **Electricity Act** and applicable regulations for the balance of supply and demand across the **IPS**;
4. The **SO**, in accordance with the Open Access Regulations, has been assigned additional functions in relation to Open Access. In performing these additional functions, the **SO** has established a ringfenced **Market Operator Unit (MOU)** which is responsible for the operations of the Open Access Market and acts as the single operator of the said market;
5. the **MOU i**s also responsible for reconciling contractual arrangements for the sale and purchase of power within the physical flows;
6. The **Participant** engages in activities that can affect the balance of supply and demand across the **IPS**;
7. The **Participant** is a beneficiary of the **SO's** real time balancing of the IPS;
8. The Parties acknowledge that the Market Operator Unit is a Ringfenced unit within the System Operator established to ensure operational separation and transparency. Settlement and dispute resolution processes under this

Agreement shall have due regard to this ringfencing arrangement.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS, ABBREVIATIONS AND INTERPRETATIONS

1.1 DEFINITIONS

1. Unless the context otherwise requires, relevant definitions stated specifically in this Agreement are as set out in the Governing Documents. In the event that any definition in the Governing Documents is amended, such amended definition shall, from the effective date of the amendment, be deemed to apply to this Agreement until this Agreement is expressly amended to reflect such change.

2. References in this Agreement to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced from time to time, and to all annexes, schedules, attachments and supplements which form part of such document;

Affected Party	has the meaning set out in clause 10.1;
Affiliates	means in relation to any a Party, (a) any entity controlled, directly or indirectly, by that Party, (b) any entity that controls, directly or indirectly that Party or (c) any entity directly or indirectly under the common control of a Party; in this context "control" means the ability to direct the management and policies of an entity through ownership of voting securities, by contract, or otherwise;
Agreement	means this Balancing Agreement including all schedules, annexures and amendments hereto;
Ancillary Reserves	means reserves required for reasons other than Inadvertent Energy, System Balance Energy, or Replacement Energy;

Ancillary Services	has the meaning assigned to this term in the Grid Code being, services supplied to the TS by generators, distributors or end-use customers necessary for the reliable and secure transport of power from generators to distributors and customers in order to maintain the short-term reliability of the IPS and includes: Operating reserves; Black start; Reactive power supply; and Regulation and load following.;
Average Hourly Quantity	means the average hourly demand at a Balancing Point calculated over the relevant month;
Balance Responsible Party	3.3 has the meaning set out in clause 3.3;
Balancing Party	means: (a) an **End User** with consumption of at least than 1 MW with a dedicated meter at its **Point(s) of Withdrawal**, unless that **End User's** only supplier is a Distributor; (b) a **Generator** with a generating capacity of at least one (1) MW and a dedicated meter at its **Point(s) of Injection**; (c) an **Energy Storage Operator** with storage capacity of at least one (1) MW and a dedicated meter at its Balancing Point; or (d) a **Distributor**, with metering at each **Point of Connection** where it connects to a Transmission Network.
Balancing Point	means a **Point of Injection** or a **Point of Withdrawal**;
Balancing Point Imbalance Quantity or **BPIQ**	has the meaning set out in clause 6.3;
Balancing Service Charge	;has the meaning set out in clause 7.5;
Balancing Services	means services that are used to balance an injection or withdrawal on the IPS;
Balancing Services Provider (BSP)	means a participant that can supply **Balancing Services** to the **BRP** or **SO**;
BRP Chargeable Imbalance Quantity	means the arithmetic sum of the Balancing Point Imbalance Quantities for all Balancing Points where it is the BRP registered with the MOU as set out in clause 6.2;

Business Day	means any day other than Saturday, Sunday or a public holiday in Zambia;
Change in Law	means the occurrence of any of the following events after the date of this Agreement: (i) the enactment of any new Laws of Zambia; (ii) the repeal, modification, or re-enactment of any existing Laws of Zambia (including, for the avoidance of doubt, tax laws); (iii) the commencement or entry into effect of any Laws of Zambia that were enacted but not yet effective as at the date of this Agreement; or (iv) a change in the interpretation or application of any Laws of Zambia by any court or administrative authority.
Chargeable Imbalance Quantity	has the meaning set out in clause 6.3;
Connection Agreement	means a an agreement entered into (or to be entered into) between an **End User** or a **Generator** with a **TNSP** or **DNSP** to connect their physical assets to the **Transmission System** or **Distribution System**;
Contestable Consumer	means a Market Participant who is eligible to purchase electricity from any Eligible Seller and includes an Embedded Consumer, Mining Consumer, Industrial Consumer, End-use Consumer, Commercial Retailer, Exporter, Battery Energy Storage System Operator and Intermediary Power Trader;
Day	has the meaning assigned to this term in the **Grid Code,** being a period of 24 consecutive hours commencing at 00:00 ;
Day-ahead Schedule	means the schedule of power flows and ancillary services for each Delivery Hour of each delivery day prepared by the SO on the day before the relevant delivery day in accordance with the Grid Code, or such other time as may be specified in the Grid Code;
Default	means either a **Participant Default** or a **SO Default**;
Default Interest Rate	means the interest rate calculated in accordance with clause 8.5;
Default Notice	Means a notice of Default given by a non- defaulting party as set out in clause 8.3;
Delivery Day	means the day on which electricity is delivered;

Delivery Hour	means each hour of the Delivery Day;
Dispatch	means to issue to **Balancing Parties** specific instructions to achieve specific active and reactive power outputs within registered data parameters or declared availability and by stated times;
Dispute	has the meaning set out in Clause 9
Distribution Network Service Provider (DNSP)	has the same meaning assigned to this term in the Electricity Act being a licensee responsible for operating, maintaining and developing a distribution system in an area and, where applicable, the distribution system's interconnection with other systems;
Distribution System	has the meaning assigned to this term in the Electricity Act being, means a portion of an electricity network which delivers electric energy from transformation points on the transmission network of bulk power system to an enterprise at a voltage whose upper limit is sixty-six kilovolts
Distributor	has the meaning assigned to this term in the Grid Code being, a person or entity that owns, operates or distributes electricity through a distribution system ;;
Effective Date	means the date on which this Agreement has been signed by both Parties. If the Parties do not sign this Agreement on the same date, the Effective Date shall be the date of the last signature
Electricity Act	means the Electricity Act No. 11 of 2019;
Eligible Seller	has the meaning assigned to the term in the **Market Guidelines,** being a Supplier or a licensee that holds a licence to trade in electricity as defined in the Electricity Act including but not limited to, an Independent Power Producer, Importer, Embedded Power Producer, Battery Energy Storage System Operator and Intermediary Power Trader;
Emergency	has the meaning assigned to this term in the Electricity Act being, an occurrence where an unplanned loss of generation or transmission facilities, or an occurrence beyond a licensee's control that impairs or affects the licensee's ability to supply that licensee's system demand;
Emergency Energy	means energy procured by the SO to maintain system security during emergency conditions;
End User	means an entity that withdraws power from the **IPS** at a **Point of Withdrawal** for its own consumption or the consumption of its Affiliates and not for the resale to third parties;
Energy Regulation Act	means the Energy Regulation Act No. 12 of 2019;

Energy Regulation Board (ERB)	means the Energy Regulation Board of Zambia established under the **Energy Regulation Act**;
Equipment	has the meaning assigned to this term in the Electricity Act being, machinery, appliances, meters, fittings, apparatus and other equipment owned by, or under the control of, a licensee and used for conducting the licensed activity;
Firm Nomination	has the meaning set out in Clause 4.2
Force Majeure Event	has the meaning set out in clause 10;
Generator	has the meaning assigned to this term in the Grid Code being, an entity operating a generating unit or power station;
Governing Documents	means, collectively, the Electricity Act, the Energy Regulation Act, the Open Access Regulations, the Market Guidelines, the Grid Code, the System Operator Guidelines, and any other rules, procedures, or codes issued by the ERB;
Government	means the Government of the Republic of Zambia;
Grid Code	means the Electricity (Grid Code) Regulations, Statutory Instrument No. 79 of 2013;
Imbalance Quantity	means the difference between the **Metered Quantity** in kWh and the **Nominated Quantity** in kWh at a **Balancing Point** where a positive **Imbalance Quantity** signifies that the **SO** faced a potential surplus of energy and a negative **Imbalance Quantity** signifies that the **SO** faced a potential shortfall of energy. Thus: i. at a **Point of Withdrawal,** the **Imbalance Quantity** is equal to the **Scheduled Quantit**y minus the **Metered Quantity**; and ii. at a **Point of Injection,** the **Imbalance Quantity** is equal to the **Metered Quantity** minus the **Scheduled Quantity**;
Inadvertent Energy	means energy procured by the SO to accommodate variations in flows within the **Tolerance Band** while maintaining the system balance;
Indicative Nomination	has the meaning set out in Clause 4.1;

