Rialtas na hÉireann
Government of Ireland

Terms and Conditions for the First Competition under the Renewable Electricity Support Scheme

RESS 1: 2020

December 2019

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1 Introduction, Purpose and Structure

1.1 The Minister has developed the new Renewable Electricity Support Scheme (**RESS**) for Ireland. The RESS aims to promote the generation of electricity from renewable sources. The new scheme is framed within the context of the Climate Action Plan and the European Union's Clean Energy Package (EU Clean Energy Package), in particular the Renewable Energy Directive and the development of Ireland's draft National Energy and Climate Plan. The RESS will be consistent with the EU Clean Energy Package and will rely on competitive forces to achieve renewable energy ambitions at the lowest feasible cost to electricity customers.

1.2 This document sets out the terms and conditions that will apply to the first auction to be conducted under the RESS and to the ongoing administration of awards made in the RESS 1 Auction.

1.3 The document is structured as follows:

- Section 1 provides an overview of the overarching principles of RESS
- Section 2 provides definitions and interpretation provisions
- Section 3 provides for the legal basis for RESS 1
- Section 4 sets out the roles for the Auction Monitor and the Market Auditor
- Section 5 sets out the form of RESS 1 Support
- Section 6 sets out the parameters around the RESS 1 Auction including the target volume, Preference Categories, eligibility requirements, the requirements of Offers and the winner selection rules
- Section 7 sets out the community-related aspects of RESS 1
- Section 8 sets out the obligations on Successful Applicants

- Section 9 sets out (a) the processes that will be employed by the TSO to administer the RESS 1 Auction including the application process and (b) associated qualification process

- Section 10 sets out the reserved rights of the Minister with respect to RESS 1

- Section 11 sets out additional general terms and conditions applicable to RESS 1

- Annex A sets out specific technical requirements for certain Eligible Technologies

- Annex B sets out the form of Implementation Agreement that will be provided to Successful Applicants in the RESS 1 Auction, including: (i) for the form of the Performance Bond to be provided by Successful Applicants (except in respect of a Community Zero-Bond Project) and (ii) the form of Letter of Offer to be provided by the Minister to Successful Applicants, in accordance with these Terms and Conditions

- Annex C sets out the requirements relating to the REP Scheme.

1.4 Key elements of the RESS include the following:

- It has been designed to promote investment in renewable energy generation to contribute toward Ireland's ambition of 70% renewable electricity, and an EU-wide renewable energy target of 32%, by 2030, within a competitive auction based, cost effective framework.

- It has been designed to deliver on a broader range of policy objectives including:

    - the provision of pathways and supports for communities to participate directly in renewable energy projects

    - broadening the renewable electricity technology mix (the diversity of technologies) and

    - increasing energy security, energy sustainability and ensuring the cost effectiveness of energy policy.

1.5 Running in tandem with Corporate Power Purchase Agreements (CPPAs), the RESS (in conjunction with previous renewable support schemes and CPPAs) will provide up to 70% renewable electricity by 2030. This is currently forecasted to equate to up to 30 TWh by 2030 based on the demand forecast contained in the EirGrid Generation Capacity Statement 2019- 2028. This will be subject to determining the cost-effective level of procurement which will be set out in Ireland's National Energy and Climate Plan.

The RESS will be implemented through a series of renewable electricity competitions and it will provide a renewable electricity auction roadmap, providing indicative timelines and capacities. The RESS is in line with new designs operated across the European Union. However, it differs from the previous support schemes for renewable electricity in Ireland.

1.6 Three entities will be primarily involved in the implementation of the RESS. These are the Minister (when applicable the Minister's designee acting through the Minister), the Regulatory Authority and the TSO. The Minister is responsible for the design of the RESS (including the design of RESS competitions), policy and competition parameters and decisions with respect to the RESS auctions and the development of terms and conditions applicable to each RESS auction.

The Regulatory Authority is responsible for advising the Minister with respect to the potential availability of RESS supply for each RESS competition, competition parameters for each RESS auction, appointing and overseeing the Auction Monitor and Market Auditor, and for ongoing administration and calculation of RESS payments through the PSO Levy in accordance with provisions set forth in the terms and conditions of each RESS auction by the Minister. The TSO is responsible for administering the RESS auctions in accordance with provisions set forth in the terms and conditions of each RESS competition.

1.7 The specific responsibilities to be fulfilled by the TSO with respect to RESS are as follows:

- administer a set of operational procedures for competitions established by the Minister under Article 39(2)(b) of the Act and as provided for in the terms and conditions of the relevant RESS competition;

- administer an application, qualification and competitive bidding process for competitions established by the Minister and as provided for in the terms and conditions of the relevant RESS competition;

- establish a dispute resolution process for the resolution of disputes relating to the qualification and auction processes of the scheme;

- conduct analysis to support the Minister as necessary for the establishment of a competition established under Section 39(2)(b) of the Act as provided for in the terms of reference of the relevant RESS competition;

- submission of results of a RESS competition established under Section 39(2)(b) of the Act to the Minister and the Regulatory Authority; and

- report to the Minister on the compliance with TSO's obligations detailed above in these Terms and Conditions.

1.8 These Terms and Conditions apply to RESS 1 only. Future RESS auctions and supports will be subject to such terms and conditions as shall be issued in respect of those future RESS auctions and supports. All description of and references to future RESS auctions and supports are provided solely for information purposes only and should not be construed so as to create legally binding obligations as between or impose rights and duties on any persons.

1.9 RESS 1 has been designed to be consistent with Articles 107 to 109 of the Treaty on the Functioning of the European Union together with all associated relevant European Union rules, regulations, guidance and notices applicable to state aid.

1.10 RESS 1 is subject to any and all clearances required from the EU Commission and any consents, clearances or licenses which might be required from any other competent regulatory or statutory body.

1.11 Subject to Article 6 of the Renewable Energy Directive, the Minister reserves the right to alter or amend any provision, section of part of these Terms and Conditions, including as a consequence of any directions, conditions or requirements of any such consents, clearances or licenses.

1.12 The Minister may (in his sole discretion and subject to relevant state aid approvals) adjust the level of support to be provided pursuant to these Terms and Conditions in accordance with the following objective criteria:

- to promote investor certainty and protect the financial viability of RESS 1 Projects that are the subject of an Award;

- to facilitate changes in electricity market arrangements and market revenue calculations by the Regulatory Authority;

- to promote the short-term and long-term interests of consumers of electricity with respect to reliability, affordability and sustainability of electricity in Ireland; and

- to ensure proportionality and transparency in the operation of RESS 1.

2 Definitions and Interpretations

2.1 In these Terms and Conditions, except where the context otherwise requires, capitalised terms used but not otherwise defined herein shall have the following meanings:

"**Act**" means the Electricity Regulation Act 1999 (as amended).

"**Affiliate**" means, in relation to any company that is incorporated in Ireland or any other jurisdiction, any holding company of that company, any subsidiary of that company or any subsidiary of a holding company of that company, in each case within the meaning given to those terms in sections 7 and 8 of the Companies Act 2014 in Ireland.

"**All Projects Preference Category**" means a Preference Category for all renewable projects eligible to participate in the RESS 1 Auction with the exception of Community Zero-Bond Projects.

"**An Bord Pleanála**" means the authority established under the Local Government (Planning and Development) Act 1976 (as amended from time to time), and which is responsible for, amongst other things, the determination of appeals and certain other matters under the Planning and Development Act 2000 (as amended from time to time).

"**Applicant**" means a person applying to qualify for the RESS 1 Auction.

"**Application for Qualification**" means an application to be submitted by an Applicant seeking to qualify for the RESS 1 Auction.

"**Application for Review**" means an application by an Applicant requesting the TSO to review a Provisional Qualification Decision in respect of an Application for Qualification.

"**Auction Information Pack**" means the information pack prepared by the TSO in accordance with section 9.4.1 of these Terms and Conditions for the purpose of informing Qualified Applicants of the timing, requirements and processes involved in the RESS 1 Auction.

"**Auction Information Pack Publication Date**" means the scheduled publication date for the Auction Information Pack.

"**Available Volumes**" is defined in section 6.3.1 of these Terms and Conditions.

"**Award**" or "**Awards**" means the award of RESS 1 Support to Successful Applicants.

"**Bid Bond**" means the cash security to be lodged by Qualified Applicants in accordance with these Terms and Conditions.

"**Bid Bond Posting Date**" means the last day on which a Bid Bond may be lodged by the Qualified Applicant in the TSO RESS Account, and accepted by the TSO, such date to be published in the Auction Information Pack.

"Bid Bond Required Amount" is defined in section 6.5.1 of these Terms and Conditions.

"**Biogas**" means gaseous fuels produced from Biomass.

"**Biomass**" means the biodegradable fraction of products, waste and residues from biological origin from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as the biodegradable fraction of industrial and municipal waste.

"**Climate Action Plan**" means the climate action plan to tackle climate breakdown which was published by the Department of Communications, Climate Action & Environment on 17 June 2019.

"**Commercial Operation**" shall have the meaning given to that term in the Implementation Agreement.

"**Community Benefit Fund**" means the fund to be set up by the Generator in respect of a Developer Led Project whereby the Generator will contribute €2 per MWh to such fund for the benefit of the community in accordance with these Terms and Conditions.

"**Community-Led Project**" means a RESS 1 Project which complies with all of the requirements as set out in section 7.1 of these Terms and Conditions.

"**Community Preference Category**" means a Preference Category for Community-Led Projects in the RESS 1 Auction.

"**Community Zero-Bond Project**" means a Community-Led Project that has submitted an Application for Qualification in the Community Preference Category and has not submitted an Application for Qualification in either (a) the Solar Preference Category or (b) the All Projects Preference Category.

"**Curtailment**" has the meaning set out in decision paper SEM-13-10 "Definition of Curtailment and Constraint, Version 1.0, 13 Feb 2013".

"**Curtailment Compensation Arrangements**" has the meaning set out in section 5.6 of these Terms and Conditions.

"**DAM Price**" means the price resulting from the Day Ahead Market.

"**Day Ahead Market**" or "**DAM**" means the day ahead market as more particularly described in the SEMOpx Rules, including the "Day-ahead Auction Market Segment" within the meaning given to that expression in the SEMOpx Rules and any successor thereto.

"**Deemed Energy Quantity**" is defined in section 6.7.4 of these Terms and Conditions.

"**Deemed Offer Price**" is defined in section 6.7.5 of these Terms and Conditions.

"**Developer Led Project**" means a RESS 1 Project that is not permitted to participate in the Community Preference Category.

"**Difference Payment**" has the meaning given to it in section 5.2.5 of these Terms and Conditions.

"**Distribution System Operator**" or "**DSO**" means ESB Networks DAC in its capacity as Distribution System Operator pursuant to a licence granted by the Regulatory Authority pursuant to section 14(1)(g) of the Act and any successor distribution system operator.

"**ECP-1**" means the system for issuing connection offers for new generation and storage capacity referred to as "Enduring Connection Policy - 1".

"**ECP-1 Project**" means a RESS 1 Project listed as eligible for connection offer under ECP-1.

"**EU Clean Energy Package**" means the European Union's clean energy package which consists of eight legislative acts, including the Renewable Energy Directive.

"**EU Commission**" means the executive branch of the European Union including its various Directorates-General with responsibility for policy matters including, *inter alia,* energy and competition policy.

"**Evaluation Correction Factor**" has the meaning given to it in section 6.7.5 of these Terms and Conditions.

"**Final Auction Results**" means the final auction results issued by the TSO in respect of the outcome of the RESS 1 Auction.

"Final Auction Results Date" the indicative date for issue of the Final Auction Results by the TSO**.**

"**Final Competition Ratio**" has the meaning given to it in section 6.6 of these Terms and Conditions.

"**Final Qualification Decision**" means the final decision by the TSO (as approved by the Minister) identifying the Successful Applicants as more particularly set out at section 9.2.6 of these Terms and Conditions.

"**Final Qualification Decision Date**" means the indicative date for submission of Final Qualification Decisions to Qualified Applicants in accordance with section 9.2.6 of these Terms and Conditions.

"**FIP**" means the two way floating feed in premium applicable to RESS 1, the operation of which is further set out at section 5.2 of these Terms and Conditions.

"**Force Majeure**" has the meaning given to it in the Implementation Agreement.

"**Generator**" means a person who is the holder of a licence to generate electricity under section 14(1)(a) of the Act and in the context of these Terms and Conditions means a person that is party to an Implementation Agreement and/or has received a Letter of Offer.

"**Grid Contracted Project**" means a RESS 1 Project that has been issued a grid connection offer by the DSO or TSO (as applicable) or is party to a grid connection agreement with the DSO or TSO (as applicable), in each case of sufficient capacity for the Offer Quantity submitted in the Application for Qualification for such RESS 1 Project.

"**Guarantee of Origin**" has the meaning given to it in Article 2(j) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009.

"**GWh**" means gigawatt hour.

"**High Efficiency CHP**" or "**HECHP**" means high efficiency cogeneration which complies with criteria specified in Annex 11 of Directive 2012/27//EC.

"**Hydro**" means hydro electric generation which uses hydraulic turbines but excludes pumped- storage hydro.

"**Implementation Agreement**" means an agreement to be entered into between a Successful Applicant and the Minister, in the form set out in Appendix C of these Terms and Conditions.

"**Information Paper**" means the information paper published by the Regulatory Authority on 2 September 2019 on the *"Terms of Reference for the RESS Market Auditor and Auction Monitor"* (Reference CRU-19-109).

"**Irish Transverse Mercator**" means the geographic coordinate system for Ireland implemented jointly by Ordinance Survey Ireland and Ordinance Survey of Northern Ireland.

"**kW**" means kilowatt.

"**Letter of Offer**" means a letter of offer for RESS 1 Support from the Minister to a Generator, in the form set out in Appendix 1 of the Implementation Agreement.

"**Longstop Date**" means, in respect of Commercial Operation, 31 December 2023.

"**Loss-Adjusted Metered Quantity**" means Metered Quantity adjusted to reflect transmission losses and distribution losses (as determined by the TSO and DSO from time to time).

"**Market Reference Price**" is defined in section 5.2.3 of these Terms and Conditions.

"**Maximum Export Capacity**" **or** "**MEC**" means the maximum export capacity of a RESS 1 Project as stated in its grid connection offer / agreement (or, in the case of ECP-1 Projects, as listed in ECP-1) and indicated in the Application for Qualification.

"**Maximum Offer Price Considered**" means the maximum Offer Price allowed to be included in an Offer for the RESS 1 Auction and such maximum Offer Price for the RESS 1 Auction is €120/MWh.

"**Metered Quantity**" has the meaning given to that term in the SEM Trading and Settlement Code.

"**Milestone**" means the milestones prescribed in the Implementation Agreement.

"**Minister**" means the Minister of Communications, Climate Action & Environment or any successor.

"**MW**" means Megawatt.

"**MWh**" means Megawatt hour.

"**National Energy and Climate Plan**" or "**NECP**" means the National Energy and Climate Plans developed by the Irish Government in order to meet the European Union's energy and climate targets for 2030 and as required under the European Regulation (EU) 2018/1999 of the European Parliament and of the Council on 11 December 2018 on the Governance of the Energy Union and Climate Action.

"**New Project**" means a RESS 1 Project which comprises of each of the following elements:

(a) the electricity generating equipment in respect of the RESS 1 Project is electricity generating equipment that was not previously used at the Site;

(b) the investment in the RESS 1 Project by or on behalf of the Generator for that RESS 1 Project must equal or exceed €300 per kW of capacity;

(c) if the RESS 1 Project is built at a Site that was previously used for renewable generation, it must have a 50% increase in installed capacity compared to the previous renewable energy generation project at that Site; and

(d) provided for the avoidance of any doubt, the RESS 1 Project cannot benefit from any other support scheme funded via the PSO Levy while in receipt of RESS 1 Support.

"**Non-Variable**" means, for the purposes of these Terms and Conditions, a RESS 1 Project using one of the following Eligible Technologies:

(a) Waste to Energy HECHP;

(b) Biomass HECHP; or

(c) Biogas HECHP.

"**Notice of Dissatisfaction**" means a notice of dissatisfaction issued by an Applicant or Qualified Applicant in accordance with sections 9.2.5(d) and 9.4.2(d) of these Terms and Conditions.

"**Offer**" means an offer made by a Qualified Applicant in the RESS 1 Auction.

"**Offer Price**" means the single price to be specified in an Offer (expressed in €/MWh).

"**Offer Quantity**" means the MW quantity of the RESS 1 Project being offered into RESS 1 and the same will be specified in both the Application for Qualification and in the Offer.

"**Offshore Wind**" is defined in section 6.4.3 of these Terms and Conditions.

"**Onshore Wind**" is defined in section 6.4.3 of these Terms and Conditions.

"**Operational Processes**" means a set of processes prepared by the TSO detailing all parties' obligations in respect of the operation of the RESS 1 Auction and to be published by the TSO in the Qualification Information Pack and Auction Information Pack.

"**Performance Bond**" means the on demand bond to be procured by a Generator in favour of the Minister in the form as set out in Appendix 3 of the Implementation Agreement.

"**Preference Categories**" means the preference categories within which eligible Technologies will compete against each other in the RESS 1 Auction as detailed in section 6.2 of these Terms and Conditions.

"**Preference Category Flag**" is defined in section 6.8.2 of these Terms and Conditions.

"**Pricing Information**" means information provided by an Applicant that: (a) provides an indication of what Offer Price the RESS 1 Project may submit in the RESS 1 Auction including a range of potential Offer Prices; (b) provides an indication of what pricing a counterparty would be willing to enter in to a PPA contingent upon the RESS 1 Project receiving an Award; and (c) provides an indication of any relationship between the Offer Price and the terms under which an entity would provide equity or debt financing or otherwise acquire an interest upon the RESS 1 Project receiving an Award.

"**Provisional Auction Results**" means the provisional auction results issued by the TSO in respect of the outcome of the RESS 1 Auction.

"**Provisional Auction Results Date**" the indicative date for issue of the Provisional Auction Results by the TSO.

"**Provisional Qualification Decision**" means a provisional qualification decision issued by the TSO in respect of the outcome of an Application for Qualification.

"**Prudent Electric Utility Practice**" means those standards, practices, methods and procedures conforming to safety standards and legal requirements which are attained by exercising that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances.

"**Prudent Industry Operator**" means an operator engaged in the electric utility industry which performs in accordance with Prudent Electric Utility Practice.

"**PSO**" means the 'public service obligation' which may be imposed by virtue of Section 39 of the Act.

"**PSO Levy**" has the meaning given to "public service obligations levy" in the PSO Order.

"**PSO Levy Year**" means a one-year period running from 1 October to 30 September the following year or such other period as may be specified in any update to the PSO Order.

"**PSO Order**" means the Electricity Regulation Act 1999 (Public Service Obligations) Order 2002 (as amended from time to time).

"**PSO S.I**" is defined in section 5.3.3 of these Terms and Conditions.

"**Qualified Applicant**" means an Applicant whose Application for Qualification has been included in the Qualification Results which has been approved by the Minister.

"**Qualification Application Closing Date**" means the last date an Applicant can submit an Application for Qualification in respect of the RESS 1 Auction.

"**Qualification Decisions Submission Date**" means the indicative date for submission of Final Qualification Decisions to the Minister in accordance with section 9.2.6(b) of these Terms and Conditions.

"**Qualification Information Pack**" means an information pack prepared by the TSO for the purpose of informing Applicants as to, inter alia, the timing, requirements and conduct of the qualification for the RESS 1 Auction.

"**Qualification Results**" means the qualification results prepared by the TSO in accordance with these Terms and Conditions.

"**Regulatory Authority**" means the Commission for Regulation of Utilities as established pursuant to the Act or any successor body.

"**Renewable Energy Community**" means a legal entity:

(a) which, in accordance with applicable law, is based on open and voluntary participation, is autonomous, and is effectively controlled by shareholders or members that are located (in the case of SMEs or local authorities) or resident (in the case of natural persons) in the proximity of the RESS 1 Project that is owned and developed (or proposed to be owned and developed) by that legal entity;

(b) the shareholders or members of which are natural persons, SMEs or local authorities, including municipalities;

(c) for any shareholder or member which is a natural person or SME, that shareholder or member's participation does not constitute their primary commercial or professional activity;

(d) the primary purpose of which is to provide environmental, economic, societal or social community benefits for its shareholders or members or for the local areas where it operates, rather than financial profits and which reinvests surpluses into achieving such benefits; and

(e) which is, or which has at least one shareholder or member that is, registered as a "Sustainable Energy Community" with SEAI.

"**Renewable Energy Directive**" means Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.

"**REP Scheme**" means the 'Renewable Energy Participation Scheme', the high level detail in respect of which[1] is attached at Annex C to these Terms and Conditions.

"**Representative Competition Ratio**" shall have the meaning given to it in section 6.3.1 of these Terms and Conditions.

"**Representative Maximum Quantity**" means the Representative Maximum Quantity as determined by the Minister in accordance with section 6.3.2 of these Terms and Conditions.

"**RESS 1**" means the first RESS competition and includes the RESS 1 Auction and the RESS 1 Support.

"**RESS 1 Auction**" means the auction, to be conducted under section 6 of these Terms and Conditions, for the award of RESS 1 Support.

"**RESS 1 Auction Submission Deadline Date**" means the closing date for receipt of Offers.

"**RESS 1 Auction Timetable**" means the schedule of events leading up to and following the RESS 1 Auction, as may be amended or updated by the Minister and/or the TSO from time to time.

"**RESS 1 Payment**" means Support Payments and Difference Payments.

"**RESS 1 PPA**" means a power purchase agreement complying with these Terms and Conditions between a Generator and a Supplier obliging the latter to purchase the electrical output from the relevant RESS 1 Project, and "PPAs" shall be construed accordingly.

"**RESS 1 Project**" means a renewable energy project, as detailed in an Application for Qualification.

[1] **Note to Stakeholders:** To be replaced with "detailed requirements of which" in the final version.

"**RESS 1 Support**" means an entitlement to receive Support Payments, and an obligation to pay Difference Payments.

"**SEM**" **or** "**Single Electricity Market**" means the arrangements in the State and Northern Ireland initially described in the Memorandum of Understanding between Great Britain and Ireland, which are designed to promote the establishment and operation of a single wholesale electricity market and which allow for the efficient application of the European Union rules for cross-border trade in electricity (as provided in Section 2 of the Energy Act 1999 (as amended) by the Energy Act 2016).

"**SEM Trading and Settlement Code**" means the balancing market rules for both the trading and settlement with respect to electricity and for the settlement of capacity in the Single Electricity Market.

"**SEMO**" has the meaning given to the term "Market Operator" in the SEM Trading and Settlement Code.

"**Site**" means the relevant parcel(s) of land set out in the Application for Qualification, upon or adjacent to which the RESS 1 Project is intended to be developed, constructed and operated.

"**SME**" means, as per Article 2 of the Renewable Energy Directive, a micro, small or medium- sized enterprise as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC.

"**Solar**" has the meaning given to it in section 6.4.3 of these Terms and Conditions.

"**Solar Preference Category**" means a Preference Category for Solar Projects in the RESS 1 Auction.

"**Solar Project**" means a RESS 1 Project which comprises Solar as its Eligible Technology. "**Strike Price**" is defined in section 5.2 of these Terms and Conditions.

"**Successful Applicant**" means a Qualified Applicant (or, where a different entity, the proposed Generator in respect of the relevant RESS 1 Project) who has been notified by the TSO that its Offer into the RESS 1 Auction was successful.

"**Supplier**" means an entity licensed by the Regulatory Authority to supply electricity in Ireland.

"**Support Payment**" is defined in section 5.2.5 of these Terms and Conditions.

"**Sustainable Energy Community**" a "Sustainable Energy Community" which is registered as such with the SEAI.

"**SEAI**" means the Sustainable Energy Authority of Ireland.

"**Terms and Conditions**" means these RESS 1 terms and conditions, together with all of its Annexes.

"**Transmission System Operator**" or "**TSO**" means EirGrid plc in its capacity as transmission system operator pursuant to a licence granted by the Regulatory Authority under section 14(1)(e) of the Act and any successor transmission system operator.

"**TSO Bank**" means a bank which is used by the TSO and where a Qualified Applicant must deposit its Bid Bond, details of which will be advised to Qualified Applicants by the TSO.

"**TSO RESS Account**" means the bank account held by the TSO whereby Qualified Applicants must post a Bid Bond in respect of their RESS 1 Project, details of which will be communicated to Qualified Applicants by the TSO.

"**TWh**" means a terawatt-hour.

"**Variable**" means, for the purposes of these Terms and Conditions, a RESS 1 Project in one of the following Eligible Technologies (regardless of whether or not the RESS 1 Project incorporates battery or other storage technology):

(a) Onshore Wind;

(b) Offshore Wind;

(c) Solar; or

(d) Hydro.

"**Working Day**" means a weekday which is not:

(a) a public holiday or a bank holiday in Ireland; or

(b) a non-processing day, as advised by the TSO Bank.

2.2 The TSO shall use consistent numerical rounding of all published quantities in accordance with the following:

- All energy variables shall be expressed in MWh to three decimal places;
- All power variables shall be expressed in MW to three decimal places;
- All monetary variables shall be expressed in Euro to two decimal places;
- All parameters, ratios, factors, discounts, premiums, currency exchange rates, rates, and proportions used in calculations shall be published to the same number of decimal places as that used in calculations; and
- Time shall be expressed to the nearest second.

Any price, variable, quantity, parameter, volume, ratio, factor, discount, premium, rate or proportion determined under these Terms and Conditions and to be used in settlement under the relevant legislation shall be calculated to the level of computational precision required to carry out those settlements in accordance with the requirements of relevant legislation.

Without prejudice to the above two paragraphs in this section 2.2, the TSO shall not round any price, variable, quantity, parameter, volume, ratio, factor, discount, premium, rate or proportion during calculation other than that automatically arising from its IT systems, unless specifically required under these Terms and Conditions.

2.3 In these Terms and Conditions (including the Annexes), the following shall apply unless the context requires otherwise:

2.3.1 the table of contents, and any headings in these Terms and Conditions, are for ease of reference only and do not form part of the contents of these Terms and Conditions and do not and shall not affect its interpretation;

2.3.2 words in the singular shall include the plural and vice versa and the masculine gender shall include the feminine and neuter;

2.3.3 the word “including” and its variations are to be construed without limitation, and a reference to a range of paragraphs (e.g., 2.3.1 – 2.3.8) includes both paragraphs referred to, as well as all those between;

2.3.4 any reference to any legislation, primary or secondary, in these Terms and Conditions includes any statutory interpretation, amendment, modification, replacement, re-enactment or consolidation of any such legislation and any regulations or orders made thereunder and any general reference to any legislation includes any regulations or orders made thereunder;

2.3.5 any reference to another agreement, code or document, or any licence, deed or other instrument is to be construed as a reference to that other agreement, code or document, deed, licence or other instrument as lawfully amended, modified, supplemented, substituted, assigned or novated from time to time;

2.3.6 any references to sections, paragraphs, annex(es), Tables and Operational Processes are references to sections, paragraphs, annex(es), Tables and Operational Processes of these Terms and Conditions as amended or modified from time to time in accordance with the provisions of these Terms and Conditions;

2.3.7 any reference to a day is to be construed as a reference to a calendar day except where provided otherwise, and any reference to a year is to be construed as a reference to a period of 12 months;

2.3.8 any reference to a time is to be construed as a reference to the time prevailing in Dublin, Ireland;

2.3.9 capitalised words and phrases have the meaning given to them in section 2.1 to these Terms and Conditions;

2.3.10 references to the “Minister” includes any designee, appointee, agent, state department or any other person authorised to act on behalf of the Minister;

2.3.11 a reference to a “person” includes any individual, partnership, firm, company, corporation (statutory or otherwise), joint venture, trust, association, organisation or other entity, whether or not having separate legal personality;

2.3.12 where these Terms and Conditions require the Minister, the TSO or the Regulatory Authority to publish information and no timeline is specified for such publication, it shall be required to publish such information as soon as is reasonably practicable in the particular circumstances; and

2.3.13 differences of language between provisions may be explicable by reference to changes of drafting practice and do not necessarily imply a difference of meaning.

3 Legal Basis for RESS 1

3.1 This section provides information on the applicable legal basis for RESS 1, including the conducting of the RESS 1 Auction and the provision of RESS 1 Support in accordance with these Terms and Conditions.

3.2 RESS 1 is established by the Minister under Section 39(2) (b) of the Act.

3.3 The RESS 1 Support will be funded through the PSO Levy charged to all final electricity customers. Section 39 of the Act sets out the legal basis for the PSO Levy.

3.4 Statutory Instrument No. 217 of 2002 (as amended) made under Section 39 of the Act requires that the Regulatory Authority calculates and certifies the costs associated with the PSO, including each of the relevant PSO schemes, and sets the associated PSO Levy.

3.5 RESS 1 is part of the RESS package, which is subject to approval by the EU Commission prior to the RESS 1 Auction and is consistent with the European Union's Clean Energy Package, in particular the Renewable Energy Directive.

3.6 Copies of legislation referred to in these Terms and Conditions are available online at http://www.irishstatutebook.ie. EU Directives are available online at http://eur-lex.europa.eu/en/index.htm. Regulatory Authority decisions are available at http://www.cru.ie.

3.7 These Terms and Conditions shall be governed by and construed in accordance with the laws of Ireland and, subject to sections 9.2.5(d) and 9.4.2(d) of these Terms and Conditions, the Courts of Ireland shall have exclusive jurisdiction in relation to any matter arising under or in respect of these Terms and Conditions.

4 RESS Auction Monitor and Market Auditor

4.1 The Regulatory Authority will appoint a person or firm to act as the RESS auction monitor (the "**Auction Monitor**"). In accordance with the Information Paper, the Auction Monitor shall monitor the processes and procedures followed by the TSO in carrying out qualification and conducting the RESS 1 Auction under these Terms and Conditions and the Operational Processes.

4.2 The Regulatory Authority will appoint a person or firm to act as the RESS market auditor (the "**Market Auditor**"). In accordance with the Information Paper, the Market Auditor shall conduct an audit of the operation and implementation of the RESS 1 Auction, procedures and processes under these Terms and Conditions and the Operational Processes at least annually, in accordance with the terms of reference determined by the Regulatory Authority.

5 RESS 1 Support

Note to stakeholders: Section 5 of these Terms and Conditions is for consultation only. The process of PSO settlement is a matter for the Regulatory Authority and a separate information paper will be published by the Regulatory Authority detailing this process. This section may be amended upon publication of the final version of the Terms and Conditions.

5.1 Overview

5.1.1 Eligible prospective renewable electricity generators may compete in the RESS 1 Auction (as further detailed in this section 5 of these Terms and Conditions) for RESS 1 Support, subject to and in accordance with these Terms and Conditions.

5.1.2 A Successful Applicant in the RESS 1 Auction will be provided with an Implementation Agreement that will, subject to the terms and conditions of the Implementation Agreement, require the Minister to provide the Successful Applicant with a Letter of Offer within two weeks of the later to occur of: (i) the receipt by the Minister of two original counterparts of the Implementation Agreement signed by the Successful Applicant and; (ii) except in the case of a Community Zero-Bond Project, the provision of the Performance Bond to the Minister by the Successful Applicant.

5.1.3 The Letter of Offer will, subject to the terms of the Implementation Agreement and these Terms and Conditions, entitle the Supplier that enters into a PPA with a Successful Applicant to receive RESS 1 Support for a period extending no longer than 31 December 2037 (and potentially 31 December 2038 solely in the event of Force Majeure having been successfully claimed prior to achieving Commercial Operation).

RESS 1 Support will be eligible to commence upon the Commercial Operation of the RESS 1 Project or on 1 July 2021 (whichever is later), subject always to the RESS 1 Project having been listed in the PSO Order. For the avoidance of doubt, it will not be possible for a Supplier to submit a claim ex ante to the Regulatory Authority for PSO payments associated with the RESS 1 Support prior to the 2021/22 PSO Levy Year. However, if applicable, an ex-post payment claim can be made by an eligible Supplier in the 2022/23 PSO Levy Year for Commercial Operation in the period between 1 July 2021 to 30 September 2021.

5.1.4 RESS 1 Support is structured as a FIP (i.e. a 2-way floating feed in premium). The RESS 1 Payment calculation process will be administered by the Regulatory Authority and the process for the payment of Support Payments to Suppliers and the payment of Difference Payments from Suppliers under the FIP will be administered by the TSO, based on their existing PSO payment procedures (as may be updated from time to time with the approval of the Minister, the TSO and the Regulatory Authority).

5.1.5 The Letter of Offer will contain a unique RESS 1 reference number in respect of the RESS 1 Project. Once issued and to facilitate the administration of RESS 1, it is a requirement that this reference number be quoted in all communications with the Minister.

5.2 2-way Floating Feed In Premium (or FIP)

5.2.1 RESS 1 Support is structured as a FIP

5.2.2 Strike Price

Each Qualified Applicant will be required to specify an Offer Price for its RESS 1 Project in the RESS 1 Auction. If successful in the RESS 1 Auction, this Offer Price shall be the 'strike price' for that Qualified Applicant used to settle the FIP for the RESS 1 Project (the "**Strike Price**"). The Strike Price will be constant over the term of the RESS 1 Support and will not be indexed or adjusted for inflation.

5.2.3 Market Reference Price

For RESS 1 Projects that are:

(a) Variable, the market reference price used to settle the FIP will be the hourly DAM Price; and

(b) Non-Variable, the market reference price used to settle the FIP will be the time weighted average of the DAM Price calculated over the relevant PSO Levy Year (or part thereof in any instance where a period of RESS 1 Support does not coincide with a full PSO Levy Year),

(each the relevant "**Market Reference Price**").

The suitability of using the DAM Price for this purpose may be reviewed from time to time. In the event of changes to market conditions which result in the DAM Price being no longer suitable or feasible for use in the Market Reference Price calculation, a suitable and feasible alternative to the DAM Price will be established.

5.2.4 Annual Forecasts

RESS 1 Support will be calculated annually based on forecasts submitted by the Supplier who enters into a RESS 1 PPA with a Successful Applicant and is reconciled by the Regulatory Authority after the end of the following PSO Levy Year.

5.2.5 Overview of the Arrangements for Calculating RESS PSO Monies

The FIP will be calculated according to arrangements to be developed by the Regulatory Authority that will compare costs to market revenues (in each case as further described below). In the event that costs exceed market revenues, payments will flow from the PSO in the direction of the Supplier to the PPA for the RESS 1 Project. In the event that market revenues exceed costs, payments will flow from the Supplier to the PPA for the RESS 1 Project in the direction of the PSO. In general terms, costs are represented by the Strike Price of the RESS 1 Project applied to its Loss-Adjusted Metered Quantity, and market revenues are represented by the energy, capacity and constraint revenues received by the RESS 1 Project in the SEM. This process is described in further detail below.

The FIP is described as being 2-way because when costs exceed market revenues a Support Payment will be due to the Supplier, and when market revenues exceed costs a Difference Payment will be due from the Supplier.

The descriptions provided in this section 5.2.5 are for the purpose of describing the effective amount of the Support Payment and the Difference Payment. The Regulatory Authority will develop arrangements for quantifying these Support Payments and Difference Payments, in accordance with the Act and the PSO Order.

The FIP will be calculated by the Supplier on an hourly basis and will effectively be calculated with respect to energy based on the Loss-Adjusted Metered Quantity of the RESS 1 Project applied to the Strike Price and the Loss-Adjusted Metered Quantity of the RESS 1 Project applied to the Market Reference Price. Specifically:

- For hours in which:

  (a) the Strike Price multiplied by Loss-Adjusted Metered Quantity, exceeds
  (b) the Market Reference Price multiplied by Loss-Adjusted Metered Quantity,

  then if the Market Reference Price equals or exceeds zero euro per MWh, the Supplier will be entitled to receive a payment equal to (a) minus (b), otherwise it will be entitled to a payment of zero (the "**Support Payment**"); and

- For hours in which:

  (a) the Market Reference Price multiplied by Loss-Adjusted Metered Quantity, exceeds
  (b) the Strike Price multiplied by Loss-Adjusted Metered Quantity,

  then the Supplier will be obligated to make a payment equal to (b) minus (a) (the "**Difference Payment**").

The Support Payment and the Difference Payment will be further adjusted to account for CRM (capacity market) revenues and constraint revenues. Regarding capacity, the market revenue calculations for the purposes of calculating the PSO Levy for RESS 1 Projects will take into account only capacity market revenues and not capacity market costs (and for the avoidance of doubt the calculations will not take into account any cost obligations of the RESS 1 Project associated with non-performance under a CRM reliability option). Capacity market revenues and constraint revenues will (as applicable) decrease the Support Payment or increase the Difference Payment for the PSO Levy Year.

For avoidance of doubt, DS3 revenues will not be considered as market revenues and therefore will not be taken into account in the calculation of Support Payments and Difference Payments.

The net difference between the aggregate of Support Payments and Difference Payments over the relevant PSO Levy Year will be funded through the PSO Levy. For the avoidance of any doubt, payments under the FIP will therefore have a statutory basis described by these Terms and Conditions but shall not derive by way of a contract pursuant to these Terms and Conditions.