Insolvency Event	means, subject to the provisions of the Corporate Insolvency Act 2017 as (applicable) and in respect of any person except for the purpose of amalgamation, reorganization or reconstruction (provided that such amalgamation, reorganisation or reconstruction does not affect the ability of the amalgamated, reorganised or reconstructed entity, as the case may be, to perform its obligations under this Agreement), the occurrence of any of the following events: i. the passing of a resolution for its winding up; ii. the making of an application for its winding up; iii. the appointment of a liquidator, provisional liquidator, administrator, business rescue admininstrator or receiver over any of its assets; iv. the making of any arrangement or composition with creditors; v. the suspension of payments to creditors generally; or vi. the occurrence of any event analogous to any of the foregoing under the laws of any jurisdiction.
Interconnected Power System (IPS)	has the meaning assigned to this term in the Electricity Act being, means a number of transmission and distribution lines, and includes associated power generation systems that are linked together for the purpose of transmitting or distributing electricity;
Laws of Zambia	means any national, or local law, order, rule, regulation, by-law, statutory order, statutory reversionary order, executive order, decree, policy, judicial decision, notification, administrative decision or other similar directive made pursuant thereto, or legally binding instruction, guideline, code or standard issued by an executive, legislative, judicial or administrative entity, having the force of lawin Zambia, including in relation to any Tax, as any of them may be amended from time to time;
LIAC	means the Lusaka International Arbitration Centre;
LIAC Rules	means the rules of the **LIAC**;
Market Guidelines	means the Open Access Market Guidelines for the Electricity Sub-Sector, 2025;
Market Operator Unit	means the Ringfenced unit under the System Operator which shall be responsible for the operations of the Markets in accordance with the Market Guidelines and shall also act as the single operator of the Markets;

Maximum Hourly Quantity	has the meaning as set out in Clause 3.1.4;
Metered Quantity	means the quantity of energy in kWh registered at a meter at a **Balancing Point** as having been injected or withdrawn at the **Balancing Point** in a **Delivery Hour**;
MYTF	means the Multi-Year Tariff Framework Rules for Determining the Revenue Requirement for Transmission Network Service Providers and System Operators of 2023;
Net Imbalance Quantity	means the sum of the **Imbalance Quantities** for a **BRP** over a **Trading Period**;
Nominated Quantity	means the quantity of energy included in a Nomination made by a BRP for delivery at a Balancing Point and included in the SO's day-ahead schedule;
Nomination	means either a **Firm Nomination** or an **Indicative Monthly Nomination** as the context dictates;
Notice of Force Majeure	has the meaning set out in Clause 10;
Open Access	has the meaning assigned to this term is the Electricity Act being, the availability of spare transmission or distribution capacity to any qualifying participant on non-discriminatory terms and conditions;
Open Access Contract	means a contractual arrangement comprising a **PPA** and/or a **PSA:** i. between an **Eligible Seller** and a **Contestable Consumer**, for the sale of power injected by a **Generator** or **Energy Storage Operator** at a **Point of Injection** to an **End User** uplifting power at a **Point of Withdrawal**; or ii. between an Eligible Seller or a Contestable Consumer and a counterparty in another country;
Open Access Regulations	means the Electricity (Open Access) Regulations, Statutory Instrument No. 40 of 2024;
Participant Default	has the meaning set out in Clause 8.1
Party	means a Party to this Agreement and where applicable shall be deemed to include its successors and permitted assigns;

Path	means the sequence of lines and substations connecting a **Point of Injection** to a **Point of Withdrawal** specified in an **Open Access Contract**, where the sequence has been approved by the **SO** and a **Use of System Agreement** established with the **TNSP** and/or **DNSP** that owns the lines that comprise the sequence;
Point of Connection	has the meaning assigned to this term in the Grid Code being, the electrical node in a transmission substation or distribution substation where a customer's assets are physically connected to the TNSP's or DNSP's assets;
Point of Injection	means a metered point where electrical energy is injected into a **Transmission System** or a **Distribution System;**
Point of Withdrawal	means a metered point where electrical energy is uplifted from a **Transmission System** or a **Distribution System**;
Power Purchase Agreement (PPA)	has the meaning assigned to term in the Electricity Act being, a contract entered into between or among enterprises for the sale and purchase of electricity;
Power Supply Agreement (PSA)	has the meaning assigned to this term in the Electricity Act being, a contract entered into between an enterprise and a non-retail consumer for the sale of electricity;
Prudent Utility Practice	means has the meaning assigned to this term in the Energy Regulation Act being, the practice, method, and act at a particular time which, in the exercise of reasonable judgment, in the light of the facts, including the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time, the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition;
Register	has the meaning set out in Clause 3.1.4;
Remedial Programme	has the meaning set out in Clause 8.3;
Remedy period	has the meaning set out in Clause 8.2;
Replacement Energy	means energy provided by **the SO** upon request from the **BRP** during a **Dispatch Day** a s set out in Clause 5.1.1;
Ringfencing or **Ringfenced**	Has the meaning assigned to this term in the Market guidelines being, internal operational separation of assets, costs, resources, budgets and management accounts between key electricity licensed functions for the purpose of ensuring transparency and for the avoidance of cross-subsidies;

SAPP Physical Markets	means any monthly forward physical markets, weekly forward physical, markets, day-ahead markets, intra-day markets and balancing markets operated by the Southern African Power Pool on behalf of its members;
Scheduling	has the meaning assigned to this term in the Grid Code being, a process to determine which unit or equipment will be in operation and at what loading;
Secured Overnight Financing Rate (SOFR)	means the secured interbank overnight interest rate as published at approximately 8:00 a.m. New York time on the next business day in the United States of America by the US Federal Reserve Bank of New York;
SO Default	has the meaning set out in Clause 8.2;
SO Operating Guidelines	means the System Operator Guidelines for Open Access to Transmission and Distribution Systems approved by the **ERB**;
SO Scheduling and Dispatch Procedures	means the documented procedures approved by the **ERB** for **Scheduling** and **Dispatch** of power on the **IPS** by the **SO**;
System Balance Energy	means energy procured by the **SO** to maintain the system balance in response to Imbalances in excess of the Tolerance Band;
Tolerance Band	has the meaning set out in Clause 6.3.2;
Trader	means the holder of a licence to trade in electricity issued by the **ERB** under the Energy Regulation Act
Trading Period	has the meaning assigned to this term in the **Market Guidelines** being, an hour
Transacted Quantity	has the meaning set out in Clause 6.1
Transmission Network Service Provider (TNSP)	has the meaning assigned to the term in the **Electricity Act** being, a licensee responsible for operating, maintaining and developing a transmission system and, where applicable, the transmission system's interconnection with other systems;
Transmission System	Has the meaning assigned to this term in the **Electricity Act** being, means part of the interconnected power system which supplies power in bulk from a generating station to a distribution system and other consumers and includes: (a) transmission lines and sub-station equipment on the interconnected power system where the nominal voltage is above sixty-six kilovolts; and (b) associated equipment at a transmission network service provider substation belonging to a transmission network service provider.; and

1.2 Abbreviations

BRP	**Balance Responsible Party**
BSP	**Balancing Service Provider**
DNSP	**Distribution Network Service Provider**
ERB	**Energy Regulation Board**
IPS	**Interconnected Power System**
LIAC	**Lusaka International Arbitration Centre**
MOU	**Market Operator Unit**
OAMS	**Open Access Management System**
PPA	**Power Purchase Agreement**
PSA	**Power Supply Agreement**
SAPP	**Southern African Power Pool**
SCADA	**Supervisory Control and Data Acquisition**
SO	**System Operator**
SOFR	**Secured Overnight Financing Rate**
TNSP	**Transmission Network Service Provider**
GC	**Grid Code**
USD	**United States Dollar**
ZAR	**South African Rand**
ZMW	**Zambian Kwacha**

1.3 Interpretations

Headings and footnotes are provided for clarity only.

1.3.1 *Wording*

In this Agreement, unless provided otherwise:

(a) the use of the singular form of a word includes the plural form and the use of the plural form includes the singular;
(b) a word of any gender includes the corresponding words of each other gender and a reference to one sex includes a reference to all sexes;
(c) any word or expression cognate with a word or expression defined in this Agreement shall bear a corresponding meaning;
(d) the words "include" and "including" are to be construed without limitation;
(e) wherever provision is made for the giving or issuing of any notice, decision, consent, acceptance, agreement, expression of satisfaction, endorsement, approval, certificate, instruction or determination by any person, unless

otherwise specified, such notice, decision, consent, acceptance, agreement, expression of satisfaction, endorsement, approval, certificate, instruction or determination shall be in writing (and writing shall be inclusive of mail transmitted electronically) and the words "notify", "decide", "consent", "accept", "agree", "endorse", "approve", "certify", "instruct" or "determine" and other cognate expressions shall be construed accordingly.

1.3.2 *Dates & Times*

In this Agreement, unless provided otherwise:

(a) a time of day shall be construed as a reference to the time in Zambia;
(b) a "month" shall be construed as a calendar month according to the Gregorian calendar;
(c) a "week" shall be construed as a period of seven (7) consecutive days;
(d) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of that day; and
(e) where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of that day.

1.3.3 *References*

In this Agreement, unless provided otherwise, a reference to:

(a) save where the contrary is indicated, any Law or any section of, or Annexure to, or other provisions thereof, shall be construed, at the particular time, as including a reference to any modification, extension or re-enactment thereof then in force and to all other Laws then in force and made under or deriving validity from the relevant Law;
(b) an obligation includes a liability and a duty and a reference to performance includes observance;
(c) materials, information, data and other records shall be to materials, information, data and other records whether stored in electronic, written or other form;
(d) to this Agreement or any other document shall be construed as a reference to this Agreement or that other document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented;
(e) to any recital, clause, paragraph, Schedule or Annex are to those contained in this Agreement, and references to a part of a Schedule are to the part of the Schedule in which the reference is relevant, and all Schedules and Annexes to this Agreement are an integral part of this Agreement. If there is any conflict between the provisions of the main body of this Agreement and the provisions of any of the Schedules or Annexes, the provisions of the main body shall prevail

1.3.4 *Governing Documents*

In the event of conflict between this Agreement and any Laws of Zambia, Licence conditions, or Market Guidelines, such conflict shall be resolved in the following order of priority: (a) Laws of Zambia (including the Electricity Act and the Energy Regulation Act); (b) Licence conditions issued by ERB; (c) Market Guidelines; (d) this Agreement. If a provision of a document higher in the order of precedence is inconsistent with a provision of a document lower in the order of precedence, then the higher provision prevails, but only to the extent of the inconsistency.

2. Term

This **Agreement** shall come into full force and effect from the **Effective Date** and shall continue unless terminated pursuant to Clause 20

3. Obligations of the Parties

3.1 The System Operator

3.1.1 *Prior to Dispatch*

The **SO** shall forecast system demand and generation availability to determine the required balancing reserves. The forecast shall take into account aggregate **Nominated Quantities** at **Points of Connection** as advised by the MOU.

The **SO** shall use historical data, real-time monitoring, and advanced forecasting tools to estimate potential imbalances for the purpose of annual contracting for balancing reserves.

The **SO** shall identify the need for **Primary Reserves**, **Secondary Reserves**, and **Tertiary Reserves** based on prevailing system conditions and potential contingencies.

3.1.2 *Real time Dispatch*

The **SO** is responsible for balancing supply and demand on the **IPS** in real time.

During real-time operations, the **SO** shall have the absolute right to activate any reserve, subject to an obligation to minimise costs to the extent reasonably practicable:

- that the **SO** has contracted from any **BSP;**
- that have been contracted from a **BSP** by the **BRP**; or
- from the **SAPP Physical Markets**.

The **SO** shall activate reserves based on system conditions, provided that such activation shall be limited to contracted reserves available for the relevant day. The **SO** may source from the **SAPP Physical Markets** if doing so ensures better security or lower cost than sourcing from **BSPs**, or if **BSP** reserves are not available or accessible.

In the event of an **Emergency**, the **SO** may import **Emergency Energy** from neighbouring countries only after exhausting all available sources of reserve energy. If the **SO** determines that the **Participant** is responsible for causing the **Emergency**, the **SO** shall contact the **Participant** to:

(a) seek information as to the likely duration of the **Emergency**; and to
(b) notify the **Participant** and its **BRP** (if applicable) that it will be liable for the costs of **Emergency Energy** and give the **Participant** the opportunity to:

i. rectify the **Emergency**;
ii. procure an alternative source of energy; or

Where the **SO** is unable to determine the **Balancing Parties** responsible for causing the **Emergency**, the costs of the imported **Emergency Energy** shall be treated as a system level cost to be allocated in accordance with the cost-allocation mechanism developed by the **SO** and approved by the ERB.

3.1.3 *Post Dispatch*

After activating any reserves as envisaged in clause 3.1.2 above, the **SO** shall notify the **Market Operator Unit** of the **Metered Quantities** at each **Balancing Point** and **Point of Connection**.

3.1.4 *Months Prior to Dispatch Month*

(a) The **MOU** shall maintain a register in electronic form (the "**Register**") of every **Balancing Party** and **Balance Responsible Party.** The Register shall include the following information provided by the **Participant**:

i. their **Balancing Point(s)**;
ii. whether each **Balancing Point** is a **Point of Injection** or **Point of Withdrawal;**
iii. the **Point(s) of Connection** to which each **Balancing Point is** connected;
iv. where a **Balancing Point** is not a **Point of Connection**, the name of the **Point(s) of Connection** and feeder on the approved **Path**(s);
v. the name of the **TNSP(s)** or **DNSP(s)** with which the BP has a **Connection Agreement**;
vi. meter identification number;
vii. voltage level in kV;
viii. short circuit level in MVA;
ix. the Maximum Hourly Quantity, being the maximum demand in kW[1] that can flow into or out of the **Balancing Point(s)** in accordance with the relevant **Connection Agreement(s)**;
x. the **BRP** responsible for each **Balancing Point**;
xi. the Trading Contract(s) under which power physically injected or withdrawn at the **Balancing Point** is sold or purchased;
xii. the tenors of the Trading Contract(s);
xiii. the party responsible for balancing at the associated **Balancing Points** where power is either injected for supply under the Trading Contract or withdrawn for sale under the Trading Contract; and
xiv. the order in which Trading Contracts at the **Balancing Point** are to be reconciled, as established by the **BRP** for the **Balancing Point**.

(b) The **Market Operator Unit** shall update the Register with any changes pursuant to an assignment of the **BRP**'s obligations by the **Participant**.

(c) The **Market Operator Unit** shall update the Register with the changes to the address of the **Participant** when notified by the **Participant** of such changes.

(d) Information included in the Register which is not commercially sensitive shall be made available to all Balancing Parties

3.1.5 *Scheduling and Dispatch*

The Market Operator Unit shall carry out the activities set out in Clauses 4 and 5.

[1] The Connection Contract is likely to specify this in kVA.

3.1.6 *Post Dispatch Reconciliation*

Following each **Dispatch Day**, the **Market Operator Unit** shall carry out the reconciliation process as set out in Clause 66**Error! Reference source not found.**.

3.2 Balancing Parties

3.2.1 *Voltage*

At all times, where applicable, the **Participant** shall endeavour to maintain voltage levels for its **Equipment** at its **Balancing Point** in accordance with the **Grid Code**.

3.2.2 *Operation and Maintenance*

At all times, where applicable, the **Participant** shall operate its **Equipment** in accordance with the **Grid Code**.

3.2.3 *Metering*

(a) Every **Balancing Point** shall be metered.
(b) The **Participant** shall comply with the metering obligations set out in the **Grid Code** and the **SO Operating Guidelines**.
(c) Where there is a conflict between the **Grid Code** and the rules of the **SAPP** , the **Grid Code** shall prevail.
(d) The **Balancing Party** shall register all relevant meter data with the **Market Operator Unit** as required by the **SO Operating Guidelines** and shall ensure such data remains accurate and up to date at all times.

3.3 Balance Responsible Party

For the purposes of this Agreement, the **Balance Responsible Party** (**BRP**) is either:

(a) the **Participant**; or
(b) a third party duly appointed by the **Participant**

that has responsibility for any of the **Participant**'s **Balancing Points** allocated to them in the Register, to:

i. ensure that in every **Delivery Hour** the power flow at the **Balancing Point** is balanced by the flow(s) at other **Balancing Points**; and
ii. ensure that Nominated Quantities for the power to flow at its **Balancing Point** are made in accordance with clause 4.2; and
iii. ensure that the **Metered Quantity** at each **Balancing Point** matches the **Scheduled Quantity** at the **Balancing Point** in every **Dispatch Hour; and**
iv. settle any payments due to the **SO** for **BRP Chargeable Imbalance Quantities**.

(a) Every **Balancing Point** must have a single **BRP** registered in the Register.

Where the **Participant** has appointed another party to take over the role of **Balance Responsible Party** on behalf of the **Participant** at any of the **Participant**'s **Balancing**

Points, this must be effected through the assignment of the **BRP** obligation between the **Parties**, approved by the **SO**, and registered through an amendment to the Register.

For the avoidance of doubt, the **SO** shall be responsible for balancing at **Points of Connection** that are interconnectors with neighbouring countries.

4. Nominations and Scheduling

4.1 Indicative Nominations

An **Indicative Nomination** of the energy to be injected or withdrawn at **Balancing Points** during each calendar month (the **"Indicative Monthly Nomination"**) shall be delivered to **the MOU** by the **BRP** for that **Balancing Point** no later than 09:00 hours on the 24th day of the month prior to the **Delivery Month**.