5.2.6 Annual Reconciliation

The TSO will be responsible for disbursing and collecting the net difference between the aggregate of Support Payments and Difference Payments over the relevant PSO Levy Year. Such duties shall, inter alia, take account of the Regulatory Authority's forecast of the level of payments to and from Suppliers with a RESS 1 PPA and a reconciliation to adjust for deviations between forecasts and actual outcomes of generation, loss factors, DAM Prices and any other factors that contribute to the calculation of the level of payments, as necessary. The arrangements for the calculation of PSO Levy for RESS are expected to be broadly similar to the arrangements described in CRU/19/129: Proposed Decision Paper on "Arrangements for the Calculation of the PSO Levy post I-SEM implementation" (but for the avoidance of doubt, these arrangements may be modified by the Regulatory Authority from time to time). However, to accord with these Terms and Conditions, the reconciliation with each Supplier will recognise the unique Strike Price and Loss-Adjusted Metered Quantity applicable to each RESS 1 Project in the reconciliation.

5.2.7 Payments from Suppliers to the PSO

In the event that the forecast net amount due in respect of a RESS 1 PPA for a PSO Levy Year is negative after adjusting for any reconciliation, the Supplier that is a party to the RESS 1 PPA will be required to make monthly payments over the course of the next applicable PSO Levy Year to the TSO as opposed to receiving payments.

In the event that, at the end of the term of RESS 1 Support for a RESS 1 Project or after a RESS 1 Project has exited RESS 1 pursuant to the provisions in these Terms and Conditions, the final reconciliation calculation indicates that there is an amount due from the Supplier, such amount will be the joint and several responsibility of the Supplier and the Generator. This provision will apply to the RESS 1 Project without regard to ownership of the RESS 1 Project after the final year of RESS 1 Support.

5.3 PSO

5.3.1 At a designated time prior to the commencement of a PSO Levy Year, each Supplier is required to inform the Regulatory Authority of any Generators with whom it has entered into a RESS 1 PPA, on behalf of whom they will be eligible to receive (and, when applicable, required to make) RESS 1 Payments in the upcoming PSO Levy Year. Any responses to queries from Suppliers as to the information to be provided to the Regulatory Authority ahead of the PSO Levy Year shall be addressed directly to such Suppliers by the Regulatory Authority.

5.3.2 The Regulatory Authority will then calculate the amount of the RESS 1 Support for the upcoming PSO Levy Year on the basis of the information provided to it by Suppliers and other relevant information it considers necessary. Only RESS 1 Projects (a) in respect of which all obligations under the Implementation Agreement and these Terms and Conditions have been met, and (b) which have been notified to the Regulatory Authority by Suppliers and included in the relevant PSO calculation by the Regulatory Authority, are eligible to receive and make RESS 1 Payments in the relevant PSO Levy Year.

5.3.3 On an annual basis, to coincide with the PSO Levy Year commencing 1 October, the Minister shall publish a statutory instrument (the "**PSO S.I.**") that contains a list of RESS 1 Projects eligible for PSO payments in the upcoming PSO Levy Year. Payments cannot be made unless the RESS 1 Project is both listed in the PSO S.I. for the upcoming PSO Levy Year and has been included by the Regulatory Authority in the PSO Levy decision. RESS 1 Projects will be included in the PSO S.I. when (a) they have applied to be included, (b) demonstrate to the satisfaction of the Minister that they are expected to generate during the upcoming PSO Levy Year and (c) have met all other criteria established by the Minister for inclusion. It is for the parties to the RESS 1 PPAs (i.e. the relevant Generators and Suppliers) to ensure that the Regulatory Authority is provided with timely information each year by Suppliers in accordance with its timelines specified by the Regulatory Authority from time to time.

5.4 RESS 1 PPA

5.4.1 The Minister will not be a party to RESS 1 PPA, which is a commercially negotiated arrangement between the relevant Supplier and the Generator corresponding to the Successful Applicant.

5.4.2 Any termination or expiry of a RESS 1 PPA, or any event which causes the RESS 1 PPA to cease to be in full force and effect, shall be notified in writing by the Supplier or his permitted successor or assign to the Minister and the Regulatory Authority forthwith. A Supplier shall cease to have any entitlement to receive future Support Payments with effect from the date of termination or expiry of the RESS 1 PPA, or on the date the RESS 1 PPA ceases to be in full force and effect, but shall have the right to receive Support Payments (and the obligation to make Difference Payments) for the period up to such date of termination or expiry, as the case may be. Unless the RESS 1 PPA has been transferred to another Supplier in accordance with section 5.4.3 (or where the RESS 1 Project has been withdrawn from RESS 1 in accordance with section 5.4.5), the existing Supplier shall retain the obligation for Difference Payments resulting from operation after termination or expiry of the relevant RESS 1 PPA. Parties to a RESS 1 PPA shall notify the Minister and the Regulatory Authority immediately in writing in the event that a RESS 1 Project subject to a RESS 1 PPA intends to cease to operate or ceases to operate in any PSO Levy Year or for the remaining term of the RESS 1 PPA.

5.4.3 The Letter of Offer may, on the application of the Generator and with the prior written consent of the Minister, be transferred to another Supplier in the event that the original Supplier is unable to perform its obligations under the RESS 1 PPA or these Terms and Conditions and if a new Supplier enters into a new PPA with the Generator which is compliant with these Terms and Conditions for the remainder of the term of the original RESS 1 PPA.

5.4.4 In circumstances where the Generator and Supplier are in compliance with these Terms and Conditions, and its RESS 1 PPA is terminated for reasons beyond the control of the Generator including any successor(s) thereto, the Letter of Offer may with the prior consent of the Minister, be transferred to another Supplier that enters into a RESS 1 PPA with the Generator which is compliant with these Terms and Conditions.

5.4.5 Where a RESS 1 Project has been included in the PSO Order and a Supplier is a PPA counterparty for a RESS 1 Project, the Minister and the Regulatory Authority may in their discretion include such RESS 1 Project in the PSO S.I. and PSO Order for subsequent PSO Levy Years without having regard as to whether such RESS 1 Project has applied to be in the PSO for that year, provided that such RESS 1 Project has not withdrawn in accordance with section 5.4.6 of these Terms and Conditions.

5.4.6 Provided that the RESS 1 Project has achieved Commercial Operation by the Longstop Date in accordance with the Implementation Agreement and has satisfied any and all obligations to pay Difference Payments under RESS 1, the Generator may request to withdraw the RESS 1 Project from RESS 1 and take the RESS 1 Project to the open market without Support Payment entitlements or Difference Payment obligations by giving at least 12 months' prior written notice of the date of withdrawal to the Minister. The date of withdrawal must be the first day of a PSO Levy Year. The Generator must submit evidence that the Supplier to that RESS 1 PPA agrees to the withdrawal from RESS 1. The request to withdraw will be granted if the Supplier has paid all Difference Payments applicable to the relevant RESS 1 Project and the Generator has provided evidence of written consent that the Supplier agrees to the withdrawal. If such a withdrawal is requested and granted, the following will apply:

(a) the Letter of Offer shall, insofar as it affects the Generator, which includes any future developer or generator developing or operating the same RESS 1 Project within any renewable support scheme in Ireland, cease to confer any entitlement to RESS 1 Support with effect from the notified date of withdrawal and no revocation of the withdrawal or revival of the Letter of Offer shall be permitted after the date notified as the withdrawal date has passed; and

(b) insofar as it affects any Supplier as a party to a RESS 1 PPA, the Supplier shall cease to qualify for RESS 1 Support in respect of any power metered or purchased from the relevant RESS 1 Project after the notified date of withdrawal from RESS 1 has passed but shall retain any Regulatory Authority payment obligations or entitlements under the FIP prior to the date of withdrawal. The Generator withdrawing will be responsible on a joint and several basis for any payment obligations under the FIP that have resulted from operation prior to the date of withdrawal.

5.4.7 For the avoidance of doubt, in interpreting section 5.4.6 the following shall be noted:

(a) The exercise of the discretion permitted by section 5.4.6 is a discretion to exit RESS 1 and enter the open market; and

(b) All notices to withdraw from RESS 1 will be made solely by the Generator that is a party to the RESS 1 PPA subject to the Letter of Offer for the RESS 1 Project. In accordance with section 5.4.6, the Generator must submit evidence in its notice that the Supplier has provided written consent to the withdrawal from RESS 1.

5.4.8 Once the period of RESS 1 Support commences in respect of a RESS 1 PPA, no changes in Supplier are permitted, save as specifically permitted in accordance with these Terms and Conditions.

5.5 Metering

All RESS 1 Projects must be metered separately. It is a requirement of RESS 1 that official TSO or DSO meters are installed and polled by the TSO or the DSO as appropriate. The metering of a RESS 1 Project must relate to the size and Maximum Export Capacity of the RESS 1 Project as offered and accepted into RESS 1. Where there is additional electricity generation installed on a Site beyond the flexibility provided for in section 6.4.13 of these Terms and Conditions, this must be metered separately to the RESS 1 Project.

5.6 Curtailment

5.6.1 On an annual basis after each PSO Levy Year, the Regulatory Authority will review a report from the TSO detailing the following in respect of each RESS 1 Project:

(a) the aggregate annual MWh of Metered Quantity; and

(b) the annual MWh of Curtailment which is not compensated by another party and/or through another mechanism; and

(c) (c) = (b) / ((a) + (b)).

If (c) equals or exceeds ten percent (10.0%) for two consecutive PSO Levy Years for any RESS 1 Project, (the "**Curtailment Issue**") the Regulatory Authority will develop and implement Curtailment compensation arrangements (the "**Curtailment Compensation Arrangements**").

5.6.2 The Curtailment Compensation Arrangements will set out the calculation, in respect of a RESS 1 Project in a given PSO Levy Year, of the level of additional compensation (if any) that is consistent with a Curtailment level limited to a maximum of 10.0% for that RESS 1 Project in that year. This calculation will have the following form:

Compensation = TQMLF x Strike Price x CFactor

Where:

(a) TQMLF is the total Loss-Adjusted Metered Quantity of the RESS 1 Project in the PSO Levy Year (in MWh);

(b) Strike Price (as is defined in section 5.2.2 of these Terms and Conditions); and

(c) CFactor = (1 – 0.1) / (1 – (c)) – 1 if positive, and is otherwise set to zero. For example:

(i) If (c) is 11% then curtailment is greater than 10% and so compensation applies for the PSO Levy Year concerned for that RESS 1 Project at a factor of 90 / 89 – 1 = 0.01124,

(ii) If, alternatively, (c) is 9% then curtailment is less than 10% and so no compensation factor applies for that PSO Levy Year for that RESS 1 Project.

5.6.3 Any compensation as part of such Curtailment Compensation Arrangements will be funded through the PSO Levy.

5.6.4 Any such Curtailment Compensation Arrangements will be available for application in respect of any PSO Levy Year after the two years for which the Curtailment Issue was first identified. Such Curtailment Compensation Arrangements will be available on this basis for RESS 1 Projects for which (c) as defined in section 5.6.1 equals or exceeds ten percent (10.0%). Compensation can therefore potentially accrue (if applicable) beginning on the first PSO Levy Year after those two years for which the Curtailment Issue is first identified. Compensation will not be applied retrospectively to the PSO Levy Years for which, or before which, the Curtailment Issue was first identified.

5.6.5 Compensation (if applicable) will be made on a two-year lagged basis, i.e. compensation accrued in respect of PSO Levy Year *y* will be made in PSO Levy Year *y+2*.

5.6.6 Once and if the Curtailment Issue has been identified, the Curtailment Compensation Arrangements will remain in place for the remainder of the term of RESS 1 Support.

5.6.7 Any Curtailment Compensation Arrangements developed will be designed to only provide support for foregone Metered Quantity that meets the definition of Curtailment, is beyond the 10.0% level, and is not otherwise compensated. For avoidance of doubt, compensation will not be provided if Curtailment is being compensated by another party and or through another mechanism.

5.6.8 For the avoidance of doubt, Curtailment Compensation Arrangements do not apply to all generation reductions that the Generator is required to implement – for example they do not apply to generation reductions to accommodate network constraints, local system stability constraints, forced or planned generator or transmission outages, or economic factors such as economic dispatch or negative market prices, unless they are concurrent with Curtailment as defined in section 2.1 of these Terms and Conditions.

5.7 Prudent Electric Utility Practice and Availability

All RESS 1 Projects must be operated in accordance with Prudent Electric Utility Practice in order to ensure the RESS 1 Project is available to produce electricity at times of relative system scarcity and at times of higher than average market prices.

RESS 1 Projects must use reasonable endeavours to conduct planned outages at times of system surplus and lower than usual, zero, or negative market prices.

5.8 Modification

The terms and conditions specified under this section 5 shall be applied over the duration of RESS 1 by the Regulatory Authority unless modified by the Minister as provided for in section 1.11 of these Terms and Conditions.

6 RESS 1 Auction

6.1 Overview

6.1.1 The RESS 1 Auction will be open to Eligible Technologies.

6.1.2 The RESS 1 Auction will be administered by the TSO in accordance with the terms set out in section 9 of these Terms and Conditions.

6.1.3 The RESS 1 Auction will be administered in accordance with, inter alia, the following high level steps:

(a) The TSO will accept Applications for Qualification.

(b) The eligibility criteria set out in section 6.4 of these Terms and Conditions will be assessed by the TSO for each Application for Qualification received.

(c) A Provisional Qualification Decision will be made by the TSO.

(d) Qualified Applicants (other than Qualified Applicants in respect of Community Zero- Bond Projects) will post their Bid Bonds no later than the Bid Bond Posting Date.

(e) Final Qualification Results are prepared and notified to a Qualified Applicant and an Offer Price is submitted by each Qualified Applicant to the TSO.

(f) The RESS 1 Auction will be conducted and Awards will then be notified to Successful Applicants.

6.2 Preference Categories

6.2.1 Qualified Applicants that submit eligible Offers will compete against each other on the basis of three Preference Categories, namely: (i) the Community Preference Category; (ii) the Solar Preference Category; and (iii) the All Projects Preference Category.

6.2.2 Preference will be given to a designated amount of renewable energy in the Community Preference Category and Solar Preference Category in accordance with section 6.8 of these Terms and Conditions.

6.3 Target Volume

6.3.1 The Regulatory Authority has issued an assessment to the Minister regarding the annual GWh quantity of renewable energy (the "Available Volumes", or AV_p, for each Preference Category *p* and for all projects) which may be awarded competitively under the RESS 1 Auction. AV_p was calculated as $AV_p = PP_p / RCR_p$, where:

(a) PP_p is the annual GWh quantity initially "Projected to Participate" in Preference Category *p*.

(b) RCR_p is a "Representative Competition Ratio" as was determined to be the appropriate ratio by the Regulatory Authority for Preference Category *p* of total auction supply to fixed auction demand that the Regulatory Authority assesses could reasonably be expected to result in a sufficiently competitive auction.

6.3.2 The Minister has determined a Representative Maximum Quantity ($RMax_p$) in annual GWh for each Preference Category for the RESS 1 Auction and a Representative Minimum Quantity (RMin) for the All Projects Preference Category (i.e. for the overall auction) for the RESS 1 Auction, taking into account amongst other things:

(a) Available Volumes (AVp) as recommended by the Regulatory Authority (with regards to Representative Maximum Quantity (RMaxp));

(b) The 2030 target for renewable energy set out in the National Energy and Climate Plan;

(c) The trajectory targets set out in the National Energy and Climate Plan;

(d) The target for corporate power purchase agreements as set out in the Climate Action Plan; and

(e) Other appropriate policy considerations such as community considerations and renewable generation technology diversity objectives.

6.3.3 Representative Maximum Quantity $(RMax)_p$ and Representative Minimum Quantity (RMin) have been determined for RESS 1 in accordance with sections 6.3.1 and 6.3.2 (inclusive) as follows:

Table 1: RMin and $RMax_p$

	p = c (community)	p = s (solar)	p = a (all projects)
RMin	N/A	N/A	1,000 GWh
$RMax_p$	30 GWh	300 GWh	3,000 GWh

6.4 Eligibility Requirements

6.4.1 All Applicants must provide evidence to the TSO with the Application for Qualification that the eligibility requirements set out in this section 6.4 have been met.

6.4.2 All declarations provided by a director in connection with the RESS 1 Auction must be true and accurate and made by way of a sworn affidavit having regard to the fiduciary duties that a director has to its shareholders and to the company whose board (or equivalent) it sits on, in each case under applicable company law legislation. Multiple declarations may be made in a single sworn affidavit.

In the event that any statement in a declaration is not true or accurate, in addition to applicable legal penalties or sanctions in respect of the sworn affidavit, the RESS 1 Project will be disqualified from RESS 1 and the Applicant or Qualified Applicant on whose behalf the director signs the false declaration will be prohibited from participating in any RESS competitions for a period of five years.

In the event a declaration is found to be false before or after the RESS 1 Auction has been held, the participation of the RESS 1 Project in RESS 1 may be terminated, the Letter of Offer revoked (if applicable) and the full amount of any Bid Bond or Performance Bond in place may be drawn down by the TSO or the Minister (as applicable).

6.4.3 Eligible Technology

The RESS 1 Auction will be open to New Projects which are connected directly to the electricity network and metered independently of any other electricity generating plant and which rely on the following equipment to produce electricity:

(a) Onshore wind projects ("**Onshore Wind**");

(b) Offshore wind projects, which use wind turbines constructed in bodies of water, usually in the ocean, to harvest wind energy to generate electricity. This definition includes inshore water areas such as lakes and sheltered coastal areas, utilising traditional fixed-bottom wind turbine technologies, as well as deeper-water areas utilising floating wind turbines ("**Offshore Wind**");

(c) Onshore energy projects using solar thermal or solar photovoltaic technology ("**Solar**");

(d) Hydro;

(e) High Efficiency CHP boilers fuelled exclusively by waste, involving the process of generating energy in the form of electricity from the primary treatment of waste, or the processing of waste into a fuel source ("**Waste to Energy HECHP**") provided that eligibility for RESS 1 will be limited to the extent input waste is certified as being renewable;

(f) High Efficiency CHP boilers fuelled by Biomass ("**Biomass HECHP**"); and

(g) High Efficiency CHP boilers fuelled by Biogas ("**Biogas HECHP**"),

(each an "**Eligible Technology**" and together the "**Eligible Technologies**").

Note to Stakeholders: Further guidance as to the requirements applicable to each of Hydro, High Efficiency CHP, Waste to Energy, Biomass HECHP and Biogas HECHP will be provided in Annex A in the final publication of these Terms and Conditions following the consultation phase.

Compliance with this requirement must be evidenced by information submitted by the Applicant describing the RESS 1 Project to be built and the equipment to be used.