The **Indicative Monthly Nomination** shall specify the following:

(a) for bilateral transactions, the relevant **Balancing Points** for such energy;
(b) for transactions on the **SAPP Physical Markets**, the **Balancing Point**; and
(c) for all transactions, the volumes of electrical energy in kWh.

4.2 Firm Nominations

On the day prior to the **Delivery Day**:

(a) The **BRP shall** submit a **Firm Nomination** to the **MOU** before 15:00 hours, setting out for each **Balancing** Point for which it has been allocated responsibility in the Register:
   i. the **Nominated Quantity** in kWh to flow in each **Delivery Hour** of the **Delivery Day**;
   ii. the allocation of the **Nominated Quantity** to each **Trading Contract;**
   iii. the quantity (if any) confirmed to be purchased or sold through the **SAPP Physical Markets**;

(b) The **MOU** receives **Firm Nominations** from the **BRP** for each Trading Contract at each **Balancing Point**, and by 16:00 hours shall:
   i. confirm that the **Nominated Quantity** is in accordance with the terms and conditions of the relevant Trading Contract;
   ii. confirm that there is a valid balancing **Nominated Quantity** submitted by the **BRP** for the counterpart(s) to the Trading Contract;
   iii. resolve any discrepancies in **Nominations**: (a) by liaising with the affected parties; and (b) where discrepancies cannot be resolved by 15:45 hours, by determining the appropriate **Nominated Quantities** based on the most recent consistent nominations and immediately notifying the affected parties;
   iv. aggregate **the Nominated Quantities** at each **Point of Connection**;
   v. notify the **SO** of the aggregated **Nominated Quantities** at each **Point of Connection.**

(c) By 16:00 hours the **SO** shall:
   i. confirm that the aggregated **Nominated Quantities** at **Points of** Connection notified by the **MOU** do not cause constraints or pose a risk to system security; and
   ii. notify the **MOU** of any changes required to the **Nominated Quantities**

to prevent constraints or threats to system security, with such threats to be determined in accordance with objective criteria established by the **SO** in line with the **Grid Code** and approved by the **ERB**.

(d) In the event that the **SO** has required changes to the **Nominated Quantities** notified by the **MOU** in paragraph (b), the **MOU** shall liaise with the parties responsible for balancing at **Balancing Points** that connect to the relevant **Points of Connection** to adjust **Nominated Quantities** to align with the **SO'**s requirements.

4.3 Scheduled Quantities

The **Nominated Quantities**, as confirmed or amended by the **SO** in accordance with clause 4.2(c), shall be included in the **Day-ahead Schedule** as **Scheduled Quantities**.

5. Dispatch

5.1 During the Dispatch Day Prior to Each Dispatch Hour

If the **BRP** becomes aware that power injected or withdrawn at **Balancing Points** in a **Dispatch Hour** later in the **Dispatch Day** for which it is responsible is going to vary from the **Scheduled Quantity** in a manner that will result in **a Chargeable Imbalance Quantity,** then it shall provide the **SO** with:

(a) an amended **Nominated Quantity** that will remove the forecast **Chargeable Imbalance Quantity**; or

(b) a request for **Replacement Energy**.

5.1.1 *Replacement Energy*

Replacement Energy means energy provided by **the SO** upon request from the **BRP** during a **Dispatch Day**, subject to the following conditions:

(a) The **BRP** may request that the **SO** provide Replacement Energy, provided such request is made not less than fifteen (15) minutes prior to the relevant Dispatch Hour;

(b) The request shall specify the **Dispatch Hours** during which the **Replacement Energy** is to be provided and the quantity of **Replacement Energy** required in each **such Dispatch Hour**;

(c) The request shall identify the **Balancing Points** to which the **Replacement Energy** is to be allocated during reconciliation; and

(d) Upon agreeing to provide **Replacement Energy**, **the SO** shall use all reasonable endeavours to do so from the sources available to it, provided that **the SO** shall not be required to utilise **Emergency Energy** for such purpose.

The **BRP** shall pay for such **Replacement Energy** at the **Replacement Energy Tariff**.

5.2 Real-time Dispatch

(a) The **SO** shall continuously monitor the Integrated Power System and identify all **Points of Connection** where flows do not match the **Scheduled Quantity** for that **Point of Connection.**

(b) As necessary the **SO** shall activate reserves to maintain system balance.

(c) **Primary Reserves** shall be activated automatically as provided for under the **Grid Code**.

(d) Where a **BSP** for a **Point of Connection** has established a contract with the **BRP** to manage **Imbalances**, and that **Point of Connection** has an observed **Imbalance** contributing to an imbalance between supply and demand across the **IPS**, the SO shall, to the extent the **SO** considers it practicable and efficient, dispatch that **BSP** to align the flow at the **Point of Connection** with its **Scheduled Quantity**.

6. Reconciliation

6.1 Transacted Quantities

At a **Balancing Point** where there is more than one contract registered with the **MOU**, the **Transacted Quantity** is the portion of the **Metered Quantity** at the **Balancing Point** that is allocated to each contract up to the **Scheduled Quantity** for that contract.

The allocation of **Metered Quantity** to contract is done in the order of contract reconciliation registered in the register

6.2 Day Following Dispatch Day

(a) On the **Day** following **Dispatch Day**, the **MOU** shall:

   i. receive from the **SO** the metered data for each **Balancing Point** and **Point of Connection** for each **Delivery Hour** of the previous **Day**;

   ii. determine the **Balancing Point Imbalance Quantities** in each **Delivery Hour** of the previous **Day** at each **Balancing Point** and **Point of Connection**;

   iii. aggregate the **Balancing Point Imbalance Quantities** for each **BRP** for each **Delivery Hour;** and

   iv. notifies all **BRPs** of the **Balancing Point Imbalance Quantities** for each **Delivery Hour** for the **Balancing Points** for which the **BRP** is responsible, together with the **BRP Imbalance Quantities**.

(b) Where the **BRP** disputes the **MOU's** calculation then the **BRP** and the **MOU** shall endeavour to resolve the dispute through amicable negotiation prior to the **SO** issuing invoices in accordance with Clause 7.

6.3 Monthly Reconciliation and Settlement

At the end of each month, the **SO** shall provide the **BRP** with a **Monthly Reconciliation Statement** that shows:

(a) For each **Balancing Point** for which the **BRP** is responsible, for each **Delivery Hour** of the previous month:

   i. The **Metered Quantity** and **Scheduled Quantity**;

   ii. The **Balancing Point Imbalance Quantity**;

   iii. The **Chargeable Imbalance Quantity.**

(b) For each **Balancing Point** for which the **BRP** is responsible:

   The **Transacted Quantity** attributed to each contract registered at that **Balancing Point**, where the **Metered Quantity** for the **Balancing Point** is allocated to each contract up to the **Scheduled Quantity** for that contract in the order of contracts registered with the **MOU**.

(a) For each **Delivery Hour** of the previous month:
  (i) The total **Replacement Energy** supplied to the **IPS**;
  (ii) The total **Emergency Energy** imported to the **IPS**.

6.3.1 *Balancing Point Imbalance Quantities*

The **Balancing Point Imbalance Quantity** in any **Delivery Hour** shall be determined as follows:

(a) For a **Point of Withdrawal**, the **Balancing Point Imbalance Quantity** is the **Scheduled Quantity** minus the **Metered Quantity** at that **Point of Withdrawal**, that is:

$BPIQ_B = Q_{Bsch} – Q_{Bmtr}$

where:

$BPIQ_B$ is the **Balancing Point Imbalance Quantity** for the **Balancing Point** B;

Q_{Bsch} is the **Scheduled Quantity** for the **Balancing Point** B;

Q_{Bmtr} is the **Metered Quantity** for the **Balancing Point** B.

(b) For a **Point of Injection**, the **Balancing Point Imbalance Quantity** is the **Metered Quantity** minus the **Scheduled Quantity** at that **Point of Injection**:

$BPIQ_B = Q_{Bmtr} – Q_{Bsch}$

where:

$BPIQ_B$ is the **Balancing Point Imbalance Quantity** for the **Balancing Point** B;

Q_{Bsch} is the **Scheduled Quantity** for the **Balancing Point** B;

Q_{Bmtr} is the **Metered Quantity** for the **Balancing Point** B.

The value of the **Balancing Point Imbalance Quantity** may be positive or negative.

6.3.2 *Chargeable Imbalance Quantities*

If the **Balancing Point Imbalance Quantity** is either:

(a) higher than the highest tolerance, where the highest tolerance is the lesser of:
  i. ten thousand (10 000) kWh; or
  ii. the **Nominated Quantity** plus 10%:
(b) lower than the lowest tolerance. where the lowest tolerance is the greater of
  i. minus ten thousand (10 000) kWh; or
  ii. the **Nominated Quantity** minus 10%;

that is, if either

(a) $BPIQ_B$ > Minimum (10 000, 0.10 * Q_{Bsch}); or
(b) Maximum (-10 000, -0.10 * Q_{Bsch}) > $BPIQ_B$

then the **Balancing Point Imbalance Quantity** is a **Chargeable Imbalance Quantity.**

The range from the lowest tolerance to the highest tolerance is the **Tolerance Band**.

Balancing Point Imbalance Quantities that are within the **Tolerance Band** and are thus not **Chargeable Imbalance Quantities** are **Inadvertent Energy**.

The **BRP Chargeable Imbalance Quantity** will be the arithmetic sum of the **Chargeable Imbalance Quantities** for all **Balancing Points** where the **BRP** is so registered with the **MOU**.

6.4 Notification

The **Monthly Reconciliation Statement** shall be published by the fifth (5^{th}) **Business Day** of every month.

The BRP will be notified via email, and the **OAMS** shall be used to publish the results.

A complaint window of two (2) **Business Days** following receipt of the **Monthly Reconciliation Statement** shall be provided for **BRP** to raise concerns. After this period, the results shall be deemed final save for manifest errors.

6.5 Nomination Bias

The **MOU** shall evaluate whether **Firm Nominations** submitted in respect of **Balancing Points** demonstrate a bias in their relationship with the **Metered Quantities**: that is, whether **Firm Nominations** are consistently lower or higher than **Metered Quantities**.

Where such a bias is observed at a **Balancing Point** the MOU shall seek an explanation from the **Balancing Party** at the **Balancing Point**.

Where a bias is observed in the Firm Nominations for a period of more than two (2) months the **MOU** shall report the **Balancing Party** responsible to the ERB for sanction.

7. Invoicing and Payment

7.1 Currency of Invoicing and Payment

Invoicing and payment under this Agreement shall be denominated in **USD or ZMW**.

7.2 Annual Forecast of SO's Reserve Requirements

(a) By 31 October each year, the **SO** shall forecast the quantities in kWh of each type of reserve required to provide **Inadvertent Energy**, **System Balance Energy**, **Replacement Energy** and **Ancillary Reserves** in the coming year.
(b) The **SO** shall publish its forecasts together with the underlying assumptions on the **OAMS**.
(c) The **SO** shall seek approval from the **ERB** for its forecast prior to publication, and shall not publish such forecasts until ERB approval is obtained. The **ERB** shall provide its approval within [60] Business Days of receipt of the SOs forecasts or provide written reasons for any refusal or required amendments.].

7.3 Annual Forecast of SO's Costs of Reserve Procurement

(a) By 30 November of each year the **SO** shall forecast the costs it shall incur:
   i. under its contracts with **BSPs**;

ii. from SAPP Physical Markets;

for the provision of reserves necessary to balance the **IPS** over the coming calendar year. For uncontracted supply, costs shall be based on prevailing market prices on local and international markets for similar products,

(b) Each of the SO's contracts with a **BSP** shall be approved by the **ERB**.

(c) The **SO** shall allocate the costs according to the following categories based on the nature and purpose of the reserves:

i. Inadvertent Energy:

The costs of maintaining system frequency while allowing **BRPs** to incur **Imbalances** within the **Tolerance Band**;

ii. System Balance Energy:

The costs of maintaining system security where aggregate Imbalances exceed the amount provided for **Inadvertent Energy**;

iii. Replacement Energy

The costs of energy for the provision of Replacement Energy; and

iv. Ancillary Reserves;

Reserves required for reasons other than those captured in subclauses (i), (ii) and (iii) above.

(d) The **SO** shall determine, in accordance with the MYTF, and based on audited financial records and in accordance with generally accepted accounting principles, whether the costs allocated to **Inadvertent Energy**, **System Balance Energy** or **Replacement Energy** actually incurred in the previous twelve (12) months were greater or less than the costs allocated to them in the determination made the previous year. The SO shall provide supporting documentation for such determination to the ERB. Any over-recovery amount shall be deducted from the allocation being made for the coming year and any under-recovery shall be added to the allocation being made for the coming year.

(e) The **SO** shall determine the **Inadvertent Energy Tariff**, the **Chargeable Imbalance Tariff** and the **Replacement Energy Tariff** and submit them to the **ERB** for approval, together with such supporting information as the **ERB** may require.

7.4 Tariffs

All tariffs under this Agreement, including the Inadvertent Energy Tariff, the Chargeable Imbalance Tariff, and the Replacement Energy Tariff, shall be subject to approval by the ERB in accordance with the Electricity Act and applicable regulations. The SO shall submit proposed tariffs and any adjustments thereof to the ERB for approval in accordance with the prescribed process and timeframes.

7.4.1 *Tariff for Inadvertent Energy*

The **Inadvertent Energy Tariff** shall equal the annual cost in USD/ZMW forecast for **Inadvertent Energy** in accordance with Clause 7.1 divided by the peak demand in kW on the IPS in the current year, divided by twelve, to give a value denominated in USD//ZMW/kW/Month.

7.4.2 *Tariff for Chargeable Imbalance Quantities*

The **Chargeable Imbalance Tariff** shall equal the annual cost in USD [or the ZMW equivalent calculated at the prevailing Bank of Zambia exchange rate at the time of calculation] forecast for **System Balance Energy** in accordance with Clause 7.1 divided by the forecast quantity in kWh of **System Balance Energy** approved by the **ERB** in accordance with Clause 7.2.

7.4.3 *Tariff for Replacement Energy*

The **Replacement Energy Tariff** shall equal the annual cost in USD [or the ZMW equivalent calculated at the prevailing Bank of Zambia exchange rate at the time of calculation] forecast for **Replacement Energy** in accordance with Clause 7.1 divided by the forecast quantity in kWh of **Replacement Energy** approved by the **ERB** in accordance with Clause 7.2.

7.5 Monthly Charges

The **Balancing Service Charge** for a month shall be the sum of the

(a) **Inadvertent Energy Charge**,
(b) the **Imbalance Charge;** and
(c) the **Replacement Energy Charge**.

7.5.1 *Inadvertent Energy Charge*

The **Inadvertent Energy Charge** payable by the **BRP** for the month for each **Balancing Point** for which they are responsible as set out in the Register, shall equal the **Average Hourly Quantity** for that month multiplied by the **Inadvertent Energy Tariff**

7.5.2 *Imbalance Charges*

(a) The **Imbalance Charge** payable by each **BRP** for the month shall be, for each **Delivery Hour** of the previous month where the **BRP Chargeable Imbalance Quantity** was negative:
   i. the **BRP Chargeable Imbalance Quantity multiplied** by the **Chargeable Imbalance Tariff**; plus
   ii. VAT and other applicable taxes, levies (in each case in an amount and to the extent properly payable pursuant to **the Laws of Zambia**).

(b) The **Imbalance Charge** payable to the **BRP** for the month shall be, for each **Delivery Hour** of the previous month where the **BRP Chargeable Imbalance Quantity** was positive and the **SO** was dispatching **Replacement Energy** to the **IPS**:
   i. the **BRP Chargeable Imbalance Quantity** multiplied by a factor of 0.75 multiplied by the **Chargeable Imbalance Tariff**; plus
   ii. VAT and other applicable taxes, levies (in each case in an amount and to the extent properly payable pursuant to the Laws of Zambia).

7.5.3 *Charge for Replacement Energy*

The **Replacement Energy Charge** for the **BRP** for the month shall be the sum, for each **Balancing Point** for which they are responsible as set out in the Register, for each **Delivery Hour** of the previous month:

(a) the **Replacement Energy Quantity** at the **Balancing Point** multiplied by the greater of:

i. the **Replacement Energy Tariff**; or
ii. the settlement price for energy on the SAPP Day-ahead Market for that **Delivery Hour**; plus

(b) VAT and other applicable taxes, levies (in each case in an amount and to the extent properly payable pursuant to the Laws of Zambia).

7.5.4 *Charge for Emergency Energy*

Where the **SO** determines that one or more **Balancing Parties** have been responsible for the import of **Emergency Energy**, the **SO** shall recover the full cost of that **Emergency Energy** from those **Balancing Parties,** unless the **Balancing Party** had given a **Notice of Force Majeure** in respect of the **Emergency**.

The **SO** shall endeavour to identify the original cause of the **Emergency** and shall not hold liable **Balancing Parties** whose contribution to the amount of **Emergency Energy** procured by the **SO** resulted from actions that were a consequence of the actions of the original cause.

7.6 Invoicing

Within five (5) Business Days following the end of every **Delivery Month, the SO** shall prepare and deliver to the **BRP** by e-mail or at the address specified in Clause 16, an invoice for the **Balancing Service Charge**.

The invoice shall be payable to an account to be notified to the **BRP** by **the SO**.