Waste to Energy Calculation

The calculation of the renewable portion of waste to energy shall be based on the European Standard to I.S. EN 15440:2011 (Solid Recovered Fuels – Methods for the Determination of Biomass Content). In accordance with these Terms and Conditions, RESS 1 Projects are permitted to use reference data that is derived in accordance with I.S. EN 15440:2011, as opposed to the standard being applied to samples taken directly at the RESS 1 Project's Site. Additionally, the Minister permits the RESS 1 Projects to combine data from I.S. EN 15440:2011 with waste characterisation survey data that is demonstrated to the satisfaction of the Minister to be representative of the waste composition at the particular Site.

For PSO certification purposes (regarding RESS 1 Projects of Eligible Technology Waste to Energy HECHP), the Supplier who is party to the RESS 1 PPA will be required to submit this information to the Regulatory Authority and it shall be accompanied by a report verifying the information. The verification shall be completed by an independent person in accordance with the requirements for assurance engagements prescribed in ISAE 3000, or an equivalent standard as may be agreed with the Minister and notified to the Regulatory Authority. RESS 1 Projects that have variable biodegradable fuel content, affecting the proportion of their exported electricity eligible for their RESS 1 Project will be estimated ex-ante and will be certified for the purposes of RESS 1 Support calculations on an ex-post basis.

6.4.4 To participate in RESS 1, the Proposed RESS 1 Project must be constructed pursuant to granted planning permission, a grid connection agreement and in conformity with the high- level description of the RESS 1 Project as set out in an Application for Qualification.

6.4.5 Planning Consent

RESS 1 Projects are required to have full planning permission for the construction of the electricity generating plant at the Site as described in the Application for Qualification. This means that a full and final grant (and not merely a decision to grant) of planning permission issued by the relevant planning authority (or, if it is the case, An Bord Pleanála) (and in the case of Offshore Wind, the equivalent required planning permission from the relevant planning body and or planning authority) for the construction of the electricity generating plant at the Site as described in the Application for Qualification. The planning permission for a RESS 1 Project must not have an expiry date or a decommissioning obligation prior to the anticipated end of the term of RESS 1 Support for a RESS 1 Project.

In respect of RESS 1 Projects that are in ECP-1 and have submitted evidence of planning permission to qualify for ECP-1, compliance with the above requirement must be evidenced by a director's declaration stating that the RESS 1 Project has qualified for ECP-1 and that evidence of planning permission was submitted with their ECP-1 application. RESS 1 Projects that are not in ECP-1 or have been folded into ECP-1 without providing evidence to the TSO of full planning permission will need to meet the planning permission requirements established for ECP-1 applications. The TSO will publish these requirements in the Auction Information Pack.

For the avoidance of doubt, for the purposes of satisfying the planning consent requirements under this section 6.4.5, any such granted planning permission must not be the subject of an appeal or challenge.

The RESS 1 Project described in the Application for Qualification must be consistent with that for which full planning permission has been obtained.

6.4.6 Grid Connection

The RESS 1 Project must be (i) a Grid Contracted Project or (ii) an ECP-1 Project that is eligible to be processed to receive a valid connection offer, in both cases with a capacity at least equal to the Offer Quantity of the relevant RESS 1 Project.

Compliance with this requirement will need to be evidenced by a director's declaration that certifies that the RESS 1 Project meets grid connection requirements applicable to the RESS 1 Project and certifies whether the RESS 1 Project is a Grid Contracted Project or is an ECP- 1 Project. For Grid Contracted Projects, evidence of a grid connection agreement or offer will be required. For ECP-1 Projects, the declaration must describe the status of the relevant ECP-1 Project and the TSO will verify such status.

RESS 1 Projects that have been awarded a grid connection offer but have failed to accept such offer within the applicable time period or are otherwise the subject of a dispute under Section 34 of the Act, will not be eligible to submit an Application for Qualification. Non-ECP- 1 Projects for which grid connection agreements or grid connection offers have lapsed or have been terminated will not be eligible to submit an Application for Qualification.

6.4.7 Site Control

The Site of the RESS 1 Project must be specified using Irish Transverse Mercator and Applicants must possess and demonstrate control of this Site and the right to access this Site for the purposes of developing and operating the RESS 1 Project.

Compliance with this requirement must be evidenced by submitting a landowner consent form that will be published by the TSO in the Auction Information Pack and that will reflect the form used in the grid connection application process.

6.4.8 Financeability

The RESS 1 Project must be financeable under the Terms and Conditions and at the Offer Price to be submitted by the Qualified Applicant. In this context, "financeable" is understood as having expressions of interests or indications from investors or funders that they will provide the funding required to construct and operate the RESS 1 Project, or that the Applicant has sufficient equity funding in place to construct and operate the RESS 1 Project, in the event that it receives an Award.

Compliance with this requirement must be evidenced by a director declaration that the RESS 1 Project has sufficient equity funding in place or expressions of interests or indications from investors or funders to provide funding if the RESS 1 Project receives an Award.

For RESS 1 Projects that plan to use debt financing, the declaration must clearly state that the Applicant: (a) has or will have sufficient equity funding (excluding equity funding from community investors under the REP Scheme) in place for the non-debt financing portion of the funding or commitments from investors to provide such equity funding and (b) has received indications or expressions of interest from lenders that the RESS 1 Project should receive the debt financing required to construct and operate the RESS 1 Project.

Applicants are reminded that a failure to secure sufficient debt financing does not excuse the Applicant from performance of its obligations as a Successful Applicant or from any financial consequences of non-performance. For the avoidance of doubt, an Offer by a Qualified Applicant is a firm commitment to develop the RESS 1 Project as detailed in the Application for Qualification without any contingency based on securing financing.

6.4.9 New Project Requirements

The RESS 1 Project must meet the requirements of a New Project. Compliance with this requirement must be evidenced by a director declaration that the RESS 1 Project meets the New Project investment criteria. The RESS 1 Project may be subject to audit by the Minister and / or the TSO (or their respective nominees or agents) and required to demonstrate that these requirements have been met in order to participate in RESS 1.

6.4.10 Applicant Independence

An Applicant is required to provide the following director declarations (the form of which will be provided by the TSO in the Qualification Information Pack) in order to be eligible to participate in the RESS 1 Auction:

(a) A declaration that the entity submitting the Application for Qualification is in compliance with all applicable competition legislation, is bidding independently and has not revealed Pricing Information concerning its Offer(s) to any other entity, has not been directed by any other entity of the price it should offer, is not aware of Pricing Information of any other entity and that to the best of its knowledge no other entity is aware of its Pricing Information ("**Declaration of Independent Bidding, Type A**"). A Qualified Applicant may submit Offers for multiple RESS 1 Projects. In the event that the Applicant submitting the

Application for Qualification is owned by more than one entity, a Declaration of Independent Bidding, Type A will be required from each entity with an ownership interest in the entity submitting the Application for Qualification.

(b) If the Declaration of Independent Bidding, Type A cannot be provided due to the Applicant submitting the Application for Qualification being solely owned by an entity to which it has provided Pricing Information or received direction on pricing from, the Applicant shall identify such entity and procure a declaration from a director of that entity that it is in compliance with all applicable competition legislation, it has not revealed Pricing Information to any other entity, has not been directed by any other entity of the price it should offer, is not aware of Pricing Information of any other RESS 1 Project and that to the best of its knowledge no other entity other than the entity submitting the Application for Qualification is aware of the RESS 1 Project's Pricing Information ("**Declaration of Independent Bidding, Type B**"). For the purpose of this section 6.4.10, Affiliates are considered other entities.

(c) If the Declaration of Independent Bidding, Type A cannot be provided due to the Applicant submitting the Application for Qualification or another entity acting on its behalf has revealed Pricing Information to other entities and/or is aware of Pricing Information for RESS 1 Project(s) owned by other entities, the Applicant shall provide a director declaration that identifies the Applicant(s), the entities, RESS 1 Project(s) for which the Applicant submitting the Application for Qualification has revealed Pricing Information to or is aware of Pricing Information for and explanation of the context in which Pricing Information was revealed or obtained ("**Declaration of Independent Bidding, Type C-1**"). Additionally a director declaration will be required from a director of the entity to which the entity submitting the Application for Qualification has revealed Pricing Information to or is aware of Pricing Information stating the identity of all RESS 1 Projects for which that entity has Pricing Information and /or has entered into agreements which are contingent on the outcome of the RESS 1 Auction ("**Declaration of Independent Bidding, Type C-2**"). If the entity to which Pricing Information has been provided is a financial institution and the information provided has been for the purpose of obtaining debt financing for the RESS 1 Project then, should the Offer be successful in the RESS 1 Auction, the requirement to have a declaration from a director of the financial institution is waived.

(d) A declaration that lists and describes the party to and nature of any agreements or arrangements that the bidder has made or is party to that are contingent upon the result of the RESS 1 Auction ("**Declaration of Independent Bidding, Type D**").

Each of the Declaration of Independent Bidding, Type A, Declaration of Independent Bidding, Type B, Declaration of Independent Bidding, Type C-1, Declaration of Independent Bidding, Type C-2, Declaration of Independent Bidding, Type D (as applicable) must remain true in all respects through to at least the time of submission of the Offer Price by the Applicant.

Applicant director declarations will be forwarded to the Regulatory Authority and the Minister by the TSO and will potentially be used in the Regulatory Authority's competition assessment.

6.4.11 Preference Category

An Applicant must specify the Preference Category or Categories for which it is applying in its Application for Qualification. An Application for Qualification must qualify in either or both of:
i) the All Projects Preference Category; and / or ii) the Community Preference Category (an Application for Qualification in the Solar Preference Category must therefore qualify in at least one of these two categories in addition to the Solar Preference Category).

Applicants in respect of a Community-Led Project can elect whether or not they wish to be a Community Zero-Bond Project. A Community Zero-Bond Project is a Community-Led Project that applies and qualifies only in the Community Preference Category and not in either the Solar Preference Category or in the All Projects Preference Category. A Community Zero- Bond Project is not required to provide a Bid Bond or a Performance Bond. In contrast, a Community-Led Project that applies and qualifies in more than one Preference Category is required to provide a Bid Bond and subsequently, if it is successful in the RESS 1 Auction, a Performance Bond.

Only one set of application information shall be used and assessed in the RESS 1 Auction, including Offer Price and Offer Quantity, regardless of how many Preference Categories are applied for by an Applicant. Preference Category-specific eligibility requirements are as follows:

(a) Community Preference Category:

(i) The RESS 1 Project must meet the requirements for Community-Led Projects and each Applicant will be required to provide a director's declaration to the effect that it will meet the requirements of a Community-Led Projects along with its Application for Qualification. The form of this declaration will be issued by the TSO with the Qualification Information Pack.

(ii) The Applicant must indicate in the Application for Qualification whether it is applying as a Community Zero-Bond Project (if it is, then no Bid Bond or Performance Bond will be required, however that RESS 1 Project will then be ineligible to apply in the Solar Preference Category and/or All Projects Preference Category);

(iii) Minimum Offer Quantity: 1 MW; and

(iv) Maximum Offer Quantity: 5 MW,

(b) Solar Preference Category:

(i) The RESS 1 Project must be an Eligible Technology of type Solar;

(ii) The RESS 1 Project is not a Community Zero-Bond Project (it can still be a Community-Led Project, provided a Bid Bond and Performance Bond are provided);

(iii) Minimum Offer Quantity: 1 MW; and

(iv) Maximum Offer Quantity: 125 MW,

(c) All Projects Preference Category:

(i) The RESS 1 Project is not a Community Zero-Bond Project (it can still be a Community-Led Project if a Bid Bond and Performance Bond are provided);

(ii) Minimum Offer Quantity: 1 MW; and

(iii) Maximum Offer Quantity: the MW equivalent of 600 GWh/year,

where compliance with this annual GWh value for this All Projects Preference Category is evaluated by use of the formula set out in section 6.7.4 which converts Offer Quantity (in MW) to the Deemed Energy Quantity (in GWh). Therefore the Deemed Energy Quantity of a RESS 1 Project must be less than or equal to 600 GWh annually in order to be eligible for the All Projects Preference Category.

Aggregation of smaller RESS 1 Projects to achieve the minimum Offer Quantity (for a Preference Category) will not be possible (unless the Applicants organise one single project, behind a single meter and a single applicant entity that meets all the qualification requirements in these Terms and Conditions).

6.4.12 Other Information

In addition to the information and requirements described above in sections 6.4.1 to 6.4.11 (inclusive) of the Terms and Conditions, in order to be eligible for RESS 1, Applicants will be required to provide the following information in the Application for Qualification:

(a) Legal name and registered address or address of principal place of business of the Applicant;

(b) A list of all entities with an ownership or equity interest in the Applicant and the same information required in paragraph (a) above for such entity;

(c) Legal name and registered address or address of principal place of business of the proposed Generator of the RESS 1 Project, if different to that of the Applicant;

(d) A list of all entities with an ownership or equity interest in the RESS 1 Project and the same information required in paragraph (c) above for such entity;

(e) Name of the individual preparing the Application for Qualification;

(f) A confirmation that the Applicant and the Generator (if the Generator is a different entity than the Applicant) will be bound by these Terms and Conditions;

(g) A confirmation that the information that the Applicant has provided is true and accurate in all respects;

(h) An acknowledgment that for the purposes of the administration of the RESS 1, the Minister is authorised to use information related to the Applicant and the RESS 1 Project, provided in the Application for Qualification, to communicate with the Applicant, the Regulatory Authority, the DSO, TSO and SEMO in order to ensure the proper functioning of RESS 1 and to ensure the accuracy of information included in the relevant statutory instrument for the PSO Levy for the relevant PSO Levy Year;

(i) An acknowledgment that the Application for Qualification has been prepared at the expense of the Applicant and that the TSO and the Minister bear no responsibility or liability for any costs incurred by the Applicant in connection with the Application for Qualification;

(j) A description of the renewable energy technology and the equipment that will be utilized for the RESS 1 Project;

(k) A description of the overall plant size i.e. aggregate installed (nameplate) rating for the RESS 1 Project and its Offer Quantity expressed in MW to three decimal places;

(l) The Maximum Export Capacity of the plant at the RESS 1 Project; and

(m) Confirmation that a Guarantee of Origin will not be sought in respect of the output of the RESS 1 Project, in accordance with Statutory Instrument 483 of 2014.

In accordance with Statutory Instrument 483 of 2014, where a RESS 1 Project receives a Guarantee of Origin for a renewable energy unit, no Support Payment or Difference Payment for the same unit of electricity shall be made and a RESS 1 Project shall be withdrawn from RESS 1 by the Minister (and will not be eligible to return to RESS 1).

As a condition of qualification for the RESS 1 Auction, the RESS 1 Project must be located in Ireland.

6.4.13 Installed Capacity of the RESS 1 Project

Minimum installed capacity

Generators must demonstrate as a condition to Commercial Operation that the installed capacity of the RESS 1 Project is at least 90% of the Offer Quantity which was accepted into RESS 1.

Maximum installed capacity of RESS 1 Projects

Windfarm Generators

In the case of renewable wind generators, a RESS 1 Project may over-install above its MEC where there is over-installation allowed pursuant to the decision paper of the Regulatory Authority (ref: CER/14/047) ("**RA Decision Paper 14/047**") provided that the RESS 1 Project remains compliant with these Terms and Conditions including compliance with section 6.4.14. In any case installed capacity shall be no more than 120% of the Offer Quantity which was accepted into RESS 1.

Non-wind Generators

In the case of non-wind renewable generators the decision papers (ref: CER/11/093, and CER/14/047) and ruleset of the Regulatory Authority (ref: CER/11/093y) may apply, however this is determined by the TSO on a case by case basis. Where there is over-installation relative to MEC as allowed under RA Decision Paper 14/047, a RESS 1 Project may over- install above its MEC provided that the RESS 1 Project

remains compliant with these Terms and Condition including compliance with section 6.4.14. In any case installed capacity shall be no more than 120% of the Offer Quantity which was accepted into RESS 1.

6.4.14 Maximum Export Capacity and Offer Quantity

In all cases the Offer Quantity cannot be greater than the MEC contained in the grid connection offer or grid connection agreement for the RESS 1 Project or the MEC listed for the RESS 1 Project in ECP-1 (as applicable).

Where there is over-installation relative to MEC for a RESS 1 Project pursuant to section 6.4.13:

(a) The RESS 1 Project must be technically controlled to ensure that the MEC cannot be exceeded;

(b) The Supplier with whom the Successful Applicant enters into a RESS 1 PPA must provide evidence of this technical control to the Regulatory Authority when making their annual returns; and

(c) The Successful Applicant must undertake in writing not to raise the MEC of the RESS 1 Project during the period of RESS 1 Support. Any increases in the MEC during the period of RESS 1 Support must be agreed with the Minister and the Regulatory Authority. This includes agreeing a methodology for suitable metering arrangements to separately record generation on the Site which would be above the capacity approved for RESS 1 Support. RESS 1 Projects must have full planning permission for all installed capacity.

6.4.15 REP Scheme

In order to be eligible to participate in RESS 1, each Applicant (other than an Applicant in respect of a Community-Led Project) must ensure that it complies with the relevant eligibility requirements set out in Annex C (*REP Scheme*).

6.5 Bid Bond

6.5.1 In order to be qualified to submit an Offer in the RESS 1 Auction, each Qualified Applicant (other than those for Community Zero-Bond Projects), will be required to provide a Bid Bond to the TSO in accordance with section 9.3 of these Terms and Conditions. The Bid Bond value in RESS 1 is €2,000/MW, where the MW value is the Offer Quantity for the RESS 1 Project (the "**Bid Bond Required Amount**").

6.5.2 The TSO may draw down on the Bid Bond in the circumstances set out in sections 6.7.3, 8.2 and 9.3 of these Terms and Conditions. There will be no exceptions applied to the forfeiture provisions including in respect of any events that are claimed to be outside of the control of the Applicant.

6.6 Final Competition Ratios

The TSO will provide the Qualification Results to the Regulatory Authority, including any information supplied in connection with the Applications for Qualification required by the Regulatory Authority such as information concerning commonality of ownership or other aspects of Applicant independence. For the avoidance of doubt, this information will not include Offer Prices given that Offer Prices will not yet have been submitted to the TSO.

The Regulatory Authority will then determine an appropriate final competition ratios (the "**Final Competition Ratios**" and each a "**Final Competition Ratio**") for each Preference Category ("**FCR_p**") taking into account the results of a competitive analysis that the Regulatory Authority will undertake on the aforementioned data. The competitive analysis undertaken by the Regulatory Authority for this purpose may consider certain factors including the distribution of ownership and commonality of control, pivotal supplier considerations, other market concentration considerations, and other factors as the Regulatory Authority in its sole discretion deems appropriate. The Final Competition Ratios will be published by the Regulatory Authority prior to the submission of Offer Prices by Qualified Applicants.

6.7 Offer Process

6.7.1 Qualified Applicants will be invited to submit an Offer Price (denominated in €/MWh) in respect of their RESS 1 Project. The Offer Price must be submitted before the RESS 1 Auction Submission Deadline Date.

In its Offer, the Qualified Applicant must confirm that all information provided in the Application for Qualification remains true and accurate in all respects as of the date of submission.

6.7.2 In accordance with section 5.2.2 of these Terms and Conditions, the Strike Price under the FIP for Successful Applicants will be set at the Offer Price (i.e. RESS 1 Support is 'pay-as- bid'). For the avoidance of doubt:

(a) RESS 1 Support will not be linked to any market-clearing (pay-as-cleared) price; and

(b) The Strike Price will not be indexed annually to inflation.

6.7.3 The Offer Price may not exceed the Maximum Offer Price Considered. Offers for which the Offer Price submitted exceeds the Maximum Offer Price Considered or for which the Offer Price is not submitted by the RESS Auction Submission Deadline Date will not be considered in the RESS 1 Auction and in such cases, the Offer will be disregarded and the TSO will be entitled to draw down on the full amount of the Bid Bond.

6.7.4 For the purposes of winner selection, each such Offer Quantity will be converted into a deemed energy quantity ("**Deemed Energy Quantity**" or "**DEQ**") in GWh/year as follows:

$$DEQ_o = OQ_o \times 8760 \times RCF_t / 1000$$

Where Offer *o* is of Eligible Technology *t*, and RCF_t is the reference Renewable Capacity Factor (denominated as a percentage) of Eligible Technology *t* from Table 1.

6.7.5 For the purposes of winner selection, each Offer Price will be converted into a deemed offer price ("**Deemed Offer Price**" or "**DOP**") in €/MWh as follows:

$$DOP_o = OP_o \times ECF_t$$

Where OP_o is the Offer Price (denominated in € / MWh) of Offer *o*, and ECF_t is a technology- specific Evaluation Correction Factor (ECF) where Offer *o* is of Eligible Technology *t*.

Table 2: Renewable Capacity Factor (RCF) and Evaluation Correction Factor (ECF) by Eligible Technology

Eligible Technology (t)	Renewable Capacity Factor (RCF_t)	Evaluation Correction Factor (ECF_t)
Onshore Wind	35%	1.00
Offshore Wind	45%	1.00
Solar	11%	1.00
Hydro	35%	1.00
Biomass HECHP	85%	1.00
Waste to Energy HECHP	43%	1.00
Biogas HECHP	36%~	1.00

6.7.6 For RESS 1, ECF_t equals 1.000 for all Eligible Technologies. For the avoidance of doubt, RESS 1 Projects will be paid their Offer Price, and not their Deemed Offer Price (albeit the distinction is irrelevant in RESS 1 as the two values are the same).

6.8 Winner Selection

6.8.1 The RESS 1 Auction will be conducted by the TSO subsequent to the Regulatory Authority's reassessment of competition.

6.8.2 The RESS 1 Auction takes the form of a simple, sealed bid auction of eligible Offers. The following Offer information submitted by each Qualified Applicant is utilised and evaluated within the winner selection process:

(a) Deemed Offer Price (DOP_o);

(b) Deemed Energy Quantity (DEQ_o);

(c) Preference Category Flag (community) PCF_{oc} = 1 if Offer *o* is eligible in the Community Preference Category, 0 otherwise;

(d) Preference Category Flag (solar) PCF_{os} = 1 if Offer *o* is eligible in the Solar Preference Category, 0 otherwise; and

(e) Preference Category Flag (all projects) PCF_{oa} = 1 if Offer *o* is eligible in the All Projects Preference Category, 0 otherwise.

6.8.3 For the avoidance of doubt, despite the fact that DEQs are used for the purpose of winner selection, the FIP will be subject to reconciliation based on actual Loss-Adjusted Metered Quantity as described in section 5 of these Terms and Conditions. DEQs are solely utilised for the purpose winner selection in the RESS 1 Auction.

6.8.4 There is no budget cap for the RESS 1 Auction other than that which is implied by the terms of section 6 of these Terms and Conditions.

6.8.5 The TSO will clear eligible Offers submitted in the RESS 1 Auction in accordance with the following sequential steps:

(a) The Total Energy Available (TEA_p) will be calculated in the first instance for each Preference Category *p* as the sum of Deemed Energy Quantity (DEQ_o) across the set of Offers eligible for that Preference Category;

(b) A schedule of cumulative Deemed Energy Quantity will then be produced where all the eligible Offers are sorted by Deemed Offer Price, from lowest to highest. This schedule (i.e. supply curve) will therefore contain: Deemed Offer Price (DOP_o), Deemed Energy Quantity (DEQ_o); Cumulative Deemed Energy Quantity ($CDEQ_o$), and the Preference Category Flags (PCF_{op}) where *o* indexes offers now sorted by Deemed Offer Price. In the event that any Deemed Offer Prices are identical, the tie- breaking rules set out in section 6.8.7 of these Terms and Conditions will apply;

(c) TEA_a will then potentially be updated in accordance with the following procedure (where X and Y are numerical parameters with indicative values of 125% and 500 GWh respectively – final values used will be specified in the Auction Information Pack): Starting at the Offer with the lowest DOP_o (i.e. o = 1), moving incrementally down the above schedule of eligible Offers, and only once $CDEQ_o$ exceeds RMin (as set out at section 6.3.3 of these Terms and

Conditions) if the Deemed Offer Price of the next Offer on the ordered list (o + 1) exceeds X% multiplied by (the weighted average Deemed Offer Price of the preceding Y GWh of full or partial Offers), then TEA_a will be revised so as to equal $CDEQ_o$ (i.e. the Total Available Energy for the "All Projects" Preference Category will be revised so as to be equal to the total offer volume of the last eligible Offer before the X% threshold was exceeded). If the end of the schedule is reached with no Offer exceeding the X% threshold, then the value of TEA_a will be left unchanged; and

(d) The Auction Starting Quantity (ASQ_p) for each Preference Category will then be calculated as follows:

$ASQ_c = Min\ (TEA_c / FCR_c,$
$RMax_c)\ ASQ_s = Min\ (TEA_s /$
$FCR_s, RMax_s)$
$ASQ_a = Max\ (Min\ (TEA_a / FCR_a, RMax_a), RMin_a)$

However, if the Regulatory Authority's competition assessment conducted pursuant to section 6.6 of these Terms and Conditions concludes that there is insufficient competition within a Preference Category with which to conduct an auction then ASQ_p will be set to zero for the Preference Category concerned.

6.8.6 Winner-determination rules will then be applied by selecting winners in turn from the list of eligible Offers sorted from lowest Deemed Offer Price to highest Deemed Offer Price. This process will start with Offers in the Community Preference Category, then be repeated for Offers in the Solar Preference Category, and finally be repeated for Offers in the All Projects Preference Category. As set out below, "preference" means that RESS 1 Projects in categories with higher preference are awarded first in priority to other categories, and any further Awards apply to meeting subsequent target quantities if they qualify. Specifically, any community quantity awarded will also be applied to the Solar target quantity if it is also qualified as Solar. Any community quantity awarded and any additional solar quantity awarded will be applied to the overall auction target quantity. The winner-selection rules to be applied in the RESS 1 Auction are therefore as follows:

(a) Community Preference Category (i.e. $p = c$): Eligible Offers in the Community Preference Category are accepted in turn starting from that with the lowest Deemed Offer Price and proceeding through the list up to and including that for which the total Deemed Energy Quantity of eligible Community-Led Projects accepted first meets or exceeds ASQ_c.

(b) Solar Preference Category (i.e. $p = s$): Eligible Offers in the Solar Preference Category are then accepted in turn starting from that with the lowest Deemed Offer Price and proceeding through the list up to and including that for which the total Deemed Energy Quantity accepted of eligible Solar Projects, including the quantity of any Community-Led Projects that are also eligible as Solar Projects and which were accepted in the Community Preference Category, first meets or exceeds ASQ_s.

(c) All Projects Preference Category (i.e. $p = a$): Eligible Offers in the All Projects Preference Category are then accepted in turn starting from that with the lowest Deemed Offer Price and proceeding through the list up to and including that for which the total Deemed Energy Quantity accepted, including any quantity already accepted in the Community Preference Category and Solar Preference Category that are also eligible in the All Projects Preference Category, first meets or exceeds ASQ_a. After ASQ_a is met, additional eligible Offers in the All Projects Preference Category will continue to be accepted in this sequence until either:

(i) The next Offer in the list has a Deemed Offer Price more than 5% higher than that which first caused the total Deemed Energy Quantity accepted to meet or exceed ASQ_a; or

(ii) Accepting the next Offer in the list would cause the total Deemed Energy Quantity accepted to exceed $RMax_a$,

in which case this next Offer will be rejected and the winner-determination process will stop.

6.8.7 Tie-breaking

If any tied Deemed Offer Prices are identified pursuant to section 6.8.6 then Offers with identical Deemed Offer Prices will be sorted by Deemed Energy Quantity from lowest to highest (i.e. the lower quantity is selected before the higher quantity). In the event that any Offers are identical with regards to both Deemed Offer Price and Deemed Energy Quantity, the tie-break will be resolved using a predetermined and unique Offer index. The Offer index will be determined by the TSO ordering offers according to the following criteria in order of priority:

(a) Community-Led Project flag (i.e. a Community-Led Project is selected before one that is not);

(b) Solar Project flag (i.e. a Solar Project is selected before one that is not if the tie has not otherwise already been broken);

(c) The date of the full and final granting of the planning permission issued by the relevant planning body or authority for the RESS 1 Project offered (pursuant to section 6.4.5) – an Offer with an earlier date is selected before one with a later date if the tie has not otherwise already been broken; and

(d) Random order, where the random order is reproducible and where all possible random orders are equally likely.

7 Community Aspects of RESS 1

There are three aspects of community participation in RESS 1. These are: (i) provisions for Community-Led Projects; (ii) provisions relating to the Community Benefit Fund; and (iii) provisions for the REP Scheme (which do not apply for Community-Led Projects). Failure to comply with these community aspects of these Terms and Conditions will render the Supplier with which the Generator has entered a RESS 1 PPA ineligible to receive RESS 1 Support.

7.1 Community-Led Projects

7.1.1 Community-Led Projects must meet the following requirements as per the timelines of the Implementation Agreement:

(a) At all relevant times be at least 51% owned by a Renewable Energy Community (the "**Relevant REC**") either by way of (i) a direct ownership of the RESS 1 Project's assets, or (ii) a direct ownership of the shares in the Generator;

(b) At all relevant times, at least 51% of all profits, dividends and surpluses derived from the RESS 1 Project are returned to the Relevant REC;

(c) At all relevant times, the Relevant REC is entitled to appoint at least one director to the board of the Generator (if applicable);

(d) The Relevant REC must have a minimum of 150 shareholders and have a maximum allotted share capital of €20,000; and

(e) Each share in a Relevant REC will entitle that holder to one vote.

7.1.2 An Application for Qualification for a Community-Led Project must be made in conjunction with a Sustainable Energy Community. The Sustainable Energy Community must be identified in a director's declaration, together with a description of the relationship between the Applicant and the Sustainable Energy Community.

7.1.3 The requirements of the REP Scheme as set out in Annex C (*REP Scheme*) of these Terms and Conditions shall not apply to Community-Led Projects.

7.2 Community Benefit Fund

Note to Stakeholders: Section 7.2 of these Terms and Conditions is for consultation only. This section may be amended upon publication final version of the Terms and Conditions.

7.2.1 All RESS 1 Projects are required to establish a Community Benefit Fund prior to Commercial Operation of the relevant RESS 1 Project. The contribution will be €2/MWh of Loss-Adjusted Metered Quantity for all RESS 1 Projects. A national community benefits register will be established by the Minister (or a nominated body) prior to 1 July 2021.

7.2.2 The Generator shall take steps to raise awareness and effectively promote an annual application process in respect of granting of financial support from the Community Benefit Fund to community enterprises whose primary focus or aim is the promotion of energy efficiency, sustainable energy and/or climate action initiatives. Such steps may include but are not limited to:

(a) issuing notices in local newspapers;

(b) delivering notices to the local inhabitants;

(c) promoting it through a website and on social media; and

(d) contacting community and voluntary organisations that may be registered on a database maintained by a national or local authority including public participation networks.

7.2.3 The Generator shall ensure that applications for funding under the Community Benefit Fund received from community enterprises are assessed in a fair, non-discriminatory and transparent manner.

7.2.4 The Generator or its agent will manage the funds contained in the Community Benefit Fund and shall distribute such funds for the duration of the relevant RESS 1 Project's RESS 1 Support as follows on an annual basis:

(a) 25% of the balance of the fund shall be paid to households located within a distance of a 1 kilometre radius from the RESS 1 Project on a pro rata basis, up to a maximum gross payment of €1,000 per year to each household;

(b) 25% of the balance of the fund shall be paid to households located outside a distance of 1 kilometre from the RESS 1 Project but within 2 kilometres from such RESS 1 Project on a pro rata basis, up to a maximum gross payment of €500 per year to each household; and

(c) a minimum of 45% of the balance of the fund shall be to paid to community enterprises whose primary focus or aim is the promotion of energy efficiency, sustainable energy and/or climate action initiatives.

7.2.5 The Generator shall be entitled to recover reasonable expenses incurred by them in relation to administration costs of the Community Benefit Fund to a maximum of 5% of the Community Benefit Fund on an annual basis.

7.2.6 The Generator will submit an annual report to the Minister (or a nominated body) which shall comprise of the following information:

(a) An overview section outlining the main actions and activities of the Generator's administration of the Community Benefit Fund for the preceding year;

(b) A section outlining the finances of the Community Benefit Fund for the preceding year (detailing in particular, the level of contributions made to the Community Benefit Fund and the outgoings of the Community Benefit Fund and any funds to be carried forward);

(c) Evidence of the promotional activity in respect of the Community Benefit Fund;

(d) The accounting policies and financial controls of the Generator in administering the Community Benefit Fund; and

(e) Any other relevant information that is significant or material to the Generator's administration of the Community Benefit Fund in the preceding year.

7.2.7 Proposals to carry forward funds must be notified in writing to the Minister (or a nominated body). The Minister (or a nominated body) may make directions to Generators in respect of carried forward funds.

7.2.8 The Minister (or a nominated body) shall have oversight over all Community Benefit Funds.

7.2.9 The Minister (or a nominated body) will publish a detailed set of good practice principles in relation to the establishment and administration of Community Benefit Funds prior to 1 July 2021.

7.3 REP Scheme

Each Applicant and Successful Applicant (other than an Applicant or a Successful Applicant for Community-Led Projects) must ensure that it complies with the relevant requirements set out in Annex C (REP Scheme)[2].

[2] **Note to Stakeholders:** DCCAE may require a director's declaration.

8 Obligations of RESS 1 Successful Applicants

8.1 Each Successful Applicant is required to execute an Implementation Agreement (in the form prescribed in Annex B (Agreed Form Implementation Agreement)) and, except for Community Zero-Bond Projects, provide a Performance Bond (in the form attached to the Implementation Agreement) within 30 Working Days of being notified that it has been granted an Award.

8.2 In the event that the Implementation Agreement has not been executed and (where applicable) a Performance Bond has not been provided within 30 Working Days of being notified that it has been granted an Award, the Successful Applicant for the RESS 1 Project will have the Award rescinded and will not receive a Letter of Offer and the TSO will be entitled to draw down on the full amount of the Bid Bond.

8.3 The Implementation Agreement includes, among other things, the following with respect to obligations of Generators in respect of RESS 1 Projects:

- Provision of a Performance Bond in the amount of €25,000 per MW of Offer Quantity;
- Milestones to be achieved by the RESS 1 Project with the consequence that the Letter of Offer may be revoked and draws made against the Performance Bond for a failure to meet such Milestones;
- Force majeure provisions; and
- Requirements to comply with these Terms and Conditions, including the community aspects of RESS 1 as detailed in these Terms and Conditions.

8.4 The RESS 1 Project will not be eligible to participate in the next RESS competition. Any separately metered extension of the RESS 1 Project will only be eligible for support under a future RESS competition once the original RESS 1 Project has met its obligations with regards to its Implementation Agreement and these Terms and Conditions.

8.5 The Successful Applicant must ensure that it complies with the requirements set out in Annex C (REP Scheme).

9 Auction Administration Processes

9.1 Auction Timetable

9.1.1 The TSO shall publish the RESS 1 Auction Timetable which shall include indicative dates for the following:

(a) the date by which the Auction Information Pack will be published;

(b) the opening and closing dates for receipt of Applications for Qualification;

(c) the date by which Provisional Qualification Decisions will be issued (the "**Provisional Qualification Decision Date**");

(d) the Bid Bond Posting Date;

(e) Qualification Decisions Submission Date;

(f) Final Qualification Decisions Date;

(g) Auction Information Pack Publication Date;

(h) the opening for receipt of Offers;

(i) the RESS 1 Auction Submission Deadline Date;

(j) the date for conclusion of the RESS 1 Auction (the "**Auction Completion Date**");

(k) the Provisional Auction Results Date; and

(l) the Final Auction Results Date.

9.2 Application Process

9.2.1 Qualification Information Pack

The TSO shall develop and publish the Qualification Information Pack including a form of Application for Qualification and including the forms of director's declarations specified to be provided in the Terms and Conditions which includes all the relevant information on how an Applicant may apply to qualify for a RESS 1 Auction.

9.2.2 Submission of Applications for Qualification

(a) Where an Applicant is seeking to participate in the RESS 1 Auction, it shall submit an Application for Qualification to the TSO using the required documentation set out in the Qualification Information Pack by the Qualification Application Closing Date.

(b) The TSO shall consider and review an Application for Qualification and determine whether the relevant Applicant is eligible to participate in the RESS 1 Auction in accordance with these Terms and Conditions. The TSO may seek any further information from the Applicant that it may reasonably require to make its determination in respect of any Application for Qualification.

9.2.3 Administrative Considerations

The TSO may reject an Application for Qualification for the RESS 1 Auction where it considers that the information contained in the Application for Qualification is materially deficient or incorrect.

9.2.4 Eligibility Criteria

The TSO shall reject an Application for Qualification for the RESS 1 Auction where the RESS 1 Project does not meet and/or the Applicant does not comply with section 6.4 of these Terms and Conditions.

9.2.5 Provisional Qualification Decisions

(a) The TSO shall use reasonable endeavours to issue Provisional Qualification Decisions to all Applicants that have submitted Applications for Qualification by the Provisional Qualification Decision Date.

(b) In respect of a Provisional Qualification Decision, where an Applicant (acting reasonably and in good faith and to the standard of a Prudent Industry Operator) considers that the TSO has not applied these Terms and Conditions correctly in making the Provisional Qualification Decision, they may submit an Application for Review to the TSO within two Working Days of receipt of the Provisional Qualification Decision.

(c) The TSO shall review any relevant Provisional Qualification Decision and issue its decision to the relevant Applicant within ten Working Days of the receipt of the Application for Review.

(d) Following receipt of the TSO decision at section (c) above, where an Applicant (acting reasonably to the standard of a Prudent Industry Operator) considers that the TSO has not applied these Terms and Conditions correctly in assessing an Application for Qualification or the Application for Review, they may submit a Notice of Dissatisfaction to the Minister within two Working Days of receipt of the TSO decision.

9.2.6 Final Qualification Decisions

(a) The TSO shall prepare Final Qualification Decisions in respect of Applications for Qualification that:

(i) reflect the Provisional Qualification Decisions;

(ii) reflect any changes to Provisional Qualification Decisions arising from any Application for Review;

(iii) reflect the status of each Applicant's Bid Bond;

(iv) correct any error or omission in Provisional Qualification Decisions which the TSO becomes aware of; and

(v) reflect any updated information or change in circumstances affecting the Applicant that the TSO becomes aware of.

(b) The TSO shall use reasonable endeavours to submit the Final Qualification Decisions to the Minister for approval by the Qualification Decisions Submission Date.

(c) The Minister shall consider the Final Qualification Decisions submitted by the TSO, the Auction Monitor report (in accordance with the Information Paper) and any Notices of Dissatisfaction submitted by Applicants in respect of a Final Qualification Decision.

(d) The TSO shall issue its approved Final Qualification Decisions to Applicants by the later of (i) the Final Qualification Decisions Date or (ii) within two Working Days following receipt of approval from the Minister of the Final Qualification Decisions.

(e) The TSO shall issue to the Regulatory Authority the approved Final Qualification Decisions for the purposes of the Regulatory Authority determining the Final Competition Ratios in accordance with section 6.6 of these Terms and Conditions.

9.3 Bid Bond Process

9.3.1 Obligation to Provide

(a) For the avoidance of doubt, this section 9.3 is not applicable to Community Zero-Bond Projects.

(b) The purpose of the Bid Bond is to provide credit support to cover scenarios where an Applicant does not submit an Offer or execute the Implementation Agreement and post a Performance Bond.

(c) The Applicant, where required to do so under these Terms and Conditions, shall post a Bid Bond by the Bid Bond Posting Date.

(d) Where an Applicant does not post the required level of Bid Bond by the Bid Bond Posting Date, the TSO shall reject the Application for Qualification in the Final Qualification Decision.

9.3.2 Acceptable Forms of Bid Bond

(a) The Bid Bond shall be by way of a cash held deposit in the TSO RESS Account with the TSO Bank as provided for in the following paragraphs of this section 9.3.2.

(b) The TSO shall establish and maintain a TSO RESS Account with the TSO Bank as follows:

(i) the TSO RESS Account shall be in the sole name of the TSO with the designation “Reserve Account relating to the RESS Auctions”; and

(ii) the TSO shall irrevocably instruct the bank to make payment against the sole instruction of the TSO in accordance with these Terms and Conditions. These Terms and Conditions shall take precedence over the bank mandate for the TSO RESS Account.

9.3.3 Bid Bonds shall be subject to the following conditions:

(a) a Bid Bond shall be available for draw down by the TSO making a call or a demand as provided for in these Terms and Conditions and shall continue to remain in place until the provision of the executed Implementation Agreement and the Performance Bond by the relevant Applicant; and

(b) the Qualified Applicant shall not allow, and shall not take any action, or fail to take any action, which would have the effect of allowing, the amount of the Bid Bond to reduce below the Required Bid Bond Amount.

9.3.4 Termination and Associated Charges

(a) Qualified Applicants are reminded of sections 6.7.3 and 8.2 of these Terms and Conditions which will allow the TSO to draw down on the full amount of the Bid Bond.

(b) Where a Successful Applicant does not execute the Implementation Agreement or does not post the Performance Bond in accordance with these Terms and Conditions, the Minister shall rescind the Letter of Offer and instruct the TSO to draw down on the Bid Bond provided by the Successful Applicant within ten Working Days.

(c) Where a Successful Applicant executes the Implementation Agreement and posts the Performance Bond associated with that Implementation Agreement in accordance with the timeframes set out in these Terms and Conditions, the Minister shall instruct the TSO to return the Bid Bond to the Successful Applicant.

(d) If a Qualified Applicant is unsuccessful in the RESS 1 Auction (and has otherwise complied with these Terms and Conditions), the TSO shall return the Bid Bond to the Qualified Applicant within ten Working Days of the publication of the final results of the RESS 1 Auction.

9.4 Auction Process

9.4.1 Auction Information Pack

(a) The TSO shall develop the Auction Information Pack and an offer submission form (the "**Offer Submission Form**"), which includes all the relevant information on how a Qualified Applicant may submit an Offer.

(b) The TSO shall publish the Auction Information Pack and Offer Submission Form. The TSO shall include in the Offer Submission Form details of the secure submission process.

9.4.2 Submission of Offers

(a) Qualified Applicants shall submit an Offer using the Offer Submission Form no later than the RESS 1 Auction Submission Deadline Date.

(b) The TSO shall use reasonable endeavours to conclude the RESS 1 Auction in accordance with these Terms and Conditions by the Auction Completion Date.

(c) The TSO shall use reasonable endeavours to issue the Provisional Auction Results to all Qualified Applicants that submitted an Offer by the Provisional

Auction Results Date.

(d) In respect of a Provisional Auction Result, where the Qualified Applicant (acting to the standard of a Prudent Industry Operator) considers that the TSO has not applied these Terms and Conditions correctly, they may submit a Notice of Dissatisfaction to the Minister within two Working Days of receipt of the outcome of the Provisional Auction Results.

(e) The TSO shall publish and submit to the Minister for approval, the Provisional Auction Results for all Qualified Applicants that submitted an Offer.

(f) The Minister shall consider the Provisional Auction Results submitted by the TSO, the Auction Monitor report (in accordance with the Information Paper) and any Notices of Dissatisfaction submitted by Qualified Applicants in respect of a Provisional Auction Result.

(g) The TSO shall issue the Final Auction Results to all Qualified Applicants by the later of: (i) the Final Auction Results Date; and (ii) two Working Days after the receipt of approval from the Minister in respect of the Final Auction Results.

9.5 Post Auction Information to Be Released Publicly

The TSO will publish a notification of the Final Auction Results, including:

- the quantity of renewable energy supply to be purchased by Eligible Technology category;
- the weighted average price for each Preference Category; and
- a list of all Successful Applicants and the location, size and Eligible Technology category of each successful Offer.

The Offer Price for each Successful Applicant will not be published. However, the current Regulatory Authority policy is to publish PSO outturn payments by Supplier to each Generator.

10 Reserved Rights of the Minister

10.1.1 The Minister reserves the following rights, in addition to the rights specified elsewhere in these Terms and Conditions:

(a) The right to reject all Applications for Qualification and / or Offers, modify these Terms and Conditions if all Applications for Qualification and / or Offers have been rejected and direct the TSO to re-run the RESS 1 Auction.

(b) The right to reject any Applications for Qualification and / or Offers as a result of Applications for Qualification and / or Offers being inconsistent with the objectives of RESS 1, and including by reason that the Application for Qualification and / or Offer took advantage of an interpretation of these Terms and Conditions which was not intended by the Minister and accepting such Application for Qualification or Offer would be contrary to the objectives of RESS 1.

(c) The right to reject any Offer Price for any reason provided that no higher Offer Price in the same Preference Category is accepted.

11 General

11.1 Condition of Offer

It shall be a condition of any Letter of Offer for RESS 1 that each RESS 1 Project shall comply on an ongoing basis with these Terms and Conditions and any other legal or regulatory requirements applicable to the RESS 1 Project in question. In the case of any material breach of any of these Terms and Conditions, or of any legal or regulatory requirements, the Letter of Offer may be withdrawn.

11.2 Changes to Plant or Equipment

11.2.1 The Minister may agree to changes to plant or equipment within any individual RESS 1 Project subject to the following conditions:

(a) the change is notified in writing to the Minister sufficiently in advance of the change;

(b) the change is agreed by response in writing by the Minister;

(c) the changes to the plant or equipment are reasonable and the RESS 1 Project remains otherwise compliant with these Terms and Conditions;

(d) the changes do not increase or decrease the installed capacity rating (save in accordance with section 6.4.13 of these Terms and Conditions) nor the MEC of the RESS 1 Project;

(e) the change does not violate planning permission for the RESS 1 Project; and

(f) the change does not result in the RESS 1 Project moving between Eligible Technology categories or no longer qualifying as an Eligible Technology.

11.3 Freedom of Information Act

11.3.1 All records held by the Minister, the TSO and / or the Regulatory Authority are subject to the provisions of the Freedom of Information Act 2014, as amended or revised from time to time, (the "**FoI Act**") and may be subject to disclosure in the public interest in accordance with the FoI Act.

11.3.2 The FoI Act establishes a general rule of disclosure of all records held by certain bodies including the Minister, the TSO and / or the Regulatory Authority. Some exceptions are provided for including where information is of a personal or confidential nature or commercially sensitive. Applicants should seek their own legal advice on the applicability of the FoI Act to any application, information or documentation submitted under these Terms and Conditions.

11.4 Costs and Expenses

The Minister shall not be responsible or liable for any costs or expenses incurred in making any Application for Qualification in the RESS 1 Auction or submitting an Offer or otherwise participating in RESS 1 regardless of the conduct or outcome of the Application for Qualification or the RESS 1 Auction or otherwise.

11.5 Liability

Although every care has been taken in preparing these Terms and Conditions and equal care will be taken in performing any obligations under these Terms and Conditions, no representation, warranty or undertaking, express or implied, in respect of any error or misstatement by or on behalf of the Minister or any of his officers, employees, servants, advisers, contractors, or agents is or will be made or given to any Applicant or to any other party, and no responsibility or liability will be accepted by the Minister or any of his officers, employees, servants, advisers or agents for the accuracy or completeness of these Terms and Conditions or of any other information, written or oral, which is made available to any Applicant or to any other party or to the officers, employees, servants, advisers, contractors or agents of any such party. Any and all liability and/or loss (including any third party liability or loss) of any nature whatsoever and howsoever arising (including liability and/or loss and any third party liability or loss (including indirect or consequential damage and loss whatsoever or howsoever arising)) in any way resulting from performing any obligations under these Terms and Conditions is hereby expressly disclaimed by the Minister and his officers,

employees, servants, advisers and agents and is hereby excluded, in each case, to the fullest extent permitted by law.

11.6 Change of Control

For all RESS 1 Projects, the Successful Applicant shall give (as soon as reasonably practicable) notice to the Minister of any transfer or allotment of shares or amendment of articles of association or constitutional documents or by some other act or deed whereby the effective control of the Successful Applicant (whether by ownership of shares or the power to control or direct the management of the Successful Applicant) changed or passed to any person not having effective control as at the date of the Application for Qualification.

11.7 Access and Performance Monitoring

It is a condition of RESS 1 that Generators who receive a Letter of Offer will be required to provide reasonable access to the Site to the Minister, its employees, contractors, servants or agents (including Sustainable Energy Authority of Ireland, its employees, contractors, servants and agents, and the Regulatory Authority, the TSO and the DSO, and their respective employees, contractors, servants and agents) and to provide technical and generation information including statistical data to them for the purpose of monitoring and forming technical assessments of efficiency, reliability and productivity including overall performance.

11.8 Consultation with Third Parties

It is a condition of entry to the RESS 1 Auction that the Applicant accepts that the Minister may correspond with the appropriate regulatory authority (including the Regulatory Authority, the TSO and the DSO) about related applications to construct or operate the electricity generating plant or permissions, consents or authorisations issued by it and to communicate with the appropriate network operator regarding the status of related connections to the network. Therefore, all Applicants shall complete letters addressed to the SEM, the Regulatory Authority and the relevant network operators as part of the application in the RESS 1 Auction (copies of which will included in the Auction Information Pack).

11.9 Extension of Time

The Minister may, even where no applications for extensions of time limits have been received, publish, in the event of a delay in grid connection build-out affecting, or likely to affect, a significant number of RESS 1 Projects or a category (which may be a category defined by type of RESS 1 Project or by reference to some other factor related to the likely impact of such a delay) of them, a notice extending, for all Generators or such a category, a specified deadline, or all deadlines, by a specified period of time or until a specified date within the conditions of the state aid clearance decision for RESS 1.

11.10 Information

The Minister may, where he considers it appropriate to do so, request any information he deems necessary for the consideration of an Application for Qualification or to confirm to his satisfaction ongoing compliance by an Applicant and/or Generator or Application for Qualification with these Terms and Conditions and the Minister may exclude any Applicant and/or Generator or Application for Qualification from RESS 1 if any information requested in a letter warning of the possibility of such exclusion is not received within 21 days after being requested in such a letter.

11.11 Data Protection

The Minister will process personal data (as that term is defined under the General Data Protection Regulation 2016/679) in connection with the administration of RESS 1. For further information on how the Minister processes personal data in connection with RESS 1, and the parties that personal data may be shared with, please see the RESS 1 Data Privacy Notice.

Annex A – Technical Requirements for Select Technologies

Note to stakeholders: This Annex A is currently be developed and will be populated in the final set of RESS Terms and Conditions.

Annex B – Form of Implementation Agreement, Performance Bond and Letter of Offer

The Minister of Communications, Climate Action & Environment

RESS-1

Implementation Agreement

[●] 20[●]

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THIS IMPLEMENTATION AGREEMENT ("**AGREEMENT**") is made the day of 20[●]

BETWEEN:

(1) **THE MINISTER OF COMMUNICATIONS, CLIMATE ACTION & ENVIRONMENT**, of 29 – 31 Adelaide Road, Dublin, D02 X285 (the "**Minister**"); and

(2) [[●]], a ***[limited liability company]*** incorporated under the laws of [●], with ***[registration number [[●]]*** and having its registered office at [[●]] (the "**Generator**"),

each a "**Party**" and together the "**Parties**".

WHEREAS:

A. The Minister has developed the new Renewable Electricity Support Scheme (RESS) for Ireland. The RESS aims to promote the generation of electricity from renewable sources.

B. An Application for Qualification for the RESS 1 Auction in respect of the RESS 1 Project was accepted by the TSO and an Offer was submitted into the RESS 1 Auction in respect of the RESS 1 Project.

C. By Notice of Award, the Generator was informed that the RESS 1 Project was successful in the RESS 1 Auction.

D. In accordance with the Terms and Conditions, the Generator (as a successful bidder) shall be entitled to receive a Letter of Offer for RESS 1 Support (in the form set out in Appendix 1 to this Agreement) subject to and in accordance with the terms of this Agreement.

E. In accordance with the Terms and Conditions, the Parties have agreed to enter into this Agreement subject to and upon the terms and conditions hereafter set forth.

In consideration of the mutual agreements contained herein **IT IS HEREBY AGREED** as follows:

12 Definitions and Interpretation

12.1 Definitions

In this Agreement (including the Recitals) and the Appendices hereto, save where the context otherwise admits or requires, the following definitions shall have the following meanings:

"**Act**" means the Electricity Regulation Act 1999 (as amended);

"**Application for Qualification**" has the meaning given to it in the Terms and Conditions;

"**Approved Credit Rating**" means a BBB rating of long-term debt given by Standard & Poor's (or equivalent rating by Moody's or Fitch);

"**Biogas HECHP**" has the meaning given to it in the Terms and Conditions; "Biomass HECHP" has the meaning given to it in the Terms and Conditions;

"**Commercial Operation**" means the date that the RESS 1 Project achieved the Installed Capacity Commitment and provided that the RESS 1 Project has (as applicable) also obtained an 'Interim Operational Notification' from the TSO or has paid the 'third stage payment' to the DSO (and the DSO is in receipt of the 'third stage payment') under the Grid Connection Agreement;

"**Commercial Operation Date**" means the date the RESS 1 Project achieved Commercial Operation;

"**Community Zero-Bond Projects**" has the meaning given to it in the Terms and Conditions;

"**Competent Authority**" means any local or national or supra-national agency, authority, department, inspectorate, ministry, official or public or statutory person (whether autonomous or not) or regulatory authority of the Republic of Ireland or of the European Union which has jurisdiction over any of the Parties to and the subject matter of this Agreement and shall include the Regulatory Authority and shall not include a court or tribunal of competent jurisdiction;

"**Distribution System Operator**" or "**DSO**" has the meaning given to it in the Terms and Conditions;

"**Event of Default**" has the meaning given to that term in Clause 8.1;

"**Expiry Date**" means, for any RESS 1 Project, the date falling seven (7) months after the Commercial Operation Date;

"**Force Majeure**" means any event or circumstance or number of events or circumstances or combination thereof which is beyond the control of a Party and which could not have been avoided and which results in or causes the failure of a Party to perform any of its obligations under this Agreement and any such event or circumstance or number of events or circumstances or combination thereof shall be limited to the following:

(a) acts of terrorists;

(b) war declared or undeclared, blockade, revolution, riot, insurrection, civil commotion, invasion or armed conflict;

(c) sabotage or acts of vandalism, criminal damage or the threat of such acts;

(d) extreme weather or environmental conditions including lightning, fire, landslip, accumulation of snow or ice, natural disasters and phenomena including meteorites, the occurrence of pressure waves caused by aircraft or other aerial devices travelling at supersonic speeds, impact by aircraft, volcanic eruption, explosion including nuclear explosion, radioactive or chemical contamination or ionising radiation;

(e) any change of legislation, governmental order, restraint or directive having the effect of preventing or delaying the construction, commissioning or testing of the RESS 1 Project, shutting down or reducing the output of the RESS 1 Project or (where applicable) interrupting the supply of fuel or electricity to the RESS 1 Project; and

(f) any strike which is part of a labour dispute of a national character occurring in the Republic of Ireland or which is part of a national electricity industry strike within the Republic of Ireland,

provided that Force Majeure shall not include lack of funds and/or the inability of a Party to pay and/or delay in construction or energisation of a RESS 1 Project's grid connection;

"**Grid Connection Agreement**" means the agreement to be entered into between the Generator and the DSO or the TSO setting out the terms on which the RESS 1 Project will be connected to the transmission system or the distribution system;

"**Guarantee of Origin**" has the meaning given to it in Article 2(j) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009;

"**HECHP**" has the meaning given to it in the Terms and Conditions;

"**Installed Capacity Commitment**" has the meaning given to that term in Clause 5.6;

"**Law**" or "**Laws**" means any law applicable to this Agreement and will include common law, statutes, statutory instruments, byelaws, rules, codes, regulations, decisions, directives, constitutions, instruments, rules of court, delegated or junior legislation;

"**Letter of Offer**" means a letter of offer for RESS 1 Support from the Minister to the Generator, in the form set out in Appendix 1 to this Agreement;

"**Longstop Date**" means 31 December 2023;

"**Material Breach**" means a breach by the Generator of or a failure by the Generator to comply with:

a) the Terms and Conditions; or

b) Clause 6.1 and 6.2 of this Agreement; or

c) any warranties, representations or confirmations contained in Clause 4 of this Agreement;

"**Milestone Completion Dates**" means the dates that each Milestone must be achieved by the Generator as set out in Appendix 2;

"**Milestones**" means the milestones prescribed in Appendix 2;

"**Non-Performing Party**" means a Party which is unable to perform all or any of its obligations by reason of Force Majeure;

"**Notice of Award**" means the letter from the Minister to the Generator advising the Generator that the RESS 1 Project was successful in the RESS 1 Auction;

"**Offer**" has the meaning given to it in the Terms and Conditions;

"**Performance Bond**" means the on demand bond to be procured by the Generator in the form as set out in Appendix 3;

"**PPA**" means a power purchase agreement between the Generator and a licensed supplier obliging the latter to purchase the output from the RESS 1 Project;

"**Prudent Electricity Utility Practice**" means those standards, practices, methods and procedures conforming to safety and legal requirements which are attained by reasonably exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;

"**Regulatory Authority**" means the Commission for Regulation of Utilities as established pursuant to the Act or any successor body;

"**RESS**" means renewable electricity support scheme established by the Minister pursuant to Section 39 (2) (b) of the Act;

"**RESS 1 Auction**" has the meaning given to it in the Terms and Conditions;

"**RESS 1 Project**" means the renewable energy project to be developed by the Generator, as detailed in the Application for Qualification;

"**RESS 1 Support**" has the meaning given to it in the Terms and Conditions; "RESS 1 Support End-Date" has the meaning given to that term in Clause 16.1;

"**Terms and Conditions**" means the terms and conditions governing the RESS 1 Auction (as may be amended or updated in accordance with the Terms and Conditions);

"**Transmission System Operator**" or "**TSO**" has the meaning given to it in the Terms and Conditions;

"**Waste to Energy HECHP**" has the meaning given to it in the Terms and Conditions; and "**Working Day**" has the meaning given to it in the Terms and Conditions.

12.2 Interpretation

12.2.1 In this Agreement, unless the context requires otherwise, any reference to:

(a) the singular shall include the plural and vice versa;

(b) any gender reference shall be deemed to include references to the masculine, feminine and neuter genders;

(c) the word "including" and its variations shall be construed without limitation;

(d) any reference to "writing" or "written" shall include all methods of reproducing words in a legible and non-transitory form;

(e) any words importing persons or parties shall include individuals, firms and corporations, joint ventures, trusts, unincorporated associations and organisations, partnerships and any other entity, in each case whether or not having a separate legal personality and any references to persons shall include their legal successors and permitted assignees;

(f) any reference to legislation, regulations, directives, orders, instruments, codes or other enactments shall include any amendments, modifications, extensions, replacements or re- enactments thereof then in force;

(g) any reference to a statutory agency, body, corporation, entity, ministry or office shall include their legal predecessors, successors and permitted assignees;

(h) unless otherwise specified:

(i) any reference in this Agreement to a Clause is a reference to a Clause contained in this Agreement;

(ii) any reference to an Appendix is a reference to an Appendix to this Agreement;

(iii) any reference to another agreement or document, or any deed or other instrument shall be construed as a reference to that other agreement, or document, deed or other instrument as the same may have been, or may from time to time be, amended, varied, supplemented, substituted or novated;

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

(v) where reference is made to a monetary amount or sum, it is to an amount or sum denominated in euro unless specified otherwise;

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

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

(viii) any reference to time shall be construed as local time in Dublin, Ireland.

12.2.2 In the event of inconsistency between the provisions of this Agreement and the Letter of Offer or the Terms and Conditions, the following order of precedence shall prevail:

a) the Terms and Conditions;

b) the Implementation Agreement; and

c) the Letter of Offer.

13 Term

13.1 This Agreement shall commence on the date of this Agreement and shall continue until the earlier of (i) the Expiry Date; and (ii) the termination of this Agreement in accordance with its terms.

14 Agreement

14.1 The Generator agrees that it shall:

14.1.1 deliver to the Minister and maintain the Performance Bond in accordance with Clauses 17.1 and 17.2; and

14.1.2 design, finance, construct, complete and commission the RESS 1 Project in accordance with this Agreement, the Terms and Conditions and all Laws.

14.2 Subject to the Generator's compliance with Clause 17.1, the Minister agrees to provide the Letter of Offer to the Generator within ten (10) Working Days following receipt by the Minister of: (i) two original counterparts of this Agreement duly executed by the Generator; and (ii) an original of the Performance Bond which has been duly executed.

15 Confirmations

15.1 The Generator hereby warrants, represents and confirms to the Minister as follows:

15.1.1 that the representations and warranties contained in the Application for Qualification for the RESS 1 Project are true, valid and correct, complete and accurate in all material respects as of the date hereof;

15.1.2 the Generator is a company duly organised, validly existing and in a good standing under the laws of the country in which it is established and has full power and authority to carry on its business as provided for in this Agreement;

15.1.3 the Generator has the corporate power and authority to enter into this Agreement and the transactions provided for and contemplated in it;

15.1.4 the execution and performance of this Agreement does not conflict with or constitute a breach or default under any contract or agreement of any kind to which the Generator is a party or any Laws applicable to the Generator or its assets; and

15.1.5 the Generator is entering into this Agreement with a full understanding of its terms and risks and is capable of assuming those risks.

16 Achievement of Milestones and Commercial Operation

16.1 The RESS 1 Project is entitled to receive RESS 1 Support no earlier than 1 July 2021. Subject to Clause 5.4 below, the period of RESS 1 Support for the RESS 1 Project will end no later than 31 December 2037 (the "**RESS 1 Support End-Date**").

16.2 The Generator shall ensure that all Milestones are completed by the time prescribed in Appendix 2.

16.3 The Generator shall ensure that the RESS 1 Project achieves Commercial Operation by the Longstop Date.

16.4 If the RESS 1 Project cannot achieve:

16.4.1 a particular Milestone by the relevant Milestone Completion Date; or

16.4.2 Commercial Operation by the 31 December 2022, in each case due to Force Majeure, then, always subject to (i) the Generator's compliance with Clause 7.1 and the Minister's right to terminate for extended Force Majeure under Clause 7.2, the relevant Milestone Completion Date and future Milestone Completion Dates will be adjusted to take account of such delay owing to Force Majeure. In addition, the RESS 1 Project's entitlement to RESS 1 Support will be extended past the RESS 1 Support End-Date. Any extension to the RESS 1 Support End-Date under this Clause 5.4, will not entitle the RESS 1 Project's RESS 1 Support to extend beyond 31 December 2038.

16.5 Within ten (10) Working Days after the Commercial Operation Date, the Generator shall furnish a director's certificate to the Minister along with any other relevant information confirming and evidencing that Commercial Operation has been achieved. The Generator acknowledges that the Minister may request any copies of any certificates or other documentation to ensure Commercial Operation has been achieved.

16.6 As a condition to the achievement of Commercial Operation, the Generator shall issue a director's declaration confirming that the installed capacity of the RESS 1

Project is within the tolerance limits set out in sections 6.4.13 of the Terms and Conditions (the "**Installed Capacity Commitment**").

17 Performance Bond

17.1 Not later than thirty (30) Working Days after the date of the Notice of Award, as security for the commitments of the Generator under this Agreement, the Generator shall procure the execution and delivery of the Performance Bond, by a bond provider with an Approved Credit Rating, to the Minister.

17.2 In the event that:

17.2.1 the Generator does not achieve a Milestone by the applicable Milestone Completion Date allowing the Minister to make a demand under the Performance Bond as indicated in Appendix 2 to the Agreement; or

17.2.2 Commercial Operation is not achieved by the Longstop Date; or

17.2.3 the development of the RESS 1 Project is abandoned; or

17.2.4 any of the matters listed in Clause 8 arise, allowing the Minister to terminate this Agreement and/or make a demand for payment under the Performance Bond in accordance with Clause 8.2,

the Minister may make a demand for payment under the Performance Bond pursuant to its terms.

17.3 Notwithstanding any other provision of this Agreement, a Performance Bond shall not be required to be put in place in respect of Community Zero-Bond Projects.

18 Force Majeure

18.1 Where a Non-Performing Party is rendered wholly or partially unable to perform all or any of its obligations under this Agreement by reason of Force Majeure, this Agreement shall remain in effect but the Non-Performing Party's relevant obligations and the corresponding obligations of the other Party owed to the Non-Performing

Party under this Agreement which are obligations affected by Force Majeure shall be suspended provided that such suspension shall be of no greater scope and no longer duration than is required by the Force Majeure.

Further:

18.1.1 as soon as reasonably practicable, but in any event within five (5) Working Days, the Non-Performing Party shall notify the other Party of the circumstances of Force Majeure, identifying the nature of the event, its expected duration, and the particular obligations thereby affected and shall furnish reports at such intervals as the other Party may reasonably request, with respect thereto during the period of Force Majeure;

18.1.2 the Non-Performing Party shall use all reasonable endeavours to remedy this inability to perform and to resume full performance of its obligations under the Agreement;

18.1.3 no obligations of either Party that arose before the Force Majeure and which can reasonably be expected to be performed are excused as a result of Force Majeure;

18.1.4 forthwith after the occurrence of the Force Majeure, each Party shall use all reasonable endeavours to consult with the other as to how best to give effect to their obligations under the Agreement so far as is reasonably practicable during the period of Force Majeure;

18.1.5 the Non-Performing Party on being able to resume full performance of its obligations under the Agreement, shall provide the other Party with written notice to that effect, without delay; and

18.1.6 insofar as possible the Non Performing Party shall seek to mitigate the consequences of the Force Majeure occurrence.

18.2 If the event that an event of Force Majeure continues for more than twelve (12) months, then the Party not affected by Force Majeure may by notice in writing to the Non-Performing Party terminate this Agreement with effect from the date of such notice. On termination of this Agreement pursuant to this Clause 18.2, the Parties acknowledge that the Letter of Offer will be withdrawn by the Minister.

19 Events of Default and Termination

19.1 The following events or circumstance shall be Events of Default:

19.1.1 the Generator does not comply with its obligation under Clause 6 of this Agreement; or

19.1.2 a demand has been made by the Minister under the Performance Bond and such amount is not paid to the Minister within the timeframe for payment specified in the Performance Bond; or

19.1.3 the Generator is in Material Breach; or

19.1.4 any other act, default or omission which is in breach of this Agreement and in respect of which the Minister has given notice (a "**breach notice**") to the Generator requiring the breach to be rectified and the Generator has failed to rectify within twenty (20) Working Days of the breach notice or such longer period as the Minister may in its sole discretion specify in the breach notice; or

19.1.5 the Generator:

(a) is unable to pay its debts within the meaning of section 570 of the Companies Act 2014 (and a Party shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by the Party concerned with recourse to all appropriate measures and procedures) or if it enters into any voluntary scheme, agreement or arrangement (other than for the purpose of solvent reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Affected Party); or

(b) has a receiver or examiner appointed over the whole or any material part of its assets or undertaking; or

(c) passes any resolution for winding-up; or

(d) anything analogous to, or having a substantially similar effect to, any of the events or any circumstances specified in Clause 19.1.5 (a) – (c) above occurs in any jurisdiction in relation to the Generator; or

19.1.6 Commercial Operation is not achieved by the Longstop Date.

19.2 Where an Event of Default arises or the Minister terminates this Agreement in accordance with Clause 7.2, the Minister shall be entitled to:

19.2.1 make an immediate demand under the Performance Bond; and / or

19.2.2 terminate this Agreement and the Letter of Offer with immediate effect.

19.3 The Minister shall have no liability to the Generator by reason of exercising such right of termination or revocation of the Letter of Offer in accordance with this Clause 8.

20 Effects of Termination

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

20.2 Termination of this Agreement by the Minister as a whole under Clause 8.2 shall not affect any rights or obligations of the Parties which have accrued at the time of such termination or, where applicable, the continuing obligations of the Parties under this Agreement.

21 Severance

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

22 Notices

22.1 Any notice given by one Party to the other under this Agreement shall be in writing and shall be sent or delivered to the address, and marked for the attention of the person specified in Clause 11.4. Either Party may, by notice to the other, given in compliance with this Clause 11, change its address or the person in that Party to which such notices are to be sent or delivered.

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

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

(i) in the case of personal delivery, when delivered; or

(ii) in the case of pre-paid registered post, on the second day following the date of posting (or, if airmailed to or from overseas, on the fifth day following the date of posting),

provided that, if in accordance with the above provisions, any such notice or communication is delivered or received outside working hours on any day, such notice or communications shall be deemed to have been served at the start of the working hour on the next Working Day thereafter.

22.4 The Minister

Address: The Minister of Communications, Climate Action & Environment, 29 – 31 Adelaide Road, Dublin, D02 X285

For the attention of: Principal Officer, Electricity Policy Division

The Generator

Address: [●]

For the attention of: [●]

23 Entire Agreement

This Agreement, and the agreements or documents between the Generator and the Minister referred to herein, constitute the whole and only agreement between the Parties relating to the RESS 1 Project.

24 Variation

This Agreement may only be varied in writing by the Parties.

25 Waiver

25.1 No delay or omission by any Party to this Agreement in exercising any right, power or remedy provided by law or under this Agreement will:

25.1.1 affect that right, power or remedy; or

25.1.2 operate as a waiver of it.

25.2 The exercise or partial exercise of any right, power or remedy provided by law or under this Agreement will not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

26 Counterparts

26.1 This Agreement may be executed in any number of counterparts, and by the Parties on separate counterparts, but will not be effective until each Party has executed at least one counterpart.

26.2 Each counterpart will constitute an original of this Agreement, but all the counterparts will together constitute but one and the same instrument.

27 Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of Ireland and the Courts of Ireland shall have exclusive jurisdiction in relation to any matter arising under or in respect of this Agreement.

IN WITNESS whereof the Parties hereto have executed this Agreement the day and year first herein written.

Appendix 1

Form of Letter of Offer

Our Ref: RESS 1/X/YYY [●] 20[20]
[●] Limited

[Address (including EirCode)]

RESS 1 Competition

Letter of Offer

RE: [●] Limited - RESS 1 Ref. No: 1/X/YYY (please quote on any future correspondence)

Dear [●]

I am directed by the Minister for Communications, Climate Action and the Environment to refer to your application in the RESS 1 (Renewable Energy Support Scheme 1) Auction.

I am pleased to inform you that the RESS 1 Project identified in the following table has been accepted into RESS 1, subject to the conditions notified below:

Applicant	RESS 1 Project
[●] Limited *[Address (including EirCode)]*	[●]MW, [●], townland Generator address Co. County

The RESS 1 Ref. No in respect of this RESS 1 Project is [●] and should be quoted in all your dealings with the Minister in respect of this RESS 1 Project.

Capitalised terms used but not defined herein shall have the meaning given to them in the RESS 1 terms and conditions which are publically available at www.dccae.gov.ie/en-ie/energy/topics/Renewable-Energy/electricity/renewable-electricity-supports/ress/Pages/default.aspx

Conditions of this offer

1. That you shall comply with the RESS 1 terms and conditions.

2. You are required to comply with the Implementation Agreement including the achievement of all milestones required to be completed under the Implementation Agreement by their respective completion dates.

3. Full valid planning permission is required at all times in respect of your RESS 1 Project in order to remain compliant with the RESS 1 terms and conditions.

4. Individual RESS 1 Projects are required to be metered separately.

5. Any material changes to the RESS 1 Project as accepted into RESS 1 must be approved by the Minister.

6. You are reminded of the requirement for official metering and of the requirement for the relevant supplier to provide evidence to the Regulatory Authority regarding technical control to ensure that the MEC cannot physically be exceeded.

Conditions of this offer relating to the PSO Order

The following additional conditions must be complied with in order for the RESS 1 Project to be included in the PSO Order:

7. Confirmation that a Guarantee of Origin in respect of the output of the RESS 1 Project will not be sought;

8. Evidence that the supplier with whom the Successful Applicant has entered into a PPA in respect of the RESS 1 Project has notified the Regulatory Authority that the RESS 1 Project is eligible for RESS 1 Payment in the upcoming PSO Levy Year;

9. The Generator's current Tax Clearance Certificate from the Revenue Commissioners or for non-tax residents, a certificate or statement of suitability from the Irish Revenue Commissioners; and

10. Time schedule indicating deadlines for conclusion of the financial close and completion of civil and electrical works and purchase and installation of the plant in respect of the RESS 1 Project.

This information must be submitted to the Minister at latest within thirty (30) Working Days of a supplier notifying the Regulatory Authority that the specified RESS 1 Project is to be included in the calculations for the upcoming PSO Levy Year.

It is noted that RESS 1 Support can only be paid to RESS 1 Projects in any given year subject to two conditions:

11. that the RESS 1 Projects have been included in the Regulatory Authority's annual PSO decision; and

12. that the RESS 1 Projects are included in the annual RESS statutory instrument.

Acknowledgement

You are required to acknowledge receipt of this offer in writing within ten (10) Working Days from the date of this letter. Please include your Eircode on all future correspondence with your acknowledgement.

Yours sincerely

_____

Signed for and on behalf of:

THE MINISTER OF COMMUNICATIONS, CLIMATE ACTION & ENVIRONMENT

Appendix 2

Milestones

#	Milestone	Interim Milestone Date and consequences for failure to meet Interim Milestone Date	Final Milestone Date and consequences for failure to meet Final Milestone Date
1	The Generator shall issue two original executed copies of the Implementation Agreement to the Minister.	N/A	If not complete within thirty (30) Working Days after the date of the Notice of Award, the Notice of Award will be revoked.
2	The Generator shall issue to the Minister a Performance Bond in accordance with the terms of the Implementation Agreement.	N/A	If not complete within thirty (30) Working Days after the date of the Notice of Award, the Notice of Award will be revoked.
3	For Community Led Projects, the Generator shall submit evidence, satisfactory to the Minister, that the Generator has established a company structure that complies with the definition of Community-Led Projects.	N/A	If not complete by 30 June 2021, the Letter of Offer will be revoked.
4	The Generator shall submit evidence satisfactory to the Minister that the Generator has accepted and signed a Grid Connection Agreement and to submit to the Minister the Grid Connection Agreement reference number.	If not complete by 30 June 2021, the Minister will be entitled to drawdown up to a maximum of 25% of the Performance Bond (4% per month).	If not complete by 31 December 2021, the Letter of Offer will be revoked and remaining portion of the Performance Bond will be drawn down.

5	The Generator shall submit a declaration to the Minister confirming that funding to construct the RESS 1 Project and achieve Commercial Operation is in place in respect of the RESS 1 Project.	If not complete by 31 December 2021, the Minister will be entitled to drawdown up to a maximum of 25% of the Performance Bond (4% per month).	If not complete by 30 June 2022, Letter of Offer will be revoked and remaining portion of the Performance Bond will be drawn down.
6	The Generator shall provide a letter to the Minister confirming receipt from the TSO/DSO of the 'Second Stage Payment' under the Grid Connection Agreement.	If not complete by 30 June 2022, drawdown on Performance Bond up to a maximum of 25% (4% per month).	If not complete by 31 December 2022, Letter of Offer will be revoked and remaining portion of the Performance Bond will be drawn down.
7	The Generator shall achieve Commercial Operation.	If not complete by 31 December 2022, erosion of the contract term equivalent to the period of time between 31 December 2022 and Commercial Operation Date.	If not complete by 31 December 2023, Letter of Offer will be revoked and remaining portion of the Performance Bond will be drawn down.
8	For RESS 1 Projects involving Biomass HECHP, Biogas HECHP and Waste to Energy HECHP the Generator shall submit to the Minister a certificate from the Regulatory Authority confirming the HECHP status based on the 3 months of operation of the RESS 1 Project in accordance with Regulatory Authority documents CER/12/125, CER/12/184 and CER/16/153 (or any amendment, modification or replacement of such documents).	N/A	If not received within six months from the Commercial Operation Date, the Letter of Offer will be revoked and remaining portion of the Performance Bond will be drawn down.

Appendix 3

Performance Bond

Bond to be provided by a Bank or Financial Institution

To: Minister Date [●]

Dear Sirs

Global Performance Bond issued pursuant to the Implementation Agreement in the amount of
€[●]

Under the Implementation Agreement between Minister of Communications, Climate Action & Environment (the "**Beneficiary**") and [●] (the "**Generator**") (the "**Implementation Agreement**"), it was agreed that the Generator will procure the issue of a Performance Bond in favour of the Beneficiary in the form of this document.

[●] with its registered place of business at [●] (the "**Issuer**") issues this Performance Bond, number [●], and irrevocably and unconditionally agrees as follows:

1. In this Performance Bond (and every Demand), unless the context otherwise requires:

"**Authorised Signatory**" means an officer of the Beneficiary having authority to execute a Demand and whose name and specimen signature have been notified to the Issuer by the Beneficiary before service of the Demand;

"**Demand**" means a written notice of demand served by the Beneficiary on the Issuer in the form set out in the Appendix to this Performance Bond;

"**Expiry Date**" means the date falling seven (7) months after the Commercial Operation Date

"**UCP Rules**" means the ICC Uniform Customs and Practices for Documentary Credits, 2007 Revisions (UCP 600) and all subsequent revisions thereof unless

otherwise stated. Reference to any article is reference to such article in the UCP Rules or, where relevant, the equivalent article in any subsequent revisions of the UCP Rules.

"**Specified Amount**" means in relation to any Demand the sum specified in that Demand. This Performance Bond is subject to the UCP Rules except where otherwise stated.

2. The Issuer irrevocably and unconditionally undertakes that it will, on service of a Demand in paper form at the address specified below in clause 7 (or such other address as agreed between the Beneficiary and the Issuer) before the Expiry Date, and within three (3) Business Days of service of the Demand pay to the Beneficiary the Specified Amount, unless in so doing the aggregate limit set out in clause 3 of this Performance Bond would be exceeded, in which case the Issuer shall pay to the Beneficiary so much of the Specified Amount as may be paid without exceeding such limit.

3. The Beneficiary may make one or more Demands under this Performance Bond provided that the aggregate amount of all Demands and the aggregate liability of the Issuer under this Performance Bond shall not exceed [insert maximum amount of bond].

4. Any payment under this Performance Bond shall be made without set-off or counterclaim and free from any deduction or withholding in euro in immediately available, fully transferable, cleared funds by transfer to the following name:

Account Name:	[●]
Account Number:	[●]
Bank Name:	[●]
Bank Address:	[●]
Sort Code:	[●]
Swift Code:	[●]
IBAN:	[●]

or in such other manner or to such other account at an Irish financial institution as the Beneficiary may from time to time notify to the Issuer in writing.

Where any such deduction or withholding or is required by law to be made (whether by the Generator, Issuer or otherwise) the Issuer shall pay in the same manner and at the same time such additional amounts as will result in receipt by the Beneficiary of the amount it would have received had no such deduction or withholding been required.

5. The obligations of the Issuer under this Performance Bond shall cease on the Expiry Date, except:

(a) in respect of any Demand received by the Issuer prior to the Expiry Date in relation to which the Issuer shall be obliged (subject to the terms of this Performance Bond) to pay to the Beneficiary the Specified Amount; and

(b) as provided in clause 11 of this Performance Bond,

and the provisions of this clause 5 shall survive expiration of this Performance Bond accordingly.

6. The liability of the Issuer shall not in any way be affected by:

(a) any time, indulgence or relief being given to or by the Beneficiary or the Generator;

(b) any amendment or extension of or supplement to the Implementation Agreement;

(c) any invalidity in, or irregularity or unenforceability of the obligations of any person under the Implementation Agreement; or

(d) anything done or omitted which but for this provision might constitute a legal or equitable discharge or release of, or defence for, the Issuer.

7. Any notices or notification (including any Demand and the requirement for supporting documents and a supporting statement under Article 15 (a) and (b) of the ICC Uniform Rules for Demand Guarantees, International Chamber of Commerce Publication No. 758 ("URDG Rules")) given under this Performance Bond shall be in writing and shall be served by sending the same by post or leaving the same at:

If to the Issuer:	[●]
Attention:	The Company Secretary
If to the Beneficiary:	Minister of Communications, Climate Action & Environment, 29 – 31 Adelaide Road, Dublin, D02 X285 For the attention of: Principal Officer, Electricity Policy Division

The Beneficiary and the Issuer may change its nominated address to another address in the Republic of Ireland by prior written notice to the other party. Any written notices shall be effective upon the earlier of:

27.1 actual receipt; or

27.2 two (2) days after mailing or despatch.

8. This Performance Bond may be amended only by an instrument in writing signed on behalf of the Beneficiary or the Issuer.

9. The governing law for the purposes of this Performance Bond shall be the laws of Ireland. The competent Courts shall be the Courts of Ireland.

10. The Beneficiary, after receiving written consent of the Issuer and the Generator (such consent not to be unreasonably withheld), may transfer and assign all its rights and obligations under the Performance Bond and Article 38 and 39 of the UCP Rules is hereby expressly excluded to the extent that it precludes such an assignment.

11. If this Performance Bond expires during any interruption of business of a kind referred to in Article 26 of the UCP Rules, then the Issuer shall remain liable to make payment under this Performance Bond in respect of any Demand served no later than fifteen (15) Business Days after the Issuer has notified the Beneficiary that its business has ceased to be so interrupted. The Issuer undertakes that it shall, within two (2) Business Days of the cessation of any interruption of business referred to in Article 36 of the UCP Rules (during which this Performance Bond expires) notify the Beneficiary of that cessation. Article 36 of the UCP Rules is hereby amended.

12. All charges and fees under this Performance Bond shall be for the account of the Generator.

Yours
faithfully [●]

Annex to Appendix 3

Form of Demand

To: [The Issuer] [Date]

The Performance Bond number [ ] dated [] (the "Performance Bond")

We refer to the Performance Bond dated [ ] and issued by you in our favour. In accordance with paragraph 2 of the Performance Bond, we hereby make demand in the sum of EUR [ ] and request that you pay the same immediately to [specified account].

For and on behalf of Minister of Communications, Climate Action & Environment. Dated this [ ] of [ ] 20[ ]
[Authorised signatory]

SIGNED by authorised officer (print name)

Signature: _____

for and on behalf of the

THE MINISTER OF COMMUNICATIONS, CLIMATE ACTION & ENVIRONMENT

in the presence of (print name):

Signature of Witness: _____

SIGNED by (print name)

Signature: _____

for and on behalf of

[GENERATOR]

in the presence of (print name):

Signature of Witness: _____

Annex C – Renewable Electricity Participation Scheme

Important Note to Stakeholders*: The information in this Annex sets out the high level details on the REP Scheme only (and the Minister fully reserves it rights to update and modify any of the detail set out below prior to finalisation of the Terms and Conditions of RESS 1 and following state aid approval from the EU Commission). Further detail will be provided to stakeholders in due course. In circumstances where the regulatory, legal and administrative structures required to underpin the REP Scheme are not sufficiently established to align with the RESS 1 Competition timelines, these Terms and Conditions may provide for alternative citizen investment obligations which a RESS 1 Project will be required to comply with. Such alternative citizen investment obligations must meet the following minimum parameters: returns of 8% for county citizens and national citizens, minimum returns of 13% for local citizens, investment amounts thresholds are between €500 and €20k, the capital investment is secured. For the avoidance of doubt, nothing in the REP Scheme prevents RESS 1 Projects from going beyond the provisions of the REP Scheme regarding offering interment opportunities to citizens and/or communities. In such cases RESS 1 Projects will be required to demonstrate to the Minister that they have met the principles of community / citizen investment.*

In respect of the REP Scheme, it is currently proposed that the following initial requirements will be applicable and (as applicable) Applicants or Successful Applicants shall be required to demonstrate compliance with certain of the following requirements in order to be eligible to receive a Letter of Offer and as a condition precedent to the entry into its Implementation Agreement:

1. The REP Scheme will be administered by the relevant designated body (or any successor or replacement directed by the Minister from time to time).

2. The REP Scheme will allow Irish citizens, or not-for-profit community entities (to be defined), to invest (the "**Citizen Investors**" or "**Citizen Investment**") in renewable electricity generation projects in the Republic of Ireland (the "**Relevant Projects**"), prioritising those that live in closer proximity to the Relevant Projects. The Citizen Investment will earn an average of between 8 and 13% rate of return over a 15 year period depending on proximity to the relevant renewable electricity development as more particularly set out in section 18 and 19 of these terms and conditions. It is proposed that the original investment by Citizen Investors (the "**Initial Citizen**

Investment") will not be at risk with recourse first to the Relevant Project's revenue stream and then to a 'National Renewable Electricity Participation Scheme Indemnity Fund' (the "**Indemnity Fund**") into which each Relevant Project must pay €0.17/MWh on an annual basis.

3. The REP Scheme will be for investment purposes only and no strategic, equity, management or ownership rights will be divested to the Citizen Investor from the Relevant Project.

4. A Renewable Electricity Participation offering of 5% of the total [anticipated capital expenditure][3] of the Relevant Project must be made by all Relevant Projects successful in the RESS 1 Auction (the "**Investment Opportunity**"). The total anticipated capital expenditure should be prepared by (as applicable) Applicants or Successful Applicants acting as a Prudent Industry Operator.

5. Citizen Investment under the REP Scheme will be prioritised as follows:

   (a) In the first instance, to all Citizen Investors within 3km of the Relevant Project;

   (b) Secondly, to all Citizen Investors within 10km of the Relevant Project;

   (and in the event of oversubscription, Citizen Investors' proposed investments will be reduced proportionally until all eligible Citizen Investors within the 10km radius are included);

   (c) Thirdly, to all Citizen Investors within the same county or counties as the 10km radius of the Relevant Project on a 'first come first served' basis; and

   (d) Finally, to all Citizen Investors (over 18 years of age) nationwide in the Republic of Ireland on a 'first come first served' basis, and should this not deliver the full take up, then the offering will be opened up to all Citizen Investors resident in the European Union.

6. The minimum and maximum amount that an individual Citizen Investor can invest in any one Renewable Electricity Participation Scheme is €500 and €20,000 respectively.

[3] **Note to Stakeholders**: To be defined and agreed by DCCAE.

7. The maximum any Citizen Investor can invest in REP Schemes in aggregate nationwide in the Republic of Ireland is €50,000. There is no maximum number of Relevant Projects that any one Citizen Investor can invest in, once the RESS 1 Terms and Conditions and all other terms and conditions of the REP Scheme are complied with.

8. There is no penalty for a nil Citizen Investment uptake of the Investment Opportunity once it can be evidenced by the Applicant that all these REP Scheme's terms and conditions have been fulfilled and complied with.

9. Change of Ownership ("**COO**") of the Relevant Project must not change or dilute the rights of the Citizen Investors in any way but the Citizen Investors will have no right no delay or stop any COO. However the Citizen Investors must be notified of any COO within 30 Working Days of execution of the sales and purchase agreement (or equivalent legal documentation effecting the COO).

10. Neither Applicants nor Successful Applicants must request community support for (or indeed no objection to) the planning application for the Relevant Project as a condition of any Investment Opportunity[4]. Evidence of such will result in (as applicable) the Applicant or Successful Applicant being disqualified from RESS 1 and all future RESS Auction processes.

11. Evidence of any fraud or deception in relation to any aspect of the REP Scheme will result in (as applicable) the Applicant or Successful Applicant (and any of their respective shareholders) being disqualified from RESS 1 and all future RESS Auction processes (and Applicants and Successful Applicants shall procure that on such an event occurring, RESS 1 PPAs must be terminated immediately and any eligibility for RESS 1 Support Payments also terminated immediately).

12. Prior to tabling a bid in the RESS 1 Auction, (a) the Applicant (or its shareholder) must list the Relevant Project via a template on a [*Dedicated National RESS 1 Website*] (the "**Website**") stating that the Relevant Project will be open to RESS 1 if the Applicant receives an Award, and (b) evidence of same must be provided alongside the RESS 1 Auction bid (e.g. a confirmation of registration from the Website).

[4] **Note to Stakeholders:** DCCAE may also require a director's declaration.

13. If the Applicant's receives an Award, post Award but prior to the entry by the Successful Applicant into the Implementation Agreement for that Relevant Project, the following shall apply[5]:

(a) the Successful Applicant must within 90 Working Days of notification of its Award notify all citizens resident within 10km of the Relevant Project of the potential Investment Opportunity through targeted social media advertisements, local radio advertisements, and local newspaper advertisements; and each advertisement must direct potential Citizen Investors to the Website for further information regarding the Relevant Project and the potential Investment Opportunity and announce 'Town Hall' events locations, dates and times;

(b) Off-line information about the Relevant Project or the Investment Opportunity must also be accommodated though 'Town Hall' evenings (minimum of 2) over a 60 Working Day period to commence within 30 Working Days of the notification to the Successful Applicant of its Award.

(c) The administrator of the Website will also notify all potential Citizen Investors registered on the Website as being interested in an Investment Opportunity.

(d) Each Successful Applicant must produce a Project Information Memorandum (a "**PIM**") to a standard set out in [●][6]. The following are some of the requirements which the Successful Applicant will be required to comply with in respect of the PIM:

(i) The required information that the Applicant must share with the potential Citizen Investors in the PIM is listed at **[●]**[7];

(ii) Copies of the PIM must be made available on the Website within 60 Working Days of the notification to the Applicant of a successful Offer;

(iii) Printed copies of the PIM must be made available at all the Town Hall events; and

[5] **Note to Stakeholders:** DCCAE may impose additional requirements.
[6] **Note to Stakeholders:** Further detail to be provided by DCCAE in due course.
[7] **Note to Stakeholders:** Further detail to be provided by DCCAE in due course.

(iv) The PIM must clearly state that independent financial and legal advice is recommended prior to investment.

14. The Applicant or Successful Applicant must include or name all Citizen Investors on all Indemnity(s)/Insurance(s) of the Relevant Project.

Citizen Investment Escrow Account

15. The Successful Applicant shall be required to set up an escrow account (the "**Citizen Investment Escrow Account**"), with a security charge in favour of the Citizen Investors [(or a security trustee or agent to be appointed by them for this purpose)][8], for all monies collected in relation to the Citizen Investment (through bank transfer, cheque or bank draft (cash payments will not be permitted)). It is not expected that funds will be sought from Citizen Investors until the 6 month period prior to Commercial Operation, closing 2 months before [●][9].

16. The applicable financial services provider designated and appointed to administer the REP Scheme will register and facilitate all on-line transfers and lodgements and issue receipts to Citizen Investors.

REP Scheme Financing Arrangements

17. The return for Citizen Investors on the REP Scheme will be fixed at 6% from Commercial Operation until the 5th anniversary of COD, 8% thereafter until the 10th anniversary of Commercial Operation and 10% thereafter until the 15th anniversary of Commercial Operation (and is payable by the Relevant Project on an annual basis on the anniversary of Commercial Operation each year ahead of any distribution to shareholders of the Relevant Project).

18. In addition to the above, the Citizen Investors described in paragraph 5(a) above i.e. those within 3km of the Relevant Project will receive an additional fixed 5% on top of the rates stated in paragraph [18] above.

19. A Citizen Participation Debt Service Reserve Account must be established by the

[8] **Note to Stakeholders:** Further detail to be provided by DCCAE in due course.

[9] **Note to Stakeholders**: To be set by DCCAE.

Successful Applicant for 100% of the next year's Citizen Participation Debt Service Amount ("**CPDSA**"), 50% of the following year's CPDSA and 25% of the following years CPDSA by the Successful Applicant.

20. The term of the Citizen Investment shall be the period from investment to Commercial Operation plus 5 years with an option(s) to extend for a further 5 years by the Community Investor at Commercial Operation plus 5 years and Commercial Operation plus 10 years (the "**Citizen Investment Final Maturity Date(s)**").

21. The Successful Applicant must build up a Citizen Participation Investment Reserve Fund (ahead of any distribution from the Successful Applicant project company to shareholders of the Successful Applicant) over the Relevant Project's first 10 years from Commercial Operation to facilitate full repayment of Citizen Investment as required at the Community Investment Final Maturity Date(s).

22. However the Citizen Investment is not guaranteed by the Successful Applicant until the second Community Investment Final Maturity Date at year Commercial Operation plus 10 years. If all funds required to repay the Citizen Investment are not available as required on the first Community Investment Final Maturity Date at Commercial Operation plus 5 years, the Community Investor can take partial repayment and 'roll-on' their remaining Investment. At Community Investment Final Maturity Date Commercial Operation plus 15 years, the Citizen Investor will have recourse to the revenues from the Relevant Project (for default interest payment purposes) ahead of the shareholders of the project company of the Successful Applicant and payable on each Commercial Operation anniversary until all of the Citizen Investment(s) have been repaid.

23. The Indemnity Fund will be in place solely to repay the Initial Citizen Investment at Final Maturity Date(s) Commercial Operation plus 10 years and Commercial Operation plus 15 years if the cash flows from the project company owned by the Successful Applicant are unable to do so.

24. Non-repayment by Successful Applicants of the Initial Citizen Investment at Final Maturity Date Commercial Operation plus 15 years will be taken into account in future RESS Auctions that those Successful Applicants apply for.

25. Funds from the Project Citizen Investment Escrow Account will be drawn down prior to any senior debt funding to fund construction of the Relevant Project only.