The invoice shall contain the following:

(a) the net amount determined as payable by the BRP or payable to the **BRP**;
(b) applicable VAT in respect of the supplies to which the invoice relates;
(c) the invoice due date in accordance with Clause 7.7;
(d) a statement showing the basis of calculation.

BRP undertakes to pay within twenty-one (21) Days following the date of receipt of the invoices prepared in accordance with this Agreement.

Where the right of a **Defaulting Party** to receive payment has been suspended:

(a) no amount becoming due to such **Defaulting Party** shall be paid by **the SO** to such **Defaulting Party** (or to any person to whom the **Defaulting Party** may have assigned or transferred any of its rights pursuant to this Agreement);
(b) no interest shall run or be payable in respect of any such unpaid amount;
(c) **the SO** (but not the **Defaulting Party**) may set off against such unpaid amount any amount subsequently becoming payable by such **Defaulting Party**.

7.7 Payment

Payments of the invoice shall be made in **USD** [or the **ZMW** equivalent calculated at the prevailing Bank of Zambia exchange rate at the time of calculation], free of any deductions or withholdings, except for any deductions or withholdings required by applicable law, to accounts nominated by the recipient in writing.

BRPs shall pay all invoiced amounts and applicable taxes no later than twenty-one (21) **Days** from the date of receipt of the invoice.

In the event that the **BRP** fails to pay any amount by the due date, the **BRP** shall be obliged to pay interest on the unpaid balance at the **Default Interest Rate** determined in accordance with Clause 8.5.

Interest shall accrue from the due date until the date on which the amount is received by the SO.

The **BRP** shall notify the **SO** of the bank account details to which any payments due to the **BRP** are to be made.

The **SO** shall inform the **BRP** of the bank account details to which payments of Balancing Service Charges are to be made.

All payments under this Agreement shall be made in USD [or the **ZMW** equivalent calculated at the prevailing Bank of Zambia exchange rate at the time of calculation] to the relevant account of the payee.

All payments shall be made in full, free and clear of any restriction, reservation or condition and, except to the extent required by law, without deduction, withholding, set-off or counter-claim of any kind (but without prejudice to any other remedy available to the Parties).

Where **the SO** is required by law to make any deduction or withholding, the amount thereof shall be the minimum amount required by law (as modified by the terms of any agreement between the **SO** and any relevant authority), and **the SO** shall make payments and returns to the relevant authorities and issue certificates to the Parties in respect thereof as required by law (as so modified).

7.8 Payment Security

If the **BRP** fails to pay an invoice under this Agreement by the due date in respect of three consecutive months, the **BRP** shall provide payment security in the form of either:

(a) a shareholder guarantee in form and substance satisfactory to the **SO** acting reasonably taking into account the financial strength of the proposed guarantor
(b) an irrevocable standby letter of credit in favour of the **SO** issued by a bank with a credit rating of at least investment grade, in a form acceptable to the **SO** and denominated in USD or ZMW;
(c) an escrow account established with an escrow agent acceptable to the **SO**, funded in USD, ZMW and subject to terms acceptable to the **SO**; or

such security to be in an amount sufficient to cover, for all **Balancing Points** for which the **BRP** is responsible:

(d) three (3) months **of estimated Inadvertent Energy Charges** calculated in accordance with Clause 7.5.1; and
(e) payment for ten (10) hours of a Chargeable Imbalance Quantity equivalent to thirty percent (30%) of the maximum Nominated Quantity for the Balancing Points for which the **BRP** is responsible.

7.9 Disputed Invoices

Where the **BRP** disputes an invoice, the **BRP** shall notify the **SO** in writing within five (5) Business Days from the receipt of the invoice.

The **SO** shall investigate the matter within [5 days] and inform the **BRP** of the outcome of its investigation before the due date of payment specified in the invoice.

Any amount determined to be due to the **SO** shall be paid by the **BRP** within five (5) **Business Days** after the date of resolution of the dispute, unless the remaining days before the original invoice due date exceed five (5) Business Days, in which case payment shall be made by the original due date.

Any amount determined to be properly due from the **BRP** to the **SO** pursuant to this Clause 7.9 and remaining unpaid shall bear interest in accordance with Clause 8.5.

7.10 Taxes

Each **Party** shall be responsible for and shall pay or cause to be paid all taxes, duties, levies and charges imposed on it or for which it is liable in respect of the **Balancing Services** in accordance with applicable law.

8. Events of Default

8.1 Participant Default

For the purposes of this Agreement, the occurrence and continuation of any of the following events, unless any such event occurs as a result of a **Force Majeure Event**, shall constitute a **Participant Default**:

(a) the **Participant** breaches any of its obligations under this Agreement and fails to remedy such breach within the period specified for remedy in Clause 8.3;
(b) an Insolvency Event occurs;
(c) the **BRP** fails to make payment of any amount or amounts due and owing to the **SO** which is not covered by any form of guarantee and such breach is not remedied within ten (10) Days from the relevant due date;
(d) the **ERB** lawfully revokes or suspends the **Participant**'s licence due to the **Participant**'s failure to comply with the conditions of the licence;
(e) any statement, representation or warranty made by the **Participant** in this Agreement is proven to have been incorrect or misleading, in any material respect, when made or when deemed to have been made or reaffirmed and which is not remedied to **SO**'s satisfaction (acting reasonably) or if unable to be remedied for which **SO** has not been compensated (whether monetary or otherwise) to **SO**'s satisfaction (acting reasonably);

Notwithstanding the above, any of the above events shall not constitute Default if they arise as a result of a Force Majeure Event or a Change in Law. In such circumstances, the Parties shall consult in good faith to agree amendments to this Agreement as more fully set out in clause 10 below.

8.2 SO Default

For the purposes of this Agreement, the occurrence and continuation of any of the following events, unless any such event occurs as a result of a **Force Majeure Event,** shall constitute a **SO Default**:

(a) breaches any of its obligations under this Agreement and such breach is not remedied within thirty (30) **Days** (the **Remedy Period**) provided that such breach is not on account of **Participant**'s failure to comply with its material obligations under this Agreement;
(b) an Insolvency Event occurs;
(c) any statement, representation or warranty made by **SO** in this Agreement is proven to have been incorrect or misleading, in any material respect, when made or when deemed to have been made or reaffirmed and which is not remedied to **Participant**'s satisfaction (acting reasonably) or if unable to be remedied for which **Participant** or the **BRP** (if applicable) has not been compensated (whether by monetary or otherwise) to **Participant**'s satisfaction (acting reasonably).

8.3 Default Notice

Upon the occurrence of a **Default**, the non-defaulting **Party** shall give notice to the defaulting **Party** of the occurrence of such **Default** (a "**Default Notice**").

The **Default Notice** shall specify: (i) the nature of the **Default**; (ii) if the **Default** is capable of remedy, the time within which the defaulting Party must remedy the Default;, (iii) if the defaulting Party is the **Participant**, any other action the SO reasonably requires the **Participant** to take.

If:

(a) the **Default** is not capable of remedy (which shall include any Insolvency Event); or
(b) the **Default** is capable of remedy and the defaulting **Party** does not remedy the **Default** within the period specified in the **Default Notice**; or
(c) other than in respect of a payment default where the cure period is limited to 10 (ten) Business Days, the **Default** is capable of remedy but in the reasonable opinion of the defaulting **Party**, such remedy will take longer than the period specified in the **Default Notice** and within the Remedy Period specified in the **Default Notice**, the defaulting **Party** does not furnish to the other **Party** a detailed programme (a "**Remedial Programme**"), which is acceptable to the other **Party**, acting reasonably in the circumstances, for the remedy as promptly as is practicable for the **Default** and the defaulting **Party** fails to remedy the **Default** in accordance with the **Remedial Programme**;

then save for Paragraph (a) above then:

(a) where the defaulting **Participant** is the **BSP** but not a **Balancing Party** then the **SO** may deregister the defaulting **Participant** as a **BSP** and require that the **Balancing Parties** for which the defaulting **Party** acts as **BSP** either:
    i. become the **BSP** for their **Balancing Points**; or
    ii. appoint a new **BSP** for their **Balancing Points**.
(b) the non-defaulting **Party** shall be entitled to commence the dispute resolution process pursuant to Clause 9.

Where the **Default** is not capable of remedy the issue shall be submitted to the **ERB** for resolution.

8.4 Consequences of Default

8.4.1 *SO Default*

Where a **SO Default** has occurred and continues for more than forty-five (45) Days, the **Participant** may:

(a) report the **SO** to the **ERB** for breach of the **SO's** obligations where such a breach is the cause of the **SO Default**; or
(b) commence the dispute resolution process pursuant to Clause 9 9.

8.4.2 *Participant Default*

Where a **Participant Default** has occurred and continues for more than forty-five (45) **Days**, **SO** may:

(a) where the **Participant** is a **BRP**[2] and not a **Balancing Party**, then, with the written approval of the **ERB**, suspend that **Participant** and allocate its responsibilities to the **Balancing Parties** at the **Balancing Points** for which the **Participant** was responsible in accordance with the register; or

(b) report the **Participant** to the **ERB** for breach of the BRP's licence conditions; or

(c) commence the dispute resolution process pursuant to Clause 9.

Where a defaulting **Participant** has been suspended in accordance with Paragraph (a) above, then the **Participant** shall not receive any payments due in accordance with Clause 7.5.2 until such time as the suspension is lifted.

8.5 Default Interest

If any amount payable by a **Party** in respect of any charges is not paid on or before the due date, the paying **Party** shall pay interest, at the **Default Interest Rate**, on the unpaid amount from the due date until the day on which payment is made.

The **Default Interest Rate** shall be the average of the previous six (6) months' **SOFR** plus a margin of five percent (5%) capped at seven percent (7%); that is:

DIR_D = minimum ($SOFR_{avg}$ + 5.000, 7.000)

where:

DIR_D is the **Default Interest Date** applicable on **Day** D as a percentage.

$SOFR_{avg}$ is the average of all the daily **SOFR** values[3] published in the six months prior to Day D.

The **Default Interest Rate** shall be charged daily to apply in case of delayed payments and shall accrue day to day from the time payment was due until the amount due is received by the **SO**

[2] A default by a BRP that is not itself a Balancing Party (i.e. it does not own physical assets connected to the iPS) is likely either to be a financial default of a failure to provide adequate Nominations.

[3] SOFR is published as a number that is a percentage: i.e. a percentage value of 3% is published as 3.000. SOFR is only published on days that are not US public holidays.

9. Dispute Resolution

9.1. Definitions and Notice Requirements

i. *For purposes of this Agreement, a "**Dispute**" means any claim, dispute, controversy or difference of whatever nature between the Parties howsoever arising under, out of or in relation to this Agreement, including any question regarding its existence, validity, interpretation, performance, breach or termination.*

ii. A "**Notice of Dispute**" means a written notice served by one Party on the other Party identifying *the* Dispute and containing sufficient detail to enable the receiving Party to understand the nature and basis of the Dispute.

9.2. A **Dispute** is deemed to exist when one Party serves a Notice of Dispute on the other Party within ten (10) Business Days of that Party becoming aware of the Dispute. A copy of the Notice of Dispute shall be sent to the ERB.

9.3. The Notice of Dispute shall briefly set out the nature of the **Dispute** and the issues involved.

9.4. The provisions set out in this **dispute** resolution process shall not prejudice or restrict any Party's entitlement to seek interim or interlocutory relief directly from a court of competent jurisdiction.

9.5. The obligations of the Parties under this Agreement (including payment of any invoice amounts) shall not be affected by reason of the existence of a **Dispute**, save as provided for in any determination of a court.

9.6. It is intended that the **Dispute** resolution process set out in or implemented in compliance with this Agreement and described in detail in the following paragraphs to the extent possible:

a. be simple, quick and inexpensive;

b. preserve or enhance the relationship between the Parties;

c. resolve and allow for the continuing and proper operation of this Agreement and the Interconnected Power System having regard to the objectives of this Agreement;

d. resolve Disputes on an equitable basis in accordance with the provisions of this Agreement having regard to the objectives of this Agreement;

e. take account of the skills and knowledge that are required for the relevant procedure; and

f. encourage resolution of Disputes without formal legal representation or reliance on legal procedures.

9.7. Where a Notice of Dispute has been served, a representative of each of the Parties, each with authority to resolve the **Dispute**, must meet within ten **Business Days** of the date of the Notice of Dispute to seek in good faith to resolve the **Dispute**. The Parties shall negotiate in good faith and attempt to agree a resolution.

9.8. Any **Dispute** which has not been resolved amicably by the Parties within ten (10) **Business Days** of meeting in accordance with section 9.7 above shall finally be settled by arbitration administered by the Lusaka International Arbitration Centre (LIAC) in accordance with the LIAC Arbitration Rules. The decision of the Arbitrator shall be final and binding on the Parties. The Parties shall jointly appoint an Arbitrator. Should the parties fail to appoint an Arbitrator within fourteen (14) days of notice requiring them to appoint an Arbitrator, the LIAC shall appoint the Arbitrator. The seat and place of arbitration shall be Lusaka, Zambia. The language of the arbitration shall be English.

9.9. The Parties shall continue to perform all of their obligations and functions as required by the Market Guidelines including, for the avoidance of doubt, fulfilling any payment obligations as payment falls due.

9.10. If the outcome of the dispute resolution process is that this Agreement should terminate, unless otherwise determined by the arbitration award, the provisions of clause 20 shall apply.

10. Force Majeure Event

10.1 Occurrence of a Force Majeure Event

A **Force Majeure Event** means any event or circumstance (or combination of events or circumstances) which:

(a) is not within the reasonable control of the Party affected by the event in question (the "**Affected Party**");
(b) is without fault or negligence on the part of the Affected Party and is not the result of a breach by the **Affected Party** of any of its obligations under this Agreement or applicable Law;
(c) was not foreseeable, or if foreseeable, could not have been (including by reasonable anticipation) avoided or the effects of which could not have been overcome by the **Affected Party**, acting in accordance with **Prudent Industry Practice**;
(d) materially and adversely prevents, hinders or delays the **Affected Party** in its performance of any of its obligations under this Agreement.

If an **Affected Party** by acting in accordance with **Prudent Industry Practice**, has mitigated an event or circumstance that otherwise satisfies the requirements set out in clause 10.1 above, the event or circumstance mitigated shall remain a **Force Majeure Event** only to the extent that its impact persists notwithstanding such mitigation.

For the avoidance of doubt, a Force Majeure Event shall not excuse the obligation to make payments due under this Agreement.

Without limiting the generality of the foregoing, a **Force Majeure Event** may include any of the following acts, events or circumstances, but only to the extent that it satisfies the requirements set out in clause 10.1 above:

(a) any act of war (whether declared or undeclared), civil strife or sabotage, explosion, invasion, armed conflict, or act of foreign enemy, blockade, embargo, revolution, insurrection, civil commotion, act of terrorism;

(b) devastating natural disaster or calamity such as drought, earthquake, volcanic eruption, landslide, flood, storm, cyclone, tornado, typhoon, or other natural disasters or acts of God;

(c) pandemic, epidemic, famine or plague and any instruction, regulation, directive, legislation or the like issued by the Government in response to such acts, events or circumstances;

(d) labour actions such as strikes, go-slow or other labour action affecting the energy industry or a significant sector of it (except where any such dispute could have been avoided by use of the reasonable actions of the **Party** citing **Force Majeure**).

(e) **Change in Law** including Government action or inaction which has a material effect on the **SO Scheduling and Dispatch Procedures** or this Agreement, in which case:

   i. the **SO** shall consult with counterparties to Balancing Agreements on potential amendments to the standard form of this Agreement as are necessary to achieve, so far as possible the same overall balance of benefits, costs, rewards, rights, obligations, liabilities and risks as applied immediately prior to the relevant **Change in Law**;
   ii. the **SO** shall submit proposed amendments to the **ERB** for consideration;
   iii. The **ERB** shall determine the amendments to the Agreement; and
   iv. The **ERB's** determination shall be final.

Notwithstanding the foregoing, the following events or circumstances shall not constitute a Force Majeure Event:

(a) inability to make payments that are due under this Agreement;

(b) intentional acts, errors or omissions of the Affected Party;

(c) with respect to a Party, a strike, work to rule, go-slow or other labour disturbance affecting solely the employees or work force of that Party and/or its Affiliates and/or their respective agents or contractors.

(d) a delay or failure by a third party which prevents, hinders or delays the Affected Party in the Performance of its obligations under this Agreement, save where the cause of such delay or failure by the third party would constitute a **Force Majeure Event**.

10.2 Notification, Mitigation and Consequences

(a) If an **Affected Party** is unable to perform any of its obligations under this Agreement due to a **Force Majeure Event**, then such obligations shall be suspended for the duration of the **Force Majeure Event**; provided, however, that the occurrence of a **Force Majeure Event** shall not excuse the **Affected Party** from performing any other obligations not affected by the **Force Majeure Event** including the obligation to make payment that is due. In addition, the existence of such **Force Majeure Event** shall not be responsible for any losses suffered by the other **Party** as a result of such suspended performance and any performance deadline that the **Affected Party** is obliged to meet under this Agreement shall be extended day-for-day so long as the **Force Majeure Event** continues (but only to the extent that such failure or delay would not have been experienced by the **Affected Party** had the **Force Majeure Event** not occurred).

(b) **A Party may not invoke a Force Majeure Event** unless it gives notice to the other Party within two (2) Business Days of becoming aware of the **Force Majeure Event**, specifying: (a) the nature of the **Force Majeure Event**; (b) the effect on performance of obligations; and (c) measures being taken or proposed to alleviate the impact.

(c) When appropriate or reasonably requested to do so by the other **Party**, the **Affected Party** shall keep the other **Party** informed of subsequent developments as they occur.

(d) The **Affected Party** shall continue to take necessary actions within its power to comply with this **Agreement**, provided, however, that neither **Party** shall be obligated to resolve any disagreement with third persons, including labour disputes, except under conditions acceptable to it or pursuant to the final decision of any arbitral, judicial or statutory agency having jurisdiction to resolve such disagreement.

(e) Where a Party invokes a Force Majeure Event, it shall: (a) use all reasonable endeavours to mitigate or alleviate the effects of the Force Majeure Event; and (b) continue to comply with its obligations under this Agreement to the maximum extent practicable.

(f) As soon as practicable following receipt of the written notice in Paragraph (b), the **Parties** shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the **Force Majeure Event** and facilitate the continued performance of this Agreement.

(g) The **Affected Party** shall promptly provide written notice of not less than fourteen (14) **Days** to the other **Party** of cessation of the **Force Majeure Event**.

(h) If the **Force Majeure Event** continues for longer than six (6) months from the date of the written notice referred to in Paragraph (b), then:

   i. The **SO** shall consult with **Balancing Parties** affected by the **Force Majeure Event** on potential actions that may remedy the event or circumstances causing the **Force Majeure Event** and the consequences of the **Force Majeure Event** on the continuity of this Agreement;
   ii. The **SO** shall submit the proposed actions to the **ERB** for consideration;
   iii. The **ERB** shall determine the actions required; and
   iv. The **ERB's** determination shall be final.

11. Assignment

The **Participant** shall not assign, cede, sub-contract or otherwise transfer this **Agreement**, any rights or obligations hereunder without the prior written consent of the **SO** (which consent shall not be unreasonably withheld).

For the avoidance of doubt, the **Participant** may assign its rights and obligations under this agreement to a Lender in the event of that lender exercising step-in rights over the **Participant's** physical or financial power business.

For the purposes of balancing responsibilities, the **Participant** may assign its rights and obligations under this agreement with the prior written consent of the **SO** (which consent shall not be unreasonably withheld).

Notwithstanding the above, the **SO** may assign or novate its rights and obligations under this Agreement to a successor entity created to fulfil the functions of a system operator as provided for in the Electricity Act

12. Modification and Amendments

(a) Any **Party** may propose modifications and amendments of this **Agreement** in writing.
(b) No modification, variation of or addition to this **Agreement** will be of any force or effect unless reduced to writing and signed by or on behalf of all the **Parties**.
(c) No modification, variation of or addition to this **Agreement** will be of any force or effect unless approved by the **ERB**.
(d) The **SO** shall transmit or communicate any proposed amendments, modifications and variations to the ERB and the Attorney General for approval.

13. Confidentiality

(a) This **Agreement** shall be a public document with the exception of the register which shall be treated as **Confidential Information**.
(b) The receiving party in each case shall not disclose **Confidential Information** which it has received from the disclosing party same to third parties without:
    i. the prior written authorization of said disclosing **Party**; and
    ii. if required by the disclosing **Party**, obtaining a written undertaking of confidentiality from any third-party recipient(s).
(c) The confidentiality obligations in this Agreement relating to the **Confidential Information** shall not apply to:
    i. information which at the time of disclosure is in the public domain.
    ii. information which the receiving Party is bound to disclose by applicable law; and
    iii. disclosures to either Party's auditors, regulatory authorities or financiers, guarantors of any loans to such Party and to their respective commercial advisors, tax or legal advisors who are required to have access to such information for the purpose of their function in respect of the Party in question and or the provision of their professional advice and which in all cases should be bound by the same confidentiality obligation as the receiving Party.
(d) The confidentiality obligations set forth in this Agreement shall survive termination of this Agreement.

14. Waivers

14.1 Waiver of SO Liability for PPAs and PSAs

(a) The **Participant** acknowledges that the **SO** has no control over the contractual provisions relating to quantities and pricing in the **Participant's** or the **BRP**'s (if applicable) **PPAs** and **PSAs**. As such, subject to Paragraph (b), the **SO** shall have no liability for any damage or loss that the **Participant** or the **BRP** (if applicable) may suffer because of the failure of transmission of energy or as a result of market conditions.
(b) Any liability of the **SO** resulting from its failure to perform any of its obligations under this **Agreement** or its obligations set out in the **Grid Code** shall not be

excluded.

(c) Nothing in this Clause excludes or limits any liability for fraud.

14.2 Waiver of default

A waiver at any time by a **Party** of some or all of its rights with respect to a default arising under or in connection with this **Agreement**, shall not be deemed to be a waiver of a **Party's** right in any further default by the defaulting **Party** or with respect to any such other matter arising in connection with this **Agreement** thereafter.

14.3 Waiver of Sovereign Immunity

To the extent that the **SO** may in any jurisdiction claim for itself or its assets where any, or revenues, immunity from suit, execution, attachment or other legal process and to the extent that in any such jurisdiction there may be attributed to the **SO** or its assets or revenue such immunity (whether claimed or not), the **SO** agrees not to claim and irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

15. Severability

The **Parties** agree that they will perform their obligations under the terms of this **Agreement** in accordance with all applicable laws, rules and regulations now or hereafter in effect. If any Clause in this **Agreement** is found to be illegal or unenforceable, then the **Parties** shall take all possible steps to restructure the affected Clause of the **Agreement** in such a manner that it will comply with provisions of such laws. In such event the remaining Clauses of this **Agreement** shall remain binding on the **Parties**.

16. Notices and Addresses

(a) The address for notices to the SO shall be [________________]:

(b) The address for notices for Participant shall be [________________]:

(c) Any notice given in terms of this Agreement shall be:

i. if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;

ii. if posted by prepaid registered post be deemed to have been received by the addressee on the day of receipt;

iii. if transmitted by email be deemed to have been received by the addressee one day after dispatch where no notice of non-delivery has been received.

iv. Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication, actually received by one of the Parties from the other, including by way of email transmission, shall be adequate written notice or communication to such Party.

17. Governing Law

This **Agreement** and the rights and obligations of the **Parties** under or pursuant to this **Agreement** shall be governed by and construed according to the Laws of Zambia.

18. Entire Agreement and Variations

This **Agreement** constitutes the whole agreement amongst the **Parties** and supersedes all prior verbal or written agreements or understandings or representations by or between the **Parties** regarding the subject matter of this **Agreement**, and the **Parties** will not be entitled to rely, in any dispute regarding the subject matter of this **Agreement**, on any terms, conditions or representations not expressly contained in this **Agreement**.

19. Joint Ventures and Consortia

If the **Participant** is a joint venture or consortium, all of the parties to the joint venture or consortium shall be jointly and severally liable to **SO** for the fulfilment of the provisions of the **Agreement** and shall designate one party to act as a leader with the authority to bind the joint venture or consortium. The composition or the constitution of the joint venture or consortium shall not be altered without the prior consent of the **SO**, such consent not to be unreasonably withheld.

20. Termination

This Agreement may be terminated by a Party in the circumstances set out below, subject to the notice and cure provisions specified herein.

20.1 Voluntary Termination by the BRP

Where the **Participant** is a **Balance Responsible Party** but not a **Balancing Party**, on their ceasing to be a Balance Responsible Party, the **Participant** may terminate this Agreement by giving at least ninety (90) Business Days' written notice to the **SO** (with copy to the ERB), provided that:

(a) all amounts due under this Agreement are paid in full;
(b) any outstanding defaults capable of remedy have been remedied; and
(c) applicable metering requirements are complied with.

20.2 Termination Procedures and Effects

i. Any notice of termination shall specify the grounds for termination

ii. Upon termination of this Agreement, the Parties shall:

(a) settle all outstanding financial obligations, amounts due, and liabilities arising under this Agreement;
(b) return or destroy all Confidential Information received from the other Party, as directed by the disclosing Party; and
(c) cooperate in good faith to ensure the orderly transition of the Participant's balancing responsibilities and to minimise disruption to the power system.

20.3 Survival of Provisions

The expiration or termination of this Agreement for any reasons shall not release either party from any liabilities or obligations set forth in the Agreement which remain to be performed or by their nature would be intended to be applicable following any such expiration or termination. For the avoidance of doubt, the provisions of Clauses 9 (Dispute Resolution), 13 (Confidentiality), 17 (Governing Law), and this Clause 20 shall survive termination of this Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first above written.

SIGNED by for and on behalf of: PARTICIPANT: ……………………………………...
in the presence of:

……………………………………….
Witness Name:
Occupation:
Address:

SIGNED by for and on behalf of: SYSTEM OPERATOR in the presence of:

……………………………………….
Witness Name:
Occupation:
Address: