

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions

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ALL NEMO COOPERATION AGREEMENT

CONTENTS

WHEREAS:	5
1. DEFINITIONS AND INTERPRETATION	8
2. CONTRACTUAL DOCUMENTS AND PRECEDENCE	9
3. SCOPE OF THE AGREEMENT	11
4. GENERAL PRINCIPLES	11
5. DELEGATION OF OBLIGATIONS BY A PARTY	13
6. THIRD PARTY SERVICE PROVIDERS	14
7. NEMO DESIGNATION	16
8. THE BODIES OF THE NEMO COOPERATION	16
9. SDAC AND SIDC OPERATIONS	20
10. CONFIDENTIALITY	20
11. COMMUNICATION	25
12. CONTRACT MANAGEMENT	26
13. CONSULTATION	26
14. FINANCIAL MODALITIES/BUDGET/INVOICING MODALITIES	26
15. REPORTING	27
16. ACCESSION	27
17. OBSERVER POWER EXCHANGES	28
18. AMENDMENTS	30
19. ENTRY INTO FORCE, DURATION, TERMINATION	32
20. VOLUNTARY EXIT, FORCED EXIT AND SUSPENSION	33
21. LIABILITY	37
22. CAPS ON LIABILITY AND ON HOLD HARMLESS OBLIGATIONS	39
23. THIRD PARTY CLAIMS	40
24. FORCE MAJEURE	42
25. INTELLECTUAL PROPERTY RIGHTS	44
26. GOVERNING LAW AND JURISDICTION	44
27. DISPUTE RESOLUTION	44
28. NOMINATED CONTACT PERSON	46
29. PERSONAL DATA	46
30. MISCELLANEOUS	50
SCHEDULE 1	53
SCHEDULE 2	88
SCHEDULE 3	106
SCHEDULE 4	133
SCHEDULE 5	158
SCHEDULE 6	202

All NEMO Cooperation Agreement (ANCA) - Attachment 1
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SCHEDULE 7	280
SCHEDULE 8	294
SCHEDULE 9	302
SCHEDULE 10	312
SCHEDULE 11	313
SCHEDULE 12	315

THIS ALL NEMO COOPERATION AGREEMENT (hereinafter the **“Agreement”**) is made by and between:

1. **BSP Energy Exchange LLC**, a company duly organised under the laws of the Republic of Slovenia, having its registered office in Ljubljana, Dunajska cesta 156, Slovenia, registered at the District Court of Ljubljana under the registration number 3327124000 and VAT n° SI37748661 (**“BSP”**);
2. **CROATIAN POWER EXCHANGE Ltd.**, a company incorporated and existing under the laws of the Republic of Croatia, with the enterprise number HR14645347149, address Slavonska avenija 6/A, HR-10000 Zagreb, Croatia (**“CROPEX”**);
3. **EirGrid plc**, a public limited company incorporated under the laws of the Republic of Ireland, with registered office at The Oval, 160 Shelbourne Road, Dublin 4, Ireland (**“EirGrid”**);
4. **EPEX SPOT SE**, a European Company (Societas Europae) incorporated under the laws of the French Republic, with its registered office at 5 boulevard Montmartre, 75002 Paris, France, and registered with the commercial register in Paris under the number 508 010 501 (**“EPEX”**);
5. **Nord Pool European Market Coupling Operator AS**, a company incorporated and existing under the laws of the Kingdom of Norway with company number 984 058 098, having its registered office at Lilleakerveien 2A, 0283 Oslo, Norway (**“Nord Pool EMCO”**);
6. **EXAA Abwicklungsstelle für Energieprodukte AG**, a stock corporation incorporated and existing under the laws of the Republic of Austria, having its registered offices at Alserbachstraße 14-16, 1090 Vienna, Austria, registered with the commercial register in Vienna under FN 210730y and VAT n° ATU52153208 (**“EXAA”**);
7. **Gestore dei Mercati Energetici S.p.A.**, a company duly organised and existing under the laws of the Italian Republic, with registered office at Viale Maresciallo Pilsudski, 122-124, 00197, Rome, Italy, registered with the Companies Register of Rome under number RM 953866, Italian tax code and VAT 06208031002 (**“GME”**);
8. **Hellenic Energy Exchange S.A.** a company duly organized and existing under the laws of Greece, with V.A.T. number 801001623, with registered office at 110, Athinon Avenue, 10442, Athens, Greece, registered in the commercial register at HLM Commercial Registry under number 146698601000, (**“HEnEx”**);
9. **HUPX Hungarian Power Exchange Company Limited by Shares**, a company duly organised and existing under the laws of Hungary, with registered office in 1134 Budapest, Devai u. 26-28, Hungary, and registered under the company registration number 01-10-045666, VAT n° HU13967808 (**“HUPX”**);

10. **Independent Bulgarian Energy Exchange EAD**, a company incorporated and existing under the laws of the Republic of Bulgaria, with the enterprise number 202880940, address: 138 Vasil Levski Blvd., Sofia 1527, Bulgaria (“**IBEX**”);
11. **OKTE, a.s.**, a company incorporated under the laws of the Slovak Republic, with V.A.T. number SK2023089728, having its registered office at Mlynské nivy 48, 821 09 Bratislava, Slovak Republic, registered in the Commercial Register at the Municipal Court Bratislava III, Section Sa, File No. 5087/B under the number 45 687 862 (“**OKTE**”);
12. **OMI Polo Español S.A.**, a company incorporated and existing under the laws of the Kingdom Spain, having its registered office at C/ Fray Luis de León 13, 28012 Madrid, Spain, and with the commercial register in Madrid under Section 8, Sheet: 506799 (“**OMIE**”);
13. **Operatorul Pieței de Energie Electrică și de Gaze Naturale “OPCOM” SA**, a company duly organised and existing under the laws of Romania, with registered office in Bucharest, 16-18 Hristo Botev Bld., 3rd District, Romania, registered with the Bucharest Trade Register Office under the number J40/7542/2000, VAT n° 13278352 (“**OPCOM**”);
14. **OTE, a.s.**, a company organised and existing under the laws of the Czech Republic, having its registered office at Jihlavská 1558/21 140 00 Praha 4. Czech Republic, and registered with the Commercial Register at the Prague Municipal Court in section B, file 7260, under number 26463318 and VAT n° CZ26463318 (“**OTE**”), OTE’s contract number: [REDACTED];
15. **SONI Limited**, a company incorporated in Northern Ireland with registered number NI 38715 and registered office at Castlereagh House, 12 Manse Road, Belfast, BT6 9RT, United Kingdom (“**SONI**”),
16. **Towarowa Giełda Energii S.A.**, a company duly organised and existing under the laws of the Republic of Poland, with registered office at ul. Książęca 4, 00-498 Warszawa, Poland, registered with 12th Commercial Department of the National Court Register in Warszawa under number 0000030144 and VAT no PL5272266714, with the share capital paid in full in an amount of 14.500.000,00 PLN (“**TGE**”);
17. **ETPA Holding B.V.**, a company incorporated and existing under the laws of the Netherlands, with enterprise number 63457431, address Arlandaweg 92, 1043 EX, Amsterdam (“**ETPA**”); and
18. **Bursa Romana de Marfuri SA**, a company incorporated and existing under the laws of Romania, with enterprise number J40/19450/1992 CIF: RO1562694, address Str. Buzesti Nr. 82-94, Etaj 7, Bucuresti (“**BRM**”),

each a “**Party**” and together the “**Parties**”.

WHEREAS:

- a) On the 14th of August 2015, EU Commission Regulation 2015/1222 establishing a guideline on capacity allocation and congestion management entered into force (the “**CACM Regulation**”).
- b) Pursuant to article 2 paragraph 23 of CACM Regulation ‘nominated electricity market operator (“**NEMO**”) means “an entity designated by the competent authority to perform tasks related to single day-ahead or single intraday coupling”. The NEMOs tasks related to day-ahead and intraday market coupling are detailed in article 7 of the CACM Regulation.
- c) According to article 4 paragraph 10 of the CACM Regulation the designating authority is required to inform the Agency for the Cooperation of European Regulators (“**ACER**”) of the designation of NEMOs (and of the revocation of such designations). ACER maintains a list of designated NEMOs, their status and where they operate on its website.
- d) Pursuant to article 4 paragraph 3 of the CACM Regulation each of the Parties is individually designated as NEMO by the relevant designating authority of at least one Member State.
- e) On 3rd of March 2016 the NEMOs established an interim framework by the signature of the Interim NEMO Cooperation Agreement (“**INCA**”) to facilitate the necessary cooperation between designated NEMOs with respect to developing the terms and conditions or methodologies required by the CACM Regulation and submit them for approval to the competent regulatory authorities. This included the development of a plan setting out how NEMOs will jointly set up and perform the MCO functions (referred to as the “**MCO Plan**”), in accordance with article 7 paragraph 3 of the CACM Regulation.
- f) The terms and conditions and methodologies referred to above have been developed by the NEMOs in accordance with the provisions of the INCA. In particular, the MCO Plan was approved by the relevant national authorities on 26th of June 2017.
- g) Also on the 12th June 2018, pursuant to the MCO Plan, the Parties which qualify as designated NEMOs with respect to SIDC have entered into the “*All NEMO Intraday Operational Agreement*” (hereinafter the “**Original ANIDOA**”) which set forth i) the main principles of such NEMOs’ cooperation in respect of SIDC, ii) the terms and conditions under which the relevant IT infrastructure were developed and iii) the terms and conditions under which the SIDC were implemented, performed and operated among NEMOs.
- h) On the 12th of June 2018, the Parties which qualify as designated NEMOs with respect to SIDC, together with the TSOs subject to the CACM implementation, have entered into the Intra Day Operational Agreement (hereinafter “**IDOA**”) to set forth i) the main principles of such NEMOs’ and TSOs’ cooperation in respect of SIDC, ii) the terms and conditions under which the relevant IT infrastructure for SIDC should be developed and iii) the terms and conditions under which the SIDC shall be implemented, performed and operated among NEMOs and TSOs.

i) On the 28th of March 2019, pursuant to the MCO Plan, the Parties have entered into this Agreement which, replacing the INCA, creates the necessary contractual framework to facilitate the cooperation between designated NEMOs on non-operational aspects of CACM's implementation such as, but not limited to, the development and submission of the terms and conditions or methodologies required by the CACM Regulation; this Agreement was amended (i) on the 14th of January 2022 ("**First Amendment**"); (ii) on the 1st of September 2023 ("**Second Amendment**"); and (iii) on the 2nd of January 2024 ("**Third Amendment**");

j) On the 28 March 2019, pursuant to the MCO Plan, the Parties designated as NEMOs with respect to SDAC entered into the "*All NEMO Day Ahead Operational Agreement*" (hereinafter the "**Original ANDOA**") which set forth i) the main principles of such NEMOs' cooperation in respect of SDAC, ii) the terms and conditions under which the relevant IT infrastructure for SDAC were developed and iii) the terms and conditions under which the SDAC were implemented, performed and operated among NEMOs;

k) On the 28th of March 2019, the Parties designated as NEMOs with respect to SDAC, together with the TSOs subject to the CACM implementation, entered into the Day Ahead Operational Agreement (hereinafter "**DAOA**") to set forth i) the main principles of such NEMOs' and TSOs' cooperation in respect of SDAC, ii) the terms and conditions under which the relevant IT infrastructure for SDAC should be developed and iii) the terms and conditions under which the SDAC shall be implemented, performed and operated among NEMOs and TSOs.

l) Respectively on the 16th November 2022 and on the 26th September 2023 ETPA and BRM adhered this Agreement by signing the Accession Declaration. On the 1st of January 2024 Nasdaq exited the ANCA and ANDOA.

m) On the 15th of December 2022 the Ministerial Council of the Energy Community (decision D/2022/03/MC-EnG) included CACM Regulation in Annex I ("**LIST OF ACTS INCLUDED IN THE 'ACQUIS COMMUNAUTAIRE ON ENERGY'**") to the Treaty Establishing the Energy Community (hereafter "**EnC CACM**"). The EnC CACM, i.e. the CACM included in the *acquis communautaire*, provides under clause 7.3 that "By twelve months after the entry into force of this Regulation all NEMOs from Contracting Parties (i.e. countries that are parties to the Treaty Establishing the Energy Community and Member States (countries which are members of the European Union) shall submit to all regulatory authorities, the Energy Community Regulatory Board and the Agency for the Cooperation of Energy Regulators a plan on integration of EnC NEMOs from Contracting Parties in the MCO functions set out in paragraph 2, and in the agreements between NEMOs and with third parties. The plan shall be consistent with the plan drafted in accordance with Regulation (EU) 2015/1222 and shall include a detailed description and the proposed timescale for implementation, <...> and a description of the expected impact of such integration on the <...> performance of the MCO functions in Article 7 (2) of Regulation (EU) 2015/1222." Such plan is named the MCO Integration Plan;

n) On the 1st of January 2021, the Protocol on Ireland/Northern Ireland commonly referred to as the “**Northern Ireland Protocol**” entered into force. The Northern Ireland Protocol is the part of the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the “**Withdrawal Agreement**”) that ensures that a hard border is avoided following the UK’s withdrawal from the EU. Under the Windsor Framework, the EU and the UK agreed on new arrangements to address practical issues, for example, for goods travelling from Great Britain to Ireland, in the interests of people and businesses in Northern Ireland. Following the withdrawal of the United Kingdom from the EU, the operation of the Single Electricity Market/SEM is achieved through the continued application of Union law in Northern Ireland as set out in Article 9 and Annex 4 of the Northern Ireland Protocol included in the Withdrawal Agreement. For the avoidance of doubt, the Northern Ireland Protocol forms part of the Applicable Law relevant to this Agreement.

o) On the 1st of July 2025, the Parties entered into the fourth amendment to this Agreement with the aim of increasing efficiency of their cooperation by consolidating the relevant provisions and governance and financial aspects of each of those former agreements into this Agreement. At the same time the parties to the Original ANDOA and the Original ANIDOA as well as the Parties to this Agreement agreed that the Original ANDOA and the Original ANIDOA should be integrated as Schedules to this Agreement with effect from the execution of the above mentioned fourth amendment.

p) For information purposes only, TGE hereby declares that it has the status of a large enterprise, as defined in Article 4 (6) of the Polish Act on counteracting excessive delays in commercial transactions (Dz.U. [Journal of Laws] from 2020, item 935, 1086, as amended). This status is also defined in Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ EU L 187, 26 June 2014, as amended).

NOW THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

- 1.1 For the purposes of this Agreement, all capitalised words and phrases in this Agreement shall, unless the context otherwise requires, have the meanings attributed to them in Schedule I to this Agreement (Definitions).
- 1.2 In connection with the interpretation of this Agreement:
 - (a) no provision of this Agreement shall be interpreted adversely against a Party solely because that Party was responsible for drafting that particular provision;
 - (b) words denoting the singular shall include the plural and vice versa;
 - (c) words denoting one gender shall include another gender;
 - (d) the headings of Clauses, Schedules or Annexes are inserted for convenience only and do not affect their interpretation;

- (e) any reference to any rule, enactment, statutory provision, Regulation or code or any subdivision or provision thereof shall be construed at the particular time as a reference to the text then in force, as it may have been amended, modified, consolidated, re-enacted or replaced;
- (f) All references to a "Clause" shall, unless the context otherwise requires, be interpreted as a reference to a clause to the main body of this Agreement; all references to an "Article" shall, unless the context otherwise requires, be interpreted as a reference to an article of a Schedule to this Agreement; all references to a "Schedule" or "Annex" shall, unless the context otherwise requires, be interpreted as a reference to a schedule or annex of this Agreement;
- (g) any Schedule or Annex referred to in this Agreement forms an integral and inseparable part of this Agreement. Any reference to this Agreement includes a reference to its Schedules and Annexes and vice versa; and
- (h) any reference to a "**person**" includes individuals, bodies corporate, companies, partnerships, unincorporated associations, firms, trusts and all other legal entities.

2. CONTRACTUAL DOCUMENTS AND PRECEDENCE

2.1 The documents constituting this Agreement are:

- a) The main text of this Agreement; and
- b) The following Schedules as attached to this Agreement:
 - Schedule 1** Common Definition Lists;
 - Schedule 2** Financial Schedule;
 - Schedule 3** Rules of Internal Order- RIO;
 - Schedule 4** ANDOA;
 - Schedule 5** ANIDOA;
 - Schedule 6** set of Attachments concerning topics that are common to SDAC and SIDC;
 - Schedule 7** Contact details;
 - Schedule 8** Accession Declaration template;
 - Schedule 9** Confidentiality Declarations templates;
 - Schedule 10** Procedures for appointing the members of the Expert Panel;
 - Schedule 11** Controllers' information (personal data protection).

- 2.2 It is understood that Schedule 5 applies only to DA NEMOs while Schedule 6 applies only to ID NEMOs.
- 2.3 In the event of contradiction or conflict between the documents constituting this Agreement, the main body of this Agreement shall prevail over the Schedules listed above. In the event of contradiction or ambiguity between the Schedules which cannot be solved by reference to the main body of the Agreement, the Parties shall apply the following order of precedence:
- 1) Schedule 1 (Definition List);
 - 2) Schedule 3 (RIO);
 - 3) Schedule 2 (Financial Schedule);
 - 4) Schedule 5 (set of Attachments concerning topics that are specific to SDAC) and Schedule 6 (set of Attachments concerning topics that are specific to SIDC);
 - 5) Schedule 6 (set of Attachments concerning topics that are common to SDAC and SIDC);
 - 6) Schedule 8 (Accession Declaration template) and Schedule 9 (Confidentiality Declarations templates).
- 2.4 In the event of any contradiction or ambiguity between the documents constituting this Agreement which cannot be solved according to Clause 2.3, the NEMO Committee shall meet to resolve this contradiction or ambiguity within 10 Business Days. In the event that the NEMO Committee are not able to resolve the outstanding issue, Clause 27 (Dispute Resolution) shall apply.

2.5. Local Arrangements

- 2.5.1 The Parties shall ensure that all necessary Local Arrangements to further implement and elaborate the general framework set forth by the Agreement are in place, with the aim to have an efficient implementation of the Scope.
- 2.5.2 Each Party shall, to the extent possible, ensure that any Local Arrangement it is or will be involved in or party to - that is either affected by the Cooperation or has an impact on the Cooperation - is consistent with the terms and conditions of this Agreement, it being understood that this obligation only applies:
- a) to the extent that purely operational matters as referred to in the operational procedures established under this Agreement are concerned; and
 - b) to the extent necessary for the Scope.
- 2.5.3 Apart from the matters described in Clause (i) and (ii) of 2.5.2, any other matter included in Local Arrangements is not subject to the obligation of consistency with the Agreement. In this respect, for avoidance of any doubt, the Parties hereby

expressly confirm that consistency is not required in respect of those provisions in the Local Arrangements (or part of them) that:

- a) specify rights and obligations in respect to post-coupling processes;
- b) concern purely regional or local aspects;
- c) provide a different liability regime, consistently with Clause 21.1.4 below; or
- d) are needed to be compliant with the relevant Applicable Law.

2.5.4 If the Parties involved in Local Arrangements notice that any of these Local Arrangements are not in line with the terms and conditions of the Agreement as regards the matters for which consistency is required as provided in this Clause 0, these Parties shall without delay notify in writing the NEMO Committee thereof, stipulating the reasons for not being able to ensure that the Local Arrangements are consistent with the Agreement, and provide a proposal of reasonable solution. The NEMO Committee shall decide on the matter in accordance with the relevant decision making rules of the Agreement.

3. SCOPE OF THE AGREEMENT

The purpose of this Agreement is to establish the terms and conditions for the performance of the tasks of all NEMOs as further described in the CACM Regulation, the MCO Plan, the Methodologies and any further relevant EU legislation (the “**Scope**”).

4. GENERAL PRINCIPLES

4.1. General cooperation obligation

Each Party shall, in accordance with the Applicable Law and this Agreement, cooperate with the other Parties in the performance of the Scope.

4.2 Best Effort obligations

Obligations of the Parties under this Agreement are Best Efforts obligations (“*obligation de moyens*” / “*middelenverbintenis*”) unless it is explicitly specified herein that an obligation is an obligation of results (“*obligation de résultat*” / “*resultaatsverbintenis*”).

4.3 No joint and several obligations

Unless expressly provided otherwise under this Agreement, the Parties are each liable for their individual commitments hereunder only and shall not bear any joint and several liability to any other Party or to any Third Party.

4.4 Good faith cooperation and non-discriminatory treatment

The Parties shall exercise their rights and perform their obligations under this Agreement in good faith and shall adopt a fair and loyal treatment towards each other, bearing in mind their mutual interest and the multilateral spirit of the Cooperation according to which all Parties should benefit from non-discriminatory treatment.

4.5 Adherence on non-discriminatory terms

4.5.1. This Agreement is open to the adherence of any Third Party designated as a NEMO pursuant to the CACM Regulation or any further Applicable Law. The adherence of any Third Party to this Agreement shall be on non-discriminatory terms and shall be managed by the then current Parties to this Agreement in accordance with the provisions of Clause 7.

4.5.2 It is understood that being a Party to this Agreement is a precondition to participate in SDAC and/or SIDC.

4.6 Subsidiarity and decentralization

The Cooperation is based on the fundamental principle of subsidiarity and decentralization, meaning that, apart from the provisions which are strictly necessary to facilitate the Cooperation and to perform the DA MCO Function and the ID MCO Function, each Party will retain its full independence and self-determination with respect to its own business.

4.7 Compliance with Applicable Law

4.7.1. Each Party is individually responsible for ensuring that its participation in the Cooperation is compliant with Applicable Law (in particular but not limited to Applicable Law relating to public procurement and competition). To the extent that a Party violates Applicable Law by entering into this Agreement or by performing its obligations under this Agreement or by exercising its rights under this Agreement, it will in accordance with Clause 23 hold harmless the other Parties and indemnify them for any direct damage or loss incurred as a result of a third-party claim (including claims of public, administrative or regulatory authorities).

4.7.2 Each NEMO shall exercise due care and attention for the entire duration of the Cooperation with regards to the compliance of this Agreement with competition law. The Cooperation is operated on the basis of the principle of subsidiarity and decentralization, meaning that it aims at respecting, the independence, autonomy and self-determination of any NEMO and the differing regulatory situations of each Member State and individual NEMO. Notwithstanding the exchange of information strictly necessary for the achievement of the Scope, each Party shall remain at all times autonomous in as strict a manner as possible with regards to its business, strategy, product design, commercial policy, prices definition, etc.

4.8 Performance of obligations

4.8.1 Each Party shall perform its obligations under this Agreement:

- a) in compliance with all requirements of this Agreement, the CACM Regulation, the MCO Plan, the Methodologies and any further Applicable Law;

- b) in compliance with generally recognised standards of good practice and with the diligence to be reasonably expected of a prudent business person;
- c) by no later than such target dates and/or target deadlines as the NEMO Committee (in consultation with the HLM) may determine from time to time in accordance with the terms of this Agreement;
- d) using, where appropriate, suitable materials and/or equipment and trained and competent staff for the execution of its obligations under this Agreement;
- e) with a view to assuring the proper implementation of this Agreement; and
- f) with all necessary licenses and authorisations.

4.8.2 Each Party declares, by signing this Agreement, that it has the knowledge, experience and human and technical competences and resources necessary for the satisfactory performance of its obligations in accordance with this Agreement.

4.9 Information Exchange in case of anticipated delay

- 4.9.1 In the event a Party becomes aware of any facts or circumstances which may affect or may lead to any potential or threatened delay in completing any obligation in respect of its performance under this Agreement, it shall promptly inform the NEMO Committee of such facts or circumstances in reasonable detail, provided that revealing such information is compatible with the confidentiality undertakings of such Party as well as competition law provisions.
- 4.9.2 The concerned circumstances shall be discussed at the next available meeting of the NEMO Committee or, in case of urgency, at an earlier ad hoc meeting of the NEMO Committee. The NEMO Committee shall use its Best Efforts to find the appropriate solutions and/or measures to be implemented to prevent or minimise the delays and the possible damages arising thereof.

5. DELEGATION OF OBLIGATIONS BY A PARTY

- 5.1 Each Party shall be entitled to delegate all or part only of the performance of any of its obligations under this Agreement to any other Party or any Third Party (other than any TSO) provided that:
 - a) the delegated Party or Third Party (other than any TSO) can carry out the respective function at least as effectively as the delegating Party;
 - b) the delegating Party shall ensure that suitable confidentiality agreements in accordance with the confidentiality obligations of the delegating Party under this Agreement have been put in place prior to such delegation;

- c) a declaration is signed by the delegate and provided to the delegating Party to the effect that there is no conflict of interest arising from or in connection with such delegation.
- 5.2 Where, following any delegation to any Third Party made pursuant to Clause 5.1 above, the delegating Party seeks to nominate such Third Party to represent it at one or more meetings of the NEMO Committee:
- (a) the delegating party shall inform the NEMO Committee in advance of the relevant NEMO Committee meeting, and shall provide the NEMO Committee with a copy of the declaration signed by such Third Party pursuant to Clause 5.1(b); and
 - (b) the members of the NEMO Committee in attendance (excluding the vote of the delegating Party) must unanimously approve in advance the attendance of such Third Party, provided that any rejection by the NEMO Committee must be accompanied by the NEMO Committee’s reasons for such rejection.
- 5.3 A Party delegating all or part only of the performance of any obligation under this Agreement shall at all times remain fully responsible and liable towards the other Parties for the performance of the delegated tasks in accordance with this Agreement and the fulfilment of its obligations under this Agreement and under the CACM Regulation.
- 5.4 Each Party acknowledges that it may:
- (a) be represented by its Internal Representatives and such representation shall not be treated as a delegation for the purposes of Clauses 5.1 or 5.2 of this Agreement; and/or
 - (b) be represented by an External Representative on any one or more work groups and/or task forces and such representation shall not be treated as a delegation for the purposes of Clause 5.1 of this Agreement.

6. THIRD PARTY SERVICE PROVIDERS

- 6.1 The Parties may decide to jointly appoint a Third Party to perform works or services to the benefit of all Parties in the context of the performance of the NEMO Tasks (hereafter the “**Third Party Service Provider**”). In such event the following principles shall apply:

- (a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

6.2 In the event the Parties decide, in accordance with Clause 6.1, to appoint a Third Party Service Provider in the context of the performance of any one or more NEMO Tasks, the agreement with the Third Party Service Provider shall in addition to being compliant with Clause 6.1 and Schedule 7 include at least the following elements:

(a) [REDACTED];

(b) [REDACTED]

(c) [REDACTED]

(d) [REDACTED]

(e) [REDACTED]

[REDACTED]

7. NEMO DESIGNATION

Subject to Clauses 20.2 (i)(a) or 20.3 (i)(a), each Party declares, by signing this Agreement, that it is designated as a NEMO in at least one bidding zone pursuant to the CACM Regulation and any other Applicable Law as at the date of signature of this Agreement and, thereafter, on each day it remains a Party to this Agreement.

8. THE BODIES OF THE NEMO COOPERATION

8.1 PRINCIPLES

8.1.1 The Parties establish and maintain for the duration of this Agreement the following bodies:

- a) the High Level Meeting (the "HLM");
- b) the NEMO Committee (the "NC");
- c) the operations committees, namely the DA OPSCOM and ID OPSCOM:

The decisions taken by these bodies are binding between the Parties provided that such decisions are taken within the scope of the assignments as further described in this Clause 8 and in Schedule 3 (RIO).

8.1.2 The NEMO Committee-NC may from time to time decide to create or dissolve working groups or task forces for the purpose of carrying out its tasks as may be required to fulfil the Scope.

8.1.3 The Parties participating in the meetings of the HLM or NC or DA OPSCOM or ID OPSCOM or DA Incident Committee or SIDC/IDA Incident Committee take the decisions, as Voting Members, on the relevant matters of the NEMO Cooperation consistently with the rules established in Schedule 3 (RIO).

8.1.4 Each Party is Voting Member for all decisions concerning the NEMO Cooperation with the following exceptions:

- a) with respect to a Voluntary Exit Party, the decisions concerning its Voluntary Exit as further described in Clause 20.4 (vi);
- b) with respect to a Forced Exit Party, the decisions concerning its Forced Exit as further described in Clause 20.2 (iv) and 20.4 (vi);
- c) with respect to a Suspended Party, the decisions concerning its Suspension as further described in Clause 20.3 (iii) and 20.4 (vi);
- d) with respect to Parties that are Non-Operational DA NEMOs or Non-Operational ID NEMOs, the Operational Decisions and the decisions referred to in Article 3.8.3 f), g), h), and i) of Schedule 3 (RIO), as further described in Article 3.8 of Schedule 3 (RIO);
- e) with respect to Parties which are designated as a NEMO in Non-EU/EEA Countries the decisions referred to in Article 3.8.1 (xi) of Schedule 3 (RIO).

8.2 HIGH LEVEL MEETING

The HLM is established to determine, direct and evaluate the high level strategy and goals of the Cooperation, including without limitation by the definition of annual objectives and the provision of advice to the NEMO Committee. Each Party's authorised representative in the HLM shall be that Party's chief executive officer (CEO) or executive with equivalent role within the company (or their duly appointed nominee). The business of the HLM shall be conducted at all times in a manner that is consistent with the relevant procedures attached as Schedule 3 (Rules of Internal Order) as supplemented by other principles and procedures as may be agreed by the HLM from time to time. The members of the HLM shall be vested with all necessary powers and authority to take binding decisions within the competence of the HLM on behalf of the Party which they represent.

8.3 THE NEMO COMMITTEE

8.3.1 The NEMO Committee is the main governance body of the Cooperation. In particular, the NEMO Committee is empowered to coordinate and manage the Cooperation and the implementation of the high level strategy and goals determined by the HLM. Each Party's authorised representative in the NEMO Committee shall be vested with all necessary powers and authority to take binding decisions within the Scope and within the powers of the NEMO Committee on behalf of the Party which they represent.

8.3.2 The activities of the NEMO Committee shall be conducted at all times in a manner that is consistent with the procedures attached as Schedule 3 (the Rules of Internal Order-RIO).

8.3.3 No decision of the NEMO Committee, or of any other working group or task force created by the NEMO Committee, shall be binding unless such decision falls within the NEMO Committee roles and responsibilities as described in Clause 8.3.6 and is approved according to the relevant voting rules as stipulated in the RIO.

8.3.4 The Secretary or such other person as may be nominated by the NEMO Committee will act as vote counter.

8.3.5 The NEMO Committee shall from time to time appoint one of their members to act as chairperson (the "**Chairperson**") in accordance with the relevant provisions of the RIO.

8.3.6 The roles and responsibilities of the NEMO Committee as referred to in Clause 8.3.1. include, without limitation, the following tasks:

- a) performing all tasks associated with the further development, consultation, approval, submission, publication of changes to the MCO Plan as well as all other terms and conditions or methodologies provided in accordance with article 9 paragraph 6 of the CACM Regulation;
- b) facilitating such necessary cooperation between NEMOs and TSOs, where TSOs are responsible for terms and conditions or methodologies specified in article 9 paragraph 6 of the CACM Regulation;

- c) determining changes to the governance framework from time to time;
- d) securing the development and implementation of the DA MCO Function Assets and perform DA MCO Function Operations on the basis of the requirements of CACM Regulation, the approved terms and methodologies required by CACM Regulation as well as of this Agreement and, in particular, Schedules 4 and 5, including relationship with PCR Co-owners;
- e) securing the development and implementation and operation of the ID MCO Function Assets, and operate the ID MCO Function on the basis of the requirements of CACM Regulation, the approved terms and methodologies required by CACM Regulation as well as of this Agreement and, in particular, Schedules 4 and 6;
- f) securing the development and implementation of the SIDC/IDA Assets, and performing SIDC/IDA Operations on the basis of the requirements of CACM Regulation, the approved terms and methodologies required by CACM Regulation as well as of this Agreement and, in particular, Schedules 4 and 6;
- g) submitting information and necessary reports to ACER, ENTSO-E, regulatory authorities and the European Commission as required under the CACM Regulation. In particular, the NEMO Committee shall report to:
 - (i) ACER on NEMO progress in establishing and performing the day-ahead and intraday MCO Functions in accordance with article 7 paragraph 5 of the CACM Regulation;
 - (ii) ACER, in cooperation with TSOs, to provide a review of the operation of the price coupling algorithm and continuous trading matching algorithm in accordance with article 37 paragraph 6 of the CACM Regulation;
- h) providing information to ENTSO-E, if it has been requested jointly by ACER and ENTSO-E, for the purpose of implementation monitoring, in accordance with article 82 paragraph 6 of the CACM Regulation;
- i) ensuring that the DA MCO Function Assets, ID MCO Function Assets and the SIDC/IDA Assets meet the requirements of the CACM Regulation, the MCO Plan, the Algorithm Methodology plus all other relevant conditions or methodologies;
- j) setting the criteria for decisions relating to any change to the DA MCO Function Assets, ID MCO Function Assets or SIDC/IDA Assets pursuant to Annex 8 to Schedule 6 (Change Control Procedures);
- k) approving the criteria for decisions relating to the selection of or change to any Third Party Service Provider;

- l) establishing a process for the NEMO Committee to act as an escalation body for the DA OPSCOM and ID OPSCOM in accordance with Article 5.1.2 of Schedule 3 (Rules of Internal Order);
- m) providing annual reports to stakeholders on progress with the implementation and the operational performance of the DA MCO Function and the ID MCO Function;
- n) approving the proposed budgets related to NEMO Tasks as described in Schedule 2 (Financial Modalities/Budget/Invoicing Modalities) of this Agreement. A process shall be established to update this budget over the course of the relevant year;
- o) facilitating NEMOs' participation, in accordance with article 10 of the CACM Regulation, in the establishment and performance of joint TSOs' and NEMOs' organisation of the day-to-day management of the SDAC and SIDC governed, respectively, by the MCSC in accordance with the applicable provisions of the DAOA and the IDOA. In particular, the NEMO Committee is the decision making body on any matter which falls under the scope of the DAOA or the IDOA for which a NEMO Vote is required. For the avoidance of any doubt, such decisions are taken pursuant to the terms of this Agreement;
- p) acting as a joint point of contact for regulatory authorities, ACER, ENTSO-E and the European Commission in relation to the design, implementation, operation and amendment of the DA MCO Function, ID MCO Function and SIDC/IDA;
- q) performing the activities necessary to fulfil NEMOs' obligations in relation to any consultation process provided under CACM or any other EU legislation. In this respect, the NEMO Committee may decide on the process, form and content for any stakeholder consultation considered necessary in connection with the fulfilment of the Scope of this Agreement;
- r) performing the relevant activities in relation to any process launched by the European Commission to jointly consult NEMOs on amendments to the CACM Regulation as well as the coordination of the NEMOs to promote policies or amendments to relevant EU legislation before the EU institutions (i.e. lobbying activities);
- s) arranging such external communication related to the DA MCO Function and the ID MCO function as is required from time to time;
- t) such other matters as the NEMO Committee may, in consultation with the HLM, unanimously determine to be its responsibility from time to time;
- u) performing all tasks associated with the implementation of the terms and conditions or methodologies provided under CACM Regulation.

8.4 THE OPERATIONS COMMITTEES- DA OPSCOM and ID OPSCOM

The DA OPSCOM and the ID OPSCOM are the bodies of the NEMO Cooperation that carry out the operational tasks and take the Operational Decisions as further described in Article 4 of Schedule 3 (RIO) and in the relevant operational procedures.

9. SDAC and SIDC OPERATIONS

9.1 The SDAC shall be operated by the DA Operational NEMOs in accordance with the terms of the CACM Regulation, the MCO Plan, the Methodologies and the terms of this Agreement (in particular, Schedule 5) taking into account any further Applicable Law.

9.2 The SIDC shall be operated by the ID Operational NEMOs in accordance with the terms of the CACM Regulation, the MCO Plan, the Methodologies and the terms of this Agreement (in particular, Schedule 6) taking into account any further Applicable Law.

10. CONFIDENTIALITY

10.1 In accordance with article 13 of the CACM Regulation and subject to the further provisions of this Clause 10, each Party hereby undertakes to the other Parties that it shall:

- a) not disclose, convey or transfer to any individual or entity any Confidential Information without the express, prior written consent (including email) of the other Parties; such consent not to be unreasonably withheld or delayed;
- b) not use Confidential Information in any way, or for any purpose, other than for the Permitted Purpose, unless this is previously and specifically authorised in writing (including email) by the other Parties;
- c) not copy or reproduce Confidential Information in any form whatsoever except as may be necessary for the performance of its obligations under this Agreement;
- d) safeguard Confidential Information which is in its possession using the same degree of care that it applies to safeguard its own respective confidential and proprietary information and to take all necessary measures to prevent unauthorized or accidental disclosure of the same. In this respect, each Party warrants that it has sufficient procedures and protections in place in order to enforce and maintain confidentiality and to prevent unauthorized use and unauthorized disclosure of such Confidential Information;
- e) not incorporate Confidential Information into data, documents, databases, or any other media save to the extent necessary for the Cooperation or as permitted under this Agreement, without the explicit prior written consent (including email) of the Disclosing Party, such consent not to be unreasonably withheld or delayed.

10.2 Each Party shall be entitled to disclose Confidential Information to any one or more of its own Internal Representatives or External Representatives, provided that all the following conditions are met:

- a) the Internal Representative or External Representative of the Recipient Party has a definite need to know such information for the execution of its assignment which must be strictly related to the performance of this Agreement. Each Recipient Party shall directly assume full responsibility for any acts of its Internal Representatives or External Representatives related to the disclosed Confidential Information;
- b) the Internal Representative and/or the External Representative is informed by the Party of the confidential nature of the Confidential Information as well as of the conditions of professional secrecy stipulated under article 13 of the CACM Regulation, and is bound to respect the confidential nature of the Confidential Information under terms at least equivalent to the terms of this Agreement and of article 13 of the CACM Regulation;
- c) the necessary procedures and protections must have been put into place by the Recipient Party to prevent disclosure and further use of such Confidential Information in the event such person is no longer an Internal Representative or External Representative of the Recipient Party;
- d) each Recipient Party is and shall at all times remain fully liable for any breach by an Internal Representative or External Representative of the confidentiality obligations;
- e) the Recipient Party undertakes to have sufficient procedures and protections in place in order to enforce and maintain confidentiality and prevent any unauthorised use and/or disclosure of such Confidential Information by its Internal Representatives or External Representatives to whom Confidential Information is disclosed;
- f) in respect of Confidential Information related to Third Parties (e.g. TSOs, service providers) if such disclosure is permitted under existing agreements with such Third Parties or if the Recipient Party has obtained all consents to such disclosure from the relevant Third Party; and
- g) disclosure of Confidential Information to one or more Internal Representatives of a Party shall be allowed if such Internal Representatives have a definite need to know such information for the performance of their responsibilities in connection with the Scope of this Agreement and provided that such Internal Representatives are bound by appropriate confidentiality obligations and undertake not to use such Confidential Information for any purpose other than as is strictly related to the performance of their responsibilities in connection with the Scope of this Agreement in terms which are at least equivalent to those set out herein.

10.3 A Party may disclose Confidential Information it has received if one of the following conditions are met:

- a) the Disclosing Party can demonstrate by written evidence that all Parties have agreed to such disclosure and that such information is not otherwise subject to any confidentiality obligation owed to any Third Party. For the avoidance of doubt, the Parties agree that the exchange of information between the Parties which qualify as designated NEMOs with respect to SIDC and the Parties which qualify as designated NEMOs with respect to SDAC in the context of paragraph (xiv) of Clause 8.3.6 of this Agreement is always considered as permitted disclosure;
 - b) if it can demonstrate by written evidence that the received information was known to it prior to the disclosure, through no breach of a confidentiality obligation towards the concerned Party;
 - c) if it can demonstrate by written evidence that the received information has come into the public domain through no fault or negligence of a Party to this Agreement.
- 10.4 Without prejudice to Clauses 4.2 and 4.4 (respectively, Best Efforts and good faith), this Agreement does not, and is not intended to, create an obligation for any Party to exchange information with other Parties which is not within the Scope, such as but not limited to market data of any other Party. Moreover, the Parties acknowledge and agree that a Disclosing Party may request a Recipient Party to enter into one of the confidentiality arrangements before disclosing any Confidential Information.
- 10.5 In the event that any Party becomes aware of, or reasonably suspects, that any unauthorised use or disclosure of Confidential Information by any Party has occurred or is about to occur, such Party must immediately notify the relevant Disclosing Party in writing (including, but not limited to, by email).
- 10.6 The Parties agree that the obligations imposed by this Clause 10 shall:
- a) survive the termination, for any reason whatsoever, of this Agreement for a term of five (5) years; and
 - b) in case one or more Parties withdraws from this Agreement for any reason, survive such withdrawal with respect to such withdrawing Parties for a term of five (5) years from the date of such withdrawal.
- 10.7 Each Party is entitled to voluntarily disclose, at its own initiative, Confidential Information to a Competent Authority provided that:
- a) such Competent Authority is informed by the Recipient Party of the confidential nature of the Confidential Information; and
 - b) such Competent Authority is bound to respect the confidential nature of the Confidential Information in accordance with relevant national legislation or in the absence of such legislation, such Competent Authority is bound to respect the confidential nature of the Confidential Information under terms at least equivalent to the terms of this Agreement.

- 10.8 Parties acknowledge that certain NEMOs are subject to acts relating to the right of access by the public, under certain conditions, to documents held by public authorities and public undertakings (so-called “ freedom of information acts”) or to the legal obligation of publishing all relevant documents named by particular national legislation (so called “ act on registration of contracts”) and may therefore be forced to disclose some or all of the terms of this Agreement or other information pertaining to such Parties. The same shall apply in case similar legal regimes exist in other jurisdictions. Without prejudice to the foregoing provisions of this Clause 10, any Party subject to such a disclosure obligation shall use its Best Efforts to ensure that no Confidential Information is disclosed during the course of complying with such obligation, including by (in consultation with the Disclosing Parties where it is reasonable for it to do so) redacting all such Confidential Information from any materials or documents (in whatever form) prior to such disclosure, so that sharing of Confidential Information is avoided.
- 10.9 If the Recipient Party is requested to disclose all or any part of the Confidential Information pursuant to an Applicable Law or pursuant to a valid and effective order or request issued by any Competent Authority, in such case:
- a) to the extent lawful, the Recipient Party undertakes to notify each Disclosing Party of the existence, terms and circumstances surrounding such request or legal obligation prior, if possible, or in any case soon after proceeding with any disclosure, provided that such disclosure does not constitute a breach of national rules;
 - b) each Disclosing Party shall cooperate to respond adequately, consistently and in time;
 - c) should such Confidential Information be intended to be published by the relevant Competent Authority, the Recipient Party shall agree with the Disclosing Parties in providing a non-confidential version of such Confidential Information for this publication, under the exception of mandatory rules or court or administrative orders or information requested by administrative, regulatory or court authorities in which case the publication shall not be constrained.
- 10.10 For the avoidance of doubt, the Parties confirm that the disclosure of Confidential Information in the circumstances foreseen under this Clause 10 does not affect the confidential character of the Confidential Information so exchanged.
- 10.11 In cases of doubt as to whether an information is Confidential Information or whether Confidential Information may be disclosed pursuant to this Clause 10, confidentiality shall be maintained until written confirmation (including by email) has been obtained from the other Parties (or, as the case may be, by the relevant Disclosing Parties) that one of the above exclusions applies.

- 10.12 In case of a breach by a Recipient Party of any of its confidentiality obligations under this Agreement, the Disclosing Party shall be entitled to cease immediately the disclosure of any further Confidential Information.
- 10.13 The Disclosing Party shall have no liability towards any third party with respect to the use by a Recipient Party of any Confidential Information, unless otherwise expressly agreed in a separate written and signed agreement between the Disclosing Party and the Recipient Party.
- 10.14 The rights a Disclosing Party may have against third parties pursuant to any other agreement shall in no event restrict a Disclosing Party's right to claim damages under this Agreement from the breaching Recipient Party.
- 10.15 Subject to the limitations on liability set out under Clause 22, the Recipient Party undertakes to hold the Disclosing Party harmless and indemnify it against any third party claim, including claims raised by the Intraday Systems Supplier, directly related to:
- a) any breach by the Recipient Party of its confidentiality obligations under this Agreement; or
 - b) the access or use of the Confidential Information in violation of the laws and Regulations applicable to the Recipient Party.
- 10.16 The Parties acknowledge that any unauthorised disclosure or use of Confidential Information may cause irreparable harm and significant prejudice to the Disclosing Party. Accordingly, the Disclosing Party may seek immediate injunctive relief to enforce obligations under this Agreement in addition to any other rights and remedies it may have by law or contractual arrangement, to the fullest extent permitted by law.
- 10.17 To the extent a Disclosing Party and a Recipient Party have entered into more than one agreement that protects the confidentiality of the same Confidential Information:
- a) subject to the limitations set out under Clause 22, the Disclosing Party shall be entitled to claim compensation or indemnification from a Recipient Party for damages caused by a breach of this Clause 10 (Confidentiality), except to the extent that the same action or omission by such Recipient Party has already given rise to a claim and compensation or indemnification under such other agreement;
 - b) the Disclosing Party shall not be entitled to claim compensation or indemnification under any one or more of such other agreements from a Recipient Party for damages caused by a breach of confidentiality to the extent that such breach by the Recipient Party has already received compensation or indemnification under this Agreement.
- 10.18 All rights, title and interest in and to the Confidential Information shall be retained by the Disclosing Party or its relevant service provider.

- 10.19 This Agreement does not grant the Recipient Party any license rights or any other rights related to the Confidential Information and its future use, except to the extent as set out in this Agreement or unless such rights are agreed upon in a separate, written, specific and signed agreement.
- 10.20 The Disclosing Party shall have no liability towards third parties with respect to the use by a Recipient Party of any Confidential Information, unless otherwise expressly agreed in a separate written and signed agreement between the Disclosing Party and the Recipient Parties.
- 10.21 The rights a Disclosing Party may have against third parties pursuant to any other confidentiality agreement shall in no event restrict the Disclosing Party's right to claim damages under Clause 17 from the breaching Recipient Party (to the extent that such damages have not yet been recovered by the Disclosing Party with the third party).
- 10.22 For the avoidance of any doubt, the PCR Confidentiality Declarations govern the disclosure to Non Co-owner NEMOs of confidential information pertaining the PCR Co-ownership Agreement and are not superseded by this Agreement.

11. COMMUNICATION

- 11.1 The principles under this Clause 11 shall apply to external communication in all forms relating to any subject within or related to the Cooperation. The Parties may deviate from this Clause 11 only if necessary to comply with Applicable Law, and/or with binding orders, requests or resolutions of a Competent Authority.
- 11.2 The Parties shall be free to express written or oral positions or opinions about the Cooperation provided they do not prejudice or negatively affect the collective and/or individual interests or the reputation of the other Parties. The Parties shall not express positions or opinions in the name of one or more other Parties unless such positions or opinions have been expressly authorised in writing by the other Parties in advance.
- 11.3 The Parties shall communicate at all times correct and accurate information. In the event a communication by a Party is inaccurate or, in the reasonable opinion of the other Parties, may be misleading, the other Parties are entitled to request such Party to correct and republish a revised communication, without prejudice to any other rights or remedies as may be available under this Agreement or Applicable Law.
- 11.4 The Parties acknowledge the goal to present commonly agreed positions with respect to the Cooperation, but agree each Party may present and discuss its own views on the Cooperation with NRAs, ACER, TSOs, the European Commission and any other Competent Authority. In doing so, the Parties may use relevant materials developed within the Cooperation regarding project planning, cost estimates, and descriptions/evaluations of options/issues (to the extent consistent

with the confidentiality obligations under this Agreement). Such materials should be used fairly and without distortion. The Parties should provide to the other Parties copies of material they intend to use in this context for ACER and the European Commission at least three (3) Business Days in advance and should amend any references to such material where other Parties reasonably can show it may be misleading.

11.5 Prior to any joint communication of the Parties regarding a commonly agreed position on any issue relating to this Agreement, the Committee shall give its formal approval on the content of such communication. The Committee shall decide on the appropriate communication media through which joint communications are released. Each joint communication shall bear the logo of each Party or a common NEMO logo, if available. Joint communications shall only be published after approval by the Committee of the content of such communication. The Committee shall also decide, for any joint communication, on the date and time from which each joint communication is to be effective. The following shall be subject to joint communication:

- a) the disclosure to the public of all or any part of this Agreement;
- b) any Party's withdrawal from, or the termination of, this Agreement;
- c) other events or circumstances in respect of which a joint communication is determined to be necessary by the NEMO Committee.

11.6 A Party may communicate individually to Third Parties on the topics which are the subject of a joint communication as mentioned under Clause 11.4 only after the NEMO Committee's approval of the content of such individual communication.

12. CONTRACT MANAGEMENT

12.1 The Parties may appoint a legal or natural person (which person may be the same person as is appointed Secretary) to establish a common (online) storage location for the keeping of records of contractual documents (including meeting minutes and contracts with third parties) and to keep the common storage up to date (amongst others by collecting and storing all minutes).

13. CONSULTATION

The NEMO Committee may decide on the process, form and content for any stakeholder consultation considered necessary in connection with the fulfilment of the Scope of this Agreement. To the extent appropriate, the provisions of article 12 of the CACM Regulation shall be complied with.

14. FINANCIAL MODALITIES/BUDGET/INVOICING MODALITIES

- 14.1 Cost sharing, reporting and settlement and invoicing under this Agreement shall be performed in accordance with the CACM Regulation following the principles and processes described in Schedule 2 (Financial modalities/budget/invoicing modalities).
- 14.2 NEMO-only Common Costs to be incurred by any one or more of the Parties pursuant to the terms of this Agreement shall be subject to the approval of the NEMO Committee in accordance with Clause 8.3 (Governance).
- 14.3 The Parties agree to observe and comply with the principles and processes detailed in Schedule 2 (Financial Modalities/Budget/Invoicing Modalities) according to which all NEMO-only Common Costs incurred pursuant to the terms hereof must be handled, budgeted, categorised, reported and calculated, shared and invoiced.
- 14.4 In the event that a Party disputes all or any part of an invoice, it shall inform the invoicing Party and the NEMO Committee as soon as possible and in any event within ten (10) Business Days of the date of the invoice of the disputed amount and the basis for disputing such invoice, together with any appropriate information supporting its position. The undisputed part of the invoiced amount shall remain payable as provided herein. Any dispute with respect to all or any part of an invoice shall be subject to the Dispute resolution procedure set out in Clause 27 as integrated by the specific provisions of this Clause. Notwithstanding the existence of any Dispute relating to all or any part of an invoice, the Disputing Party shall remain for all purposes (other than payment of the contested part of such invoice pending resolution of such Dispute) subject to all its obligations under this Agreement.
- 14.5 Payment by either Party of the invoice, wholly or in part, shall not itself, in case of a Dispute regarding such invoice, be considered as an acceptance or validation of the activities performed which are subject of such a Dispute.
- 14.6 Default interest on any amounts not paid by the Due Date, shall accrue at the legal interest rate as specified in the Belgian Law of 02/08/2002 on combating late payment in commercial transactions, as modified by the Law of 22 November 2013, implementing Directive 2011/7/EU.

15. REPORTING

- 15.1 For information purposes, in the event a Party becomes aware of any facts or circumstances which may materially affect or may lead to any potential, or threatened, delay in its ability to complete any of its obligations under this Agreement:
- (a) it shall promptly inform the NEMO Committee of such facts or circumstances in reasonable detail, provided that revealing such information is compatible with the confidentiality undertakings of such Party;
 - (b) the concerned circumstances shall be discussed at the next available meeting of the NEMO Committee, or any work group or task force created by the NEMO Committee or, in case of urgency, at an earlier ad hoc meeting of the NEMO Committee or any work group or task force created by the NEMO Committee.

16. ACCESSION

- 16.1 This Agreement is open to accession of any legal person designated as a NEMO from time to time provided that the Applicant has executed an Accession Declaration.
- 16.2 An Applicant shall address to the Secretary a written request. The Secretary shall inform such Applicant about the accession procedure and shall, provided that the Applicant has executed a confidentiality declaration substantially similar to the template attached as Schedule 9 or another confidentiality arrangement substantially similar, provide it with a copy of this Agreement and the specimen Accession Declaration (unless another confidentiality arrangement substantially similar is already entered into by the Applicant), following the approval of the NEMO Committee. The Parties and the Applicant shall be bound by the provisions of the Accession Declaration with effect from its signature by or on behalf of the Applicant and the Parties.
- 16.3 An Applicant designated as a NEMO in an EU/EEA Country is entitled to adhere the Agreement by signing the Accession Declaration without any further condition, except for the obligation for the Applicant to pay its share of the historical costs (if any);
- 16.4 An Applicant designated as a NEMO in a Non-EU/EEA Country is entitled to adhere the Agreement by signing the Accession Declaration, provided that:
- (a) the Applicant has provided the NEMO Committee with the authorisation or designation granted by its Competent Authority;
 - (b) such accession being compliant with legal or regulatory requirements (e.g. an intergovernmental agreement entered into by the EU or by the EU Member States), if any, to enter into the Agreement. In this respect, the Parties may include in the Accession Declaration the obligation for the Applicant to provide a legal opinion or specific arrangements to give evidence of or ensure such compliance;
 - (c) the Nemo Committee has approved the accession (such decision not to be unreasonably withheld, conditioned or delayed);
 - (d) the Applicant pays its share of the historical costs (if any).

17. OBSERVER POWER EXCHANGES

- 17.1 Any Power Exchange, having its operations within in EU or EEA or in a Non-EU/EEA Country, may be granted observer status by NEMO Committee decision in the following cases:
- (a) in the case of a Power Exchange being a designated NEMO and having its operations either (i) in a country within the EU or EEA or (ii) within a Non-EU/EEA Country which has a valid intergovernmental agreement in place: provided such Power Exchange signs an appropriate confidentiality declaration substantially in the form of Schedule 9 or another confidentiality arrangement substantially similar (such confidentiality declaration/arrangement being the only condition required); and

- (b) in the case of a Power Exchange not being a designated NEMO and having its operations either in a country within the EU or EEA or within a Non-EU/EEA Country which has a valid intergovernmental agreement in place, provided such Power Exchange provides: (i) satisfactory evidence to the NEMO Committee that at least one NEMO designation application has been lodged in accordance with article 4 of the CACM Regulation (or equivalent where an intergovernmental agreement is in place); (ii) satisfactory evidence is provided to the NEMO Committee that the Power Exchange has the support of its national regulatory authority (or other Competent Authority) towards the integration of such Power Exchange's markets within SDAC and/or SIDC; (iii) the signing of a confidentiality declaration in the form of Schedule 9 or another confidentiality arrangement substantially similar; (iv) such further conditions as the NEMO Committee may determine to be appropriate in all the circumstances; and
- (c) in the case of a Power Exchange not being a designated NEMO and having its operations in a Non-EU/EEA Country in respect of which there is no valid intergovernmental agreement in place, provided such Power Exchange provides: (a) satisfactory evidence of the grant of observer status not being incompatible with Applicable Law; (b) satisfactory evidence to the NEMO Committee that the necessary intergovernmental agreements are under negotiation; and (c) satisfactory evidence being provided to the NEMO Committee that the Power Exchange has the support of its national regulatory authority (or other Competent Authority) towards the integration of the Power Exchange's markets within SDAC and/or SIDC; (d) satisfactory evidence to the NEMO Committee that there is an intention to physically couple the Power Exchange's markets to the existing SDAC/SIDC; (e) a signed a confidentiality declaration in the form of Schedule 9 or another confidentiality arrangement substantially similar; (f) reasonable evidence of compliance with such further conditions as the NEMO Committee may determine to be appropriate in all the circumstances.

17.2 Any Power Exchange granted the status of observer in accordance with the provisions of this Clause (each an "**Observer**") may be granted access to such documentation and may be entitled to participate in such meetings relating to the Cooperation as may be decided by the NEMO Committee. For the avoidance of doubt an Observer shall have no voting rights at such meetings and shall not become a Party to this Agreement by virtue of its observer status.

17.3 Each Observer ensures its compliance with GDPR. In this respect, the Parties may include in the confidentiality declaration or in the other confidentiality arrangement substantially similar referred to in Clause 17.1 above the obligation for the Power Exchange applying for the status of observer to provide a legal opinion to confirm such compliance.

17.4 The Parties may decide to suspend or revoke the status of observer of a Power Exchange in the following circumstances:

- (a) where the power exchange licence of the Observer was suspended/revoked or is in the process of being suspended/revoked, or

- (b) when the behaviour of the Observer is having an adverse impact on the good functioning of the Cooperation and/or more generally on the implementation of CACM or EnC CACM or any Applicable Law of a Party. For the sake of clarity, the Parties may determine that a suspension or revocation is appropriate in particular but not limited to circumstances where the Observer (i) has acted in breach of the confidentiality provisions, (ii) has persistently obstructed in any way the initiatives undertaken by the Parties and/or other Observers or, (iii) has consistently acted in a way that conflicts with the governance and cooperation principles set forth in this Agreement.

18. AMENDMENTS

18.1 Amendments to this Agreement shall only be valid, if approved unanimously in writing and signed by an authorised representative of each of the Parties with the exception of Schedule 4 (ANDOA) and Schedule 5 (ANIDOA) for which Clause 18.2 applies. In deviation from the foregoing, the following Schedules and Annexes may be amended as follows:

- (a) Schedule 2 (Financial Schedule), by NC decision;
- (b) Schedule 6 (set of Attachments concerning topics that are common to SDAC and SIDC), by NC decision;
- (c) Schedule 8 by NC decision;
- (d) Schedule 9 by NC decision;
- (e) Schedule 7 (Contact Details of the Parties) may be amended by way of notice by a Party's Nominated Contact Person to the Secretary, exclusively in relation to its own Nominated Contact Person;
- (f) Schedule 11 (Controllers' information) may be amended by way of notice by a Party's Nominated Contact Person to the Secretary;
- (g) Annex I and II to Schedule 4, by NC decision;
- (h) Annex I and II to Schedule 5, by NC Decision.

18.2 The amendments to Schedule 4 (ANDOA) are approved unanimously in writing and signed by an authorised representative of each of DA NEMOs. The amendments to Schedule 5 (ANIDOA) are approved unanimously in writing and signed by an authorised representative of each of ID NEMOs. In deviation of the foregoing, Annex III (Operational Procedures) to Schedule 4 (ANDOA), and Annex III (Operational Procedures) to Schedule 5 (ANIDOA), are amended by NC decision according to the following procedure:

- (a) any amendment to an operational procedure or a new operational procedure is approved unanimously via email by the NEMO Committee following recommendation of such amendment by the relevant OPSCOM (i.e., DA OPSCOM or ID OPSCOM);
 - (b) operational procedures are considered approved by the NEMO Committee if no objection to the recommended amendment of the relevant OPSCOM (i.e., DA OPSCOM or ID OPSCOM) is raised by a Voting Member within 5 Business Days;
 - (c) in case unanimity is not achieved via email (i.e., if an objection is raised within the deadline set in letter b) above), the amendment of an operational procedure or a new operational procedure is included in the agenda of the next upcoming NEMO Committee meeting for approval (by unanimity).
- 18.3 The Parties expressly agree to review this Agreement if any Applicable Law is introduced or modified in such a way that has a substantive effect on this Agreement. In the event that any such introduction or change to Applicable Law - including, for the avoidance of doubt, measures and/or decisions of any Competent Authority – require an amendment or modification of this Agreement, any Party affected by the new/amended Applicable Law may send a request for modification of this Agreement to the other Parties containing:
- (a) the provisions of this Agreement that it is requesting be modified;
 - (b) the reason why such modification is necessary; and
 - (c) its proposals for the amendment of the relevant provisions of this Agreement.
- 18.4 At the latest thirty (30) calendar days after receipt of the request of amendment, the Parties shall convene a meeting to consult each other in respect of the requested amendment. The Parties shall negotiate any amendment taking into account the principles of cooperation as described in Clause 4.1.
- 18.5 To the extent a Party is not affected by a change to any Applicable Law notified to it by another Party, it may refuse to make the requested amendments to this Agreement on reasonable grounds, stating its reasons for such refusal. In such case, the affected Party(ies) shall inform its (their) NRA(s) to see if execution of/continued participation in this Agreement is still possible without making the requested amendment. If the relevant NRA raises any objection to the rejection of such requested changes, the affected Party may apply Clause 20.1, provided that the other requirements of Clause 20 relevant to Voluntary Exit Parties are met.
- 18.6 In the event that an amendment to this Agreement is a consequence of a change of an Applicable Law relevant for all Parties, the costs thereof shall be shared equally among the Parties.

18.7 In the event that an amendment to this Agreement is a consequence of a change in Applicable Law applicable to one Party (or a sub-set of Parties), such Party (or the appropriate subset of them) will bear the implementation costs of such amendment.

19. ENTRY INTO FORCE, DURATION, TERMINATION

19.1 Subject to Clauses 19.2, this Agreement entered into force with effect from the 28th March 2019.

19.2 OTE, a.s., irrespective of the applicable law of this Agreement, has a national legal obligation within the meaning of Section 2 (1) of Act No. 340/2015 Coll., on special conditions for the effectiveness of certain contracts, publication of these contracts and register of contracts (Act on the Register of Contracts), as amended and therefore the Agreement shall be published by OTE in the Czech Register of Contracts pursuant to section 5 of the Act on the Register of Contracts.

No confidential information shall be disclosed during the course of complying with such obligation, including by redacting all such confidential information from any materials or documents, unless specified otherwise in the Act on the Register of Contracts. The Parties shall receive from OTE a redacted version intended for the fulfilment of the abovementioned obligation.

The Parties shall notify OTE without undue delay in case they identify the necessity for further redaction to the received redacted version, otherwise it is deemed that the Parties approved the publication of the received redacted version.

All Parties hereby also acknowledge that this Agreement may become effective in relation to OTE only if the Agreement is previously published in the Czech Register of Contracts under the terms of the Act on the Register of Contracts.

19.3 This Agreement shall remain in full force and effect until it is replaced or terminated in accordance with its terms. The termination of this Agreement, for whatever reason, shall be without prejudice to any rights or obligations of the Parties arising or accruing with respect to the period prior to such termination.

19.4 This Agreement may be terminated at any time by written agreement of all the Parties, without any court intervention and without any compensation being due (without prejudice to all pre-existing rights and/or obligations under this Agreement), provided always that there exists a suitable replacement agreement or other arrangement between the NEMOs to the extent such is required to facilitate the proper fulfilment by NEMOs of their respective obligations under the CACM Regulation.

19.5 In case of termination, the NEMO Committee shall decide on the implementation of the termination. The Parties shall duly inform the relevant Competent Authorities in accordance with Clause 11.4. To the extent required by Applicable Law, termination shall not take effect until all relevant regulatory authorizations have been obtained.

19.6 The Parties shall not refuse to terminate this Agreement in the event that termination is ordered by a concurrent valid order of all NRAs or any other relevant Competent Authorities pursuant to article 4 paragraph 3 of the CACM Regulation.

19.7 In case the Agreement is rendered invalid, ineffective or null and void due to an act or omission of one of the Parties, it is considered to have this effect exclusively to the extent of the rights and obligations of such specific Party. All remaining Parties hereby express their will to continue to be bound by the terms of this Agreement regardless of its invalidity or ineffectiveness with respect to the rights and obligations of one of the Parties.

20. VOLUNTARY EXIT, FORCED EXIT AND SUSPENSION

20.1 Voluntary Exit

- (a) Any Party (hereinafter, the “**Voluntary Exit Party**”) may at any time, without cause and without any court intervention, exit this Agreement by its own means (the “**Voluntary Exit**”). A Voluntary Exit shall not trigger the payment of any compensation, but shall be without prejudice to: (i) any pre-existing payment obligations towards or between the other Parties under this Agreement up to and including the effective date of exit by the Voluntary Exit Party; and/or (ii) such already committed payment obligations towards third parties up to and including the earliest possible termination date applicable to such third party agreement, which in each case shall remain due unless agreed otherwise in the relevant Exit Plan.
- (b) The Voluntary Exit Party shall notify the NEMO Committee of its intention to exit from this Agreement. The NEMO Committee shall meet as soon as possible after any such notification to commence the preparation of the Voluntary Exit Party’s Exit Plan according to Clause 20.4. In particular, the NEMO Committee shall decide by unanimity and include in the Exit Plan the date on which the Voluntary Exit shall be effective. Except if decided otherwise by the NEMO Committee or except if provided otherwise by Applicable Law or regulatory decision, the following timescales for the effectiveness of such exit shall apply by default:
- (c) in the event of Force Majeure for two (2) consecutive months, subject to the terms and conditions provided under Clause 24.6 below;

- (d) in the event of a failure to reach an agreement with regard to the modification of this Agreement according to Clause 18.4, subject to three (3) months as from the notification of the Voluntary Exit Party;
- (e) in the event of a Dispute which is either referred to arbitration or subject to determination by arbitral proceedings in accordance with Clause 27.7, subject to three (3) months as from the notification of the Voluntary Exit Party;
- (f) to the extent compatible with Applicable Law, and without prejudice to Clause 20.2(i), in the event of a voluntary bankruptcy or any other voluntary insolvency proceeding, dissolution, liquidation or winding up (or equivalent) of such Voluntary Exit Party, upon three (3) months as from the notification of the Voluntary Exit Party;
 - (i) in the event of an order of Competent Authority to end the participation of a Party to the Single Day-ahead Coupling and/or the Single Intraday Coupling, upon three (3) months from the notification of the Voluntary Exit Party; or
 - (ii) in all other cases, upon six (6) months as from the notification of the Voluntary Exit Party.

20.2 Forced Exit

- (a) [REDACTED]
- (b) [REDACTED]
- (c) [REDACTED]
- (d) [REDACTED]
- (e) The consequences of any Forced Exit shall be decided by the NEMO Committee (other than the Forced Exit Party) in consultation with the relevant NRAs. The consequences will be laid down in the relevant Exit Plan.
- (f) For the avoidance of doubt dispute settlement shall not impact the effectiveness of the NEMO Committee decision. However, the NEMO Committee (it being understood that the Forced Exit Party will not take part to the decision in this

respect) may decide to suspend its decision under Clause 20.2(ii) where such decision is the subject of a Dispute pursuant to Clause 27.

- (g) For all decisions of the NEMO Committee in respect of the Forced Exit the Forced Exit Party shall not be a Voting Member (i.e. not be entitled to vote) it being understood that the Forced Exit Party shall be able to defend its case.

20.3 Suspension of Party

- (a) [REDACTED]

- (b) [REDACTED]

- (i) [REDACTED]
- (ii) [REDACTED]

- (c) [REDACTED]

- (d) For all decisions of the NEMO Committee in respect of the Suspension of a Suspended Party, such Suspended Party shall not be a Voting Member (i.e. not be entitled to vote) it being understood that such Suspended Party shall be able to defend its case.

- (e) In case of Suspension, the Suspended Party is authorized to communicate about its suspension with the relevant NRAs (and ACER as the case may be) without this constituting a breach confidentiality.

20.4 Exit Plan and Suspension Plan. Consequences of Voluntary Exit or Forced Exit or Suspension

(a) In case of any Voluntary Exit or Forced Exit or Suspension of a Party in accordance with the provisions of this Clause, the remaining Parties shall each use their respective Best Efforts to secure the continuity of the Single Day-ahead Coupling and the Single Intraday Coupling. The NEMO Committee shall prepare and approve by unanimity a plan, setting forth the actions and measures to be taken to ensure continuity following a Party's exit (the "**Exit Plan**") or its suspension (the "**Suspension Plan**"), as the case may be, including, but not limited to, the following:

- (i) assessment of the changes to be made to this Agreement (if any);
- (ii) assessment of the costs related to such Voluntary Exit or Forced Exit or Suspension and the allocation thereof;
- (iii) measures for ensuring continuity of the Single Day-ahead Coupling and/or Single Intraday Coupling;
- (iv) the Voluntary Exit or Forced Exit or Suspension should be conducted as smoothly as possible, with the aim of reducing the risk of possible disruptions for the remaining Parties; and
- (v) the exact date on which the Voluntary Exit or Forced Exit or Suspension shall become effective, according to the abovementioned timescales.

(b) [REDACTED]

(c) If the NEMO Committee does not approve the Exit Plan or the Suspension Plan, the matter shall be resolved in accordance with Clause 27.

(d) The Voluntary Exit Party or Forced Exit Party or Suspended Party shall, in accordance with the Exit Plan or Suspension Plan, use its Best Efforts to assist the remaining Parties to enable continuity of the Single Day-ahead Coupling and/or Single Intraday Coupling and to enable the migration of any services it performs or the documentation/information it provides until the date of its exit or for such other period as referred to in the relevant Exit Plan or Suspension Plan.

(e) The Voluntary Exit Party or Forced Exit Party or Suspended Party shall in no event object to the solutions implemented by the remaining Parties to ensure the continuity of the Single Day-ahead Coupling and/or Single Intraday Coupling, including the granting of rights on any joint asset to any other entity appointed to take over the services performed by such Voluntary Exit Party or Forced Exit Party or Suspended Party.

- (f) Until the Voluntary Exit or Forced Exit or Suspension becomes effective, the Voluntary Exit Party or Forced Exit Party or Suspended Party shall be a Voting Member on matters governed by Schedule 5 and/or Schedule 6 where the relevant Voluntary Exit Party or Forced Exit Party or Suspended Party is or may reasonably be expected to be impacted by decisions on such matters. For decisions on other matters, the Voluntary Exit Party or Forced Exit Party or Suspended Party shall not be a Voting Member (i.e. not be entitled to vote) unless the NEMO Committee decides otherwise or unless the vote has direct consequences for the relevant Voluntary Exit Party or Forced Exit Party or Suspended Party.
- (g) As of the date on which the exit becomes effective as determined in the Exit Plan in accordance with Clause 20.4(a), any co-owned Intellectual Property Rights of the Voluntary Exit Party or Forced Exit Party (as the case may be) pertaining to joint developments or any right of the Voluntary Exit Party or Forced Exit Party (as the case may be) to use data and systems will be governed by the relevant terms of this Agreement.
- (h) The Voluntary Exit Party or Forced Exit Party (as the case may be) is authorized to communicate about its Voluntary Exit or Forced Exit with the relevant NRAs (and ACER as the case may be) without this constituting a breach confidentiality.

21. LIABILITY

21.1 General Provisions

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21.1.1 [REDACTED]

21.1.2 [REDACTED]

21.1.3 [REDACTED]

21.1.4 [Redacted]

21.1.5 [Redacted]

21.1.6 [Redacted]

21.1.7 [Redacted]

21.1.8 [Redacted]

[Redacted]

21.1.9 [Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21.2 IPR and Confidentiality

Specific provisions provided in Schedule 5 and Schedule 6 apply to breaches of IPRs governed by such schedules.

22. CAPS ON LIABILITY AND ON HOLD HARMLESS OBLIGATIONS

22.1 The liability obligations under Clause 21 and the hold harmless and indemnification obligation under Clause 23 of a Defaulting Party is subject to different caps as further described in Clause 22.3 and 22.4 below.

22.2 The caps apply per calendar year, irrespective of the number and nature (liability or hold harmless obligations) of claims.

22.3 Non-Operational Liability cap

22.3.1 [REDACTED]



22.4 Operational Liability cap

Without prejudice to Clause 21.1.7, all claims for compensation against a Defaulting Party for Operational Liability shall be subject to the caps on liability provided in Schedule 5 or Schedule 6.

23. THIRD PARTY CLAIMS

23.1 The provisions of this Clause 23 shall apply in the event of any claim against a Party (a **“Defendant Party”**) by a Third Party (each a **“Third Party Claim”**).

23.2 In the event of a Third Party Claim, the Defendant Party shall:

- (a) as soon as reasonably practicable, and in any event within 10 Business Days after the date upon which the Defendant Party becomes aware of the Third Party Claim, give written notice of such Third Party Claim to the Defaulting Party (if any) and the NEMO Committee, specifying in reasonable detail the nature of the Third Party Claim and, where relevant, its connection to any Relevant Breach of the Defaulting Party;
- (b) thereafter keep the NEMO Committee and the Defaulting Party (if any) fully informed of the progress of, and all material developments in relation to, the Third Party Claim;
- (c) provide the NEMO Committee and the Defaulting Party (if any) with copies of all information and correspondence from time to time relating to the Third Party Claim; and

23.3 The Defaulting Party, upon the Defendant Party’s request, provide assistance and/or join any discussions or dispute settlement procedure (whether amicable, judicial or arbitral) in connection with a relevant Third Party Claim. Any failure by the Defendant Party to request the Defaulting Party to join such discussions or dispute settlement procedures (whether amicable, judicial or arbitral) shall not limit the right of defence of the Defaulting Party in respect of such Third Party Claim.

23.4 Any hold harmless obligation set out under this Agreement is conditional upon the Defendant Party:

- (a) fully cooperating with the Defaulting Party in any response and defence as reasonably required; and

- (b) not entering into any settlement or acknowledging the existence or grounds of the Third Party Claim without the prior consent of the Defaulting Party.

23.5 The Defaulting Party shall hold harmless the Defendant Party and indemnify it for and against any direct loss, liability, sanction, claim, damage or expense (“**Third Party Loss**”) which such Defendant Party suffers or incurs in connection with a relevant Third Party Claim. For the avoidance of any doubt, the Third Party Loss includes all costs, charges and expenses that are reasonably and properly incurred by the Defendant Party as a consequence of any actions taken in the defence of the Third Party Claim at the request of the Defaulting Party in accordance with this Clause 23. The Defaulting Party(ies) shall in no event (including in the event of a gross misconduct and regardless of whether such indemnification obligation is based upon an action or claim in contract, tort or negligence) hold harmless and indemnify the Defendant Party for any incidental, indirect or consequential damage including, but not limited, to loss of opportunity, loss of goodwill, loss of business, loss of profit, reputation damage, suffered by the Third Party initiating the Third Party claim.

23.6 [REDACTED]

23.7 It is understood that the indemnification obligation of the Defaulting Party for the Third Party Loss is subject to the fulfilment by the Defendant Party of the condition described under 23.2 and 23.4.

23.8 In deviation of the liability limitation further described in Clause 22 above (Caps on Liability), in the event of a Third Party Claim by a service provider jointly contracted by all Parties (or a subset of them), the aggregate obligation of a Defaulting Party to hold harmless and indemnify a Defendant Party shall not exceed the amount of the indemnification obligation the Parties have agreed pursuant to the terms of the services contract with such service provider unless differently provided in Schedule 5 or Schedule 6.

23.9 For the avoidance of any doubt:

- (a) [REDACTED]
- (b) [REDACTED]

23.10 The provisions of Clause 23.4 (b) shall not apply in relation to a Third Party Claim if and to the extent that the application of them would render any policy of insurance maintained by or available to the Defendant Party void or voidable, or entitle the relevant insurer to repudiate or rescind any such policy in whole or in part, or in the event that a relevant insurer exercises its right to take over conduct of the Third Party Claim.

23.11 The Defaulting Party shall have no liability in respect of a Third Party Claim to the extent that the liability pursuant to the relevant Third Party Claim arises or is increased as a result of a failure by the Defendant Party to act in accordance with any reasonable request or direction given by the Defaulting Party in accordance with this Clause 23.

23.12 The Defendant Party shall not have any right of set-off (howsoever arising) in respect of any Third Party Claim and all sums payable by the Defendant Party and any other Party (including the Defaulting Party) under this Agreement shall be paid in full without set-off, counterclaim or other deduction.

23.13 Neither the Defendant Party shall be entitled to recover damages, or obtain payment, reimbursement, restitution or indemnity more than once in respect of the same loss, shortfall, damage, deficiency, breach or other event or circumstance.

23.14 [REDACTED]

(a) [REDACTED]

(b) [REDACTED]

23.15 Should a Third Party Claim concern a breach of Schedule 5 and Schedule 6, this Clause 23 shall be supplemented by the specific provisions provided in such Schedules.

24. FORCE MAJEURE

24.1 For the purpose of this Agreement, "Force Majeure" means any event or situation reasonably beyond the control of the Parties, and not due to a default of the affected Party, which cannot be reasonably avoided or overcome, and which makes it impossible for such Party to fulfil temporarily or permanently its obligations hereunder

in accordance with the terms of the Agreement. An event of Force Majeure shall include, but shall not be limited to:

- (a) an enemy act or an act of terrorism, declared or undeclared war, threat of war, blockade, revolution, riot, insurrection, civil commotion, demonstration or public disorder; or
- (b) sabotage or act of vandalism; or
- (c) natural disaster or phenomenon; or
- (d) fire, explosions, radioactive, chemical or other hazardous contamination; or
- (e) a general or industry-wide strike; or
- (f) faults or malfunctions of telecommunication lines (e.g. telephone lines), internet accesses, to the extent not attributable to a misconduct of the Party invoking Force Majeure.

24.2 No Party shall be liable for delay or failure to fulfil its obligations under this Agreement if the delay or failure in performing the concerned obligation results from Force Majeure.

24.3 Any Party affected by Force Majeure, shall:

- (a) send the other Parties prompt notification describing the nature of Force Majeure and its probable duration and the impact on the performance of its obligations under this Agreement;
- (b) use its Best Efforts to limit the consequences and duration of the Force Majeure;
- (c) provide regular (and, in any event, weekly) notices to the other Parties about its actions and plans for action under (b); and
- (d) provide prompt notice to the other Parties as soon as the circumstances giving rise to the event of Force Majeure have been cured, mitigated or have otherwise ceased.

24.4 A Party affected by Force Majeure shall be excused from any delay or failure in performance, in whole or in part, of its obligations under this Agreement for so long as, and to the extent that, the performance of such obligations is affected by Force Majeure. For so long as and to the extent that the Party affected by Force Majeure is suspended from performing its obligations under the Agreement, the other Parties shall also be entitled to suspend their performance of the obligations that correspond to the suspended obligations of the Party claiming Force Majeure.

24.5 A Party cannot, under any circumstances, be held responsible or held liable to pay any compensation for damage suffered, due to any delay or failure in performance, in whole or in part, of any one or more of its obligations, when such delay or failure in performance is due to a Force Majeure event.

24.6 If Force Majeure continues for two (2) consecutive months following the notice under Clause 24.3 (a), the Party (ies) that has invoked Force Majeure shall be entitled to

exit pursuant to Clause 21.1 of this Agreement immediately upon notice to be notified in writing and provided that it demonstrates that:

(a) the event of Force Majeure invoked in the notice under Clause 24.3 (a), prevents the performance of its obligations under this Agreement which are to be considered as essential obligations under this Agreement; and

(b) it (they) has (have) taken all reasonable measures to remedy such Force Majeure but it is impossible to remedy it by such reasonable measures.

24.7 Should an event of Force Majeure concern the performance of obligations set under Schedule 5 and Schedule 6, this Clause 24 shall be supplemented by the specific provisions provided in such Schedules.

25. INTELLECTUAL PROPERTY RIGHTS

25.1 All works, preparations, creations, studies, researches including all documents, drawings, documentation, manuals, reports, schemes, software (system programs, applications, object codes, source codes), algorithms, technologies, business secrets, methods, jointly elaborated by the Parties or by a subset of them within the Scope of this Agreement shall become the joint property of the Parties or of the relevant subset of them (as appropriate), at no additional cost or remuneration, it being understood that all Intellectual Property Rights in respect thereto shall be jointly vested with the Parties. The forgoing is without prejudice to the relevant terms of the PCR Co-ownership Agreement, of Schedule 4 or of Schedule 5 concerning the treatment of intellectual property rights associated with DA MCO Function Assets, ID MCO Function Assets and SIDC/IDA Assets and any related deliverables including systems or software developed for the purpose of the single DA and ID coupling.

25.2 Nothing in this Agreement shall be interpreted as having any effect whatsoever on any Intellectual Property Rights vested with any individual Party at or prior to the date of this Agreement or which are not jointly elaborated by the Parties or by a subset of them within the Scope of this Agreement.

26. GOVERNING LAW AND JURISDICTION

26.1 This Agreement, its conclusion, performance and interpretation, including the issue of its valid conclusion (legal capacity excluded) and its pre- and post-contractual effect shall be governed and construed in all aspects by Belgian law.

27. DISPUTE RESOLUTION

27.1 Any dispute arising under, in connection to, or in the framework of this Agreement (including, for the avoidance of doubt, related to the conclusion of it and its validity) between one or more Parties (“**Dispute**”) shall be subject to the provisions of this Clause 27.

- 27.2 In the event of a Dispute arising between two or more Parties, such Parties (each a **“Disputing Party”**) shall each use their respective best endeavours to resolve the Dispute between themselves amicably. If the Parties in Dispute are not able to resolve the Dispute within 20 (twenty) Business Days, any Party to such Dispute may refer such Dispute to the NEMO Committee.
- 27.3 A referral for dispute settlement by the NEMO Committee (the **“Referral”**) shall be sent by email by one Disputing Party to NEMO Committee members in writing and shall at least contain the following information:
- (a) a description of the Dispute; and
 - (b) the indication of the Party(ies) to whom it is addressed; and
 - (c) the scope of the demand(s) or claim(s) of the Disputing Party referring the Dispute to the NEMO Committee; and
 - (d) the legal basis of the demand(s) or claim(s); and
 - (e) a proposal for settlement.
- 27.4 The Chairperson shall invite the Parties to participate in at least two (2) physical meetings (unless the Dispute is solved in the meantime) to be held within one (1) month of the receipt of the Referral.
- 27.5 The NEMO Committee shall in the first meeting hear the positions of the Disputing Parties and attempt to resolve the Dispute amicably under the chair of the person responsible for the amicable dispute settlement procedure. The NEMO Committee may hear and/or request opinions of experts provided that they are bound by confidentiality obligations at least equivalent to those in this Agreement. In particular, the NEMO Committee shall:
- (a) assess the facts;
 - (b) assess the interests of the Parties in light of the objectives of this Agreement; and
 - (c) in case of damage:
 - i) estimate the damage (and its nature and extent);
 - ii) determine which Party suffered the damage;
 - iii) determine which Party is liable for the damage; and
 - iv) determine the extent and modalities of indemnification; and
 - v) formulate a proposal for settlement.
- 27.6 In the event that the NEMO Committee fails to resolve the Dispute within one (1) month of receipt of the Referral, the Parties shall be notified thereof by the Chairperson (or the Secretary on behalf of the Chairperson) and the NEMO Committee may solicit the NRAs and/or ACER for a non-binding opinion on the Dispute (the **“Opinion”**). Upon receipt of the Opinion, the Disputing Parties shall pursue an amicable settlement based on this Opinion.
- 27.7 In the event that:
- (a) the NEMO Committee decides not to seek an Opinion from the NRAs and/or ACER; or

- (b) the Disputing Parties do not achieve an amicable settlement based on the Opinion within one (1) month of its receipt; or
- (c) ACER and/or the NRAs denies its competence to provide an Opinion or does not provide an Opinion within a timeframe of one (1) month of the request from the NEMO Committee,

the Dispute shall be exclusively and finally settled by arbitration under the ICC's rules of arbitration. Any Party in the Dispute shall thereto be entitled to submit the Dispute to such arbitration. The arbitral tribunal shall have three (3) arbitrators, regardless of the number of Parties involved. They shall be appointed by the ICC court of arbitration, according to the ICC rules of arbitration. All appointed arbitrators shall preferably be familiar with the applicable sector, specific legislations and Regulations. The place of arbitration shall be Brussels and all procedures shall be in English. The proceedings before the arbitral tribunal shall be governed by the ICC rules of arbitration and, if such ICC rules are silent, by the Belgian Law. The law applicable to the dispute shall be Belgian law. The award of the arbitration will be final and binding upon the Parties concerned. The Parties agree that the arbitrators validly appointed shall not be allowed to impose the termination of the Agreement as a solution of any Dispute.

27.8 Any settlement reached pursuant to this Clause 27 shall only be effective and binding for the Parties to it, provided it is laid down into a binding written settlement contract, signed by the Parties to such Dispute.

27.9 In the event of a Dispute, nothing in this Clause 27 shall preclude a Party from applying for injunctive relief in summary proceedings before any competent court.

28. NOMINATED CONTACT PERSON

Each Party will appoint a nominated person (the "**Nominated Contact Person**") to act as the initial contact point for such Party for all issues connected to this Agreement. The names of each Party's Nominated Contact Person are to be recorded in Schedule 7 (Contact Details of the Parties). Each Party may replace its Nominated Contact Person at any time and shall inform the other Parties via e-mail, providing all relevant contact details for such replacement Nominated Contact Person.

29. PERSONAL DATA

29.1 In the context of the Agreement, the following Personal Data shall be processed:

- (a) contact and other personal information of Party representatives or members of personnel or personnel of service providers (category of data subjects), such as, name, professional email address, professional phone number and photographic pictures (types of personal data). No Personal Data of market participants or any other party shall be processed in the context of this Agreement;

- (b) Personal Data of third parties such as third parties using the NEMO website <http://www.nemo-committee.eu/> or contacting the NEMOs via this website or the emails mentioned on this website.

29.2 Purpose of the processing and storage

29.2.1 With respect to the processing of Personal Data referred to under paragraph (i) of Clause 29.1, the Parties agree that:

- (a) such processing shall be carried out purely by virtue of the data subject's representation of/service to a Party in the context of the performance of this Agreement. Any Personal Data shall only be processed for the limited purpose of the performance of the Agreement; and
- (b) the legal grounds for processing the contact and other personal information of Party representatives is based on the legitimate interest of the Parties, namely to perform through their employees, service providers or representatives, the contractual rights and obligations under this Agreement.

29.2.2 Any processing of Personal Data referred to under paragraph (ii) of Clause 29.1 in relation with the usage of the NEMO website shall only be done in accordance with the terms of the privacy policy as mentioned on the NEMO website <http://www.nemo-committee.eu/> (the "**Privacy Policy**"). Any change to the Privacy Policy shall be agreed upon by the Parties. Any processing of Personal Data referred to under Clause 29.1(ii) not in relation with the usage of the NEMO website will be done in accordance with terms to be specifically agreed by the Parties.

29.2.3 Personal Data shall be stored so long as it is relevant; that is, related to persons representing/working for a Party, otherwise it shall be immediately erased. All Parties shall ensure that Personal Data that is no longer necessary is erased as well as the accuracy of Processed Data.

29.3 Joint Data Controller

The Parties qualify as joint data controller in relation to the processing of Personal Data referred to in paragraphs (i) and (ii) of Clause 29.1 to the extent such Personal Data are jointly stored by all Parties or by a third party on behalf of all Parties.

29.4 Distribution of responsibilities

29.4.1 Each Party shall, at all times, comply with its respective obligations under all applicable Data Protection Legislation in relation to all Personal Data that is processed under this Agreement.

29.4.2 The NEMO Committee may designate a specific point of contact (the "**GDPR SPOC**") for carrying-out and addressing the data subjects' rights requests, it being

understood that the data subjects can nonetheless exercise their rights under the GDPR vis-à-vis each Party as an individual data controller.

29.4.3 Each Party is individually responsible for:

- (a) notifying the required GDPR processing information under articles 13 and 14 of the GDPR to data subjects appointed or acting as representative, personnel or service provider on such Party's behalf or at such Party's request in the performance of this Agreement, whose Personal Data is being processed, so that they are aware of the data processing carried out in the framework of this Agreement;
- (b) ensuring the respect for data subjects rights as per articles 15 to 22 of the GDPR. If a Party receives a request, a complaint or inquiry from a data subject regarding the processing of its Personal Data, the GDPR SPOC shall be informed thereof and be requested to honour or implement the request in accordance with the GDPR;
- (c) implementing internally the appropriate technical and organisational measures to ensure and to be able to demonstrate that the processing of Personal Data is performed in accordance with applicable Data Protection Legislation;
- (d) complying with the requirement for records of processing activities in article 30 of the GDPR. For the avoidance of doubt, each Party agrees to keep an entry regarding the processing carried out in the context of the joint controllership in their respective registers to be kept in accordance with article 30 of the GDPR; and
- (e) complying with articles 33 and 34 of the GDPR on notification of a Personal Data breach to the relevant supervisory authority and/or to the concerned data subject(s). Each concerned Party shall inform the GDPR SPOC, so that they can inform all other Parties thereof,

however, if the reason for the breach is not immediately attributable to one of the data controllers, and the breach is attributable to the provider of the common (online) storage place referred to in Clause 13.1 or any processor jointly chosen by the Parties, the GDPR SPOC is responsible for managing a Personal Data breach and notifying the Personal Data breach to the relevant supervisory authority and/or to the data subjects.

29.4.4 The GDPR SPOC is responsible for:

- (a) making sure the Privacy Policy is online and up to date;
- (b) verifying that data subjects whose Personal Data is being processed are notified (possibly via NEMO website) of the required GDPR processing information

under articles 13 and 14 of the GDPR, so that they are aware of the data processing being carried out in the framework of the use of NEMO website;

- (c) ensuring compliance by the Parties with all data subjects' rights as per articles 15 to 22 of the GDPR. If a Party receives a request, a complaint or an inquiry from a data subject regarding the processing of its Personal Data, the GDPR SPOC shall be informed thereof and be required to respond to such request, complaint or inquiry in accordance with the GDPR;
- (d) maintaining a keeping up to date a record of processing activities carried out in the context of the joint controllership in a register maintained in accordance with article 30 of the GDPR;
- (e) at the request of a Party, assisting with or coordinating the notification to the authority and/or to the concerned data subject(s) of a Personal Data breach in compliance with articles 33 and 34 of the GDPR; and
- (f) complying with such further applicable national legal provisions, if any, as may be indicated by the Parties to the GDPR SPOC from time to time.

29.5 Use of data processors and sub-processors

The Parties shall mutually agree upon the use and the appointment of any data processors of Personal Data they are joint controllers for. This is without prejudice to each Party's right to continue to use data processors for their independent processing activities and any data processors related to their respective IT systems. Each Party is liable for respecting its Data Protection obligations in this respect.

29.6 Security

Parties represent and warrant that they ensure the security of Personal Data processing in accordance with article 32 of the GDPR.

29.7 Liability with regards to this Clause 29

- 29.7.1. The Parties shall be individually liable towards each other with regard to any Data Protection Legislation violation related to their individual responsibilities according to Clause 29.4.
- 29.7.2. The Parties shall be jointly and severally liable towards data subjects with regard to any Data Protection Legislation violation occurring in relation to data processing for which they are joint controllers according to Clause 29.3 and in respect of the choice of commonly agreed data processors, and each Party shall be liable for the entire

damage caused by the processing consistently with Clause 23.14, unless it can prove it is not in any way responsible for the event giving rise to the damage.

29.7.3. To the extent a third-party claim or damage in relation to a violation of Data Protection Legislation is caused by one or more Party(ies)'(s) violation of Data Protection Legislation in breach of Clause 29.7 i) and/or ii), such defaulting Party(ies) shall indemnify the other Parties in accordance with article 82 of the GDPR. Such defaulting Party(ies) shall also indemnify the other Parties for fines imposed on them in relation to Data Protection Legislation violations caused by the defaulting Party(ies) in relation to joint data processing. In the event a fine is imposed for violation of Data Protection Legislation concerning the joint processing of Personal Data and such violation is attributable to all Parties or to the GDPR SPOC, the fine shall be equally shared between the Parties, without prejudice to any possible indemnification which may be requested from the GDPR SPOC. In these cases, the liability caps and caps on hold harmless set forth in Clause 22 do not apply.

29.8 Right to provide individual controller information

29.8.1. Each Party has the right to provide individual controller information in Annex 12 (Controllers' Information).

29.8.2. Parties agree that Annex 12 creates no obligation for the other Parties apart from informing their relevant personnel and representatives involved in the performance of the Agreement of the existence of such Exhibit X (Controllers' Information)"

29.9 Specific obligation for NEMOs designated in a Non-EU/EEA Country

Each Party which is a NEMO designated in a Non-EU/EEA Country shall comply with the terms of GDPR. In particular the Parties shall comply with the standard model clause set forth in annex 1 to the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council, as amended from time to time.

30. MISCELLANEOUS

30.1 Each Party acknowledges and agrees that this Agreement shall not constitute, create or give effect to a joint venture, pooling arrangement, principal/agency relationship, partnership or formal business organisation of any kind and that neither Party shall have the right to bind the other without that Party's prior express written consent.

30.2 Each of the Parties, unless is expressly provided otherwise herein or pursuant to Applicable Law (e.g. with respect to automatic legal succession), is prohibited from assigning (including by means of merger, split-off, or transfer or contribution of universality or a branch of activity or otherwise) all or part of its rights and obligations

arising from this Agreement to a third party without the prior written consent of the other Parties, such consent not to be unreasonably withheld, conditioned or delayed.

- 30.3 No waiver of any term, provision or condition of this Agreement shall be effective except to the extent to which it is made in writing and signed by the waiving Party. No omission or delay on the part of any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver by it of any right to exercise it in future or of any other of its rights under this Agreement. For the avoidance of doubt, if a Party fails to perform any of its obligations hereunder, and another Party fails to enforce the provisions relating thereto, such Party's failure to enforce this Agreement shall not prevent its later enforcement.
- 30.4 All notices and correspondence under this Agreement shall be in writing (including e-mail) and shall be delivered, if not sent by email, by personal service, express courier using an internationally recognised courier company, or certified mail, return receipt requested, to the following addresses, or at such different address as may be designated by such party by written notice to the other party from time to time. A notice shall be effective upon receipt and shall be deemed to have been received (i) at the time of delivery, if delivered by e-mail, hand, registered post or courier or (ii) at the time of transmission if delivered by e-mail provided that, in either case, where delivery occurs outside Working Hours, notice shall be deemed to have been received at the start of Working Hours on the next following Working Day. The invoices shall be delivered by e-mail. In case of failure of the email systems, the invoices shall be sent by personal service or express courier using an internationally recognised courier company.
- 30.5 The addresses, e-mails and phone numbers of the Parties for the purpose of this Agreement are indicated in Schedule 7 (Contact Details of the Parties) and each Party may update such references by means of a written notice to the Secretary.
- 30.6 The Parties agree that the working language for all notifications and for all matters relating to their cooperation under this Agreement shall be English.
- 30.7 The invalidity or ineffectiveness of any Clause of this Agreement shall not affect the validity of the remainder of this Agreement.
- 30.8 In the event of the termination of the Agreement for whatever reason, the provisions which, expressly are intended to survive the termination of the Agreement are Clauses 1 (Definitions and Interpretation), 10 (Confidentiality), 22 (Limitations on Liability), 25 (Intellectual Property Rights), 26 (Governing Law and Jurisdiction), 27 (Dispute Resolution) and this Clause 30 (Miscellaneous).
- 30.9 This Agreement and the Annexes, as supplemented by decisions of the NEMO Committee in the performance of this Agreement, contain the entire agreement of the Parties hereto with respect to the subject matter hereof and contain everything the Parties have negotiated and agreed upon relating to the same subject matter.

30.10 Each Party shall maintain records that are complete and accurate for all the relevant material regarding the performance by it of all its obligations under this Agreement and each Party shall retain such records for a period as required under the applicable legal provisions applicable to it, with a minimum of three (3) years unless in conflict with the applicable legal provisions. On another Party's first substantiated request, a Party shall provide the other Parties with a copy of all or part of the records as indicated by the requesting Parties, if available.

30.11 The rights and remedies under this Agreement are cumulative with and not exclusive of any rights and remedies provided by law.

This Agreement has been duly executed in seventeen (18) original copies, one for each of the undersigned Parties.

SCHEDULE 1

Definitions

For the purposes of this Agreement, the following words and phrases shall have the following meanings:

Accession Declaration	means a document recording the terms of accession to this Agreement in accordance with the provisions of Clause 16.1, substantially in the form of the pro-forma attached as Schedule 8.
Accession Fee	means the amount to be paid by an Applicant for the accession to this Agreement pursuant Article 10 of Schedule 2.
ACER	means the Agency for the Cooperation of Energy Regulators, as established in accordance with Regulation 713/2009 of the European Parliament and the Council of 13 July 2009.
Affected Party	means a Party suffering a loss or damage as consequence of a Relevant Breach.
Affiliate	means, with respect to any Party, any company or other legal entity which either Controls, is Controlled by or is under common Control with, such Party.
Algorithm Methodology	means the “ <i>Methodology for the price coupling algorithm and the continuous trading matching algorithm</i> ”, approved by the relevant ACER decision on 26 th of July 2018.
ANCA QMV	means the qualified majority vote in favour of a matter/decision by at least $\frac{3}{4}$ of the Parties to this Agreement entitled to vote on such matter/decision regardless of their effective participation in the relevant meeting.
All NEMO Day-ahead Operations Agreement or “ANDOA”	means Schedule 4 to this Agreement.
All NEMO Intraday Operations Agreement or “ANIDOA”	means Schedule 5 to this Agreement.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

Applicable Law	means, with respect to each Party, such mandatory laws or regulations or decisions of any Competent Authority or intergovernmental agreement with the EU applicable to such Party, including any terms, conditions or methodologies as implemented from time to time under such laws, regulations, decisions or agreements.
Applicant	means an entity that is already designated as NEMO which intends to adhere to this Agreement consistently with Clause 16;
Best Efforts	means performing an obligation with the degree of diligence, prudence and foresight reasonably and ordinarily exercised by an experienced person engaged in the same line of business under the same circumstances and conditions, without guaranteeing the achievement of a specific result (" <i>middelenverbintenis</i> " / " <i>obligation de moyen</i> ").
Bidding Zone	means the largest geographical area within which market participants are able to exchange electricity without capacity allocation pursuant to the Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in the electricity markets.
Business Day	means any day other than a Saturday and a Sunday in which banks are open to the public for general business in the country or city of the Party that needs to perform the obligation, except if provided otherwise.
CACM QMV	means the qualified majority vote described in article 9(2) of the CACM Regulation.
CACM Regulation	means Regulation 2015/1222 of the European Parliament and the Council of 24 July 2015 establishing a guideline on capacity allocation and congestion management.
Calendar Quarter	means, during the term of this Agreement, each period of three consecutive calendar months (or part thereof in the case only of the first and last Calendar Quarter) as follows: (i) 1 January to 31 March inclusive ("Q1"); (ii) 1 April to 30 June inclusive ("Q2"); (iii) July to September ("Q3"); and (iv) 1 October to 31 December ("Q4"), and " Calendar Quarterly " shall be construed accordingly.
Cancellation	with respect to a session of SIDC/IDA Operations, means the situation, governed by the procedure set forth in the operational procedures of IDOA, that occurs when all Operational NEMOs are unable to perform SIDC/IDA Operations. The term "Cancel" shall be construed accordingly.
Capacity Management	means the XBID module for capacity management, i.e. the system containing up-to-date information on available cross-zonal capacity for

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

Module or CMM	the purpose of allocating intra-day cross zonal capacity (in accordance with article 2 of the CACM Regulation).
Chairperson	has the meaning given to that term in Clause 9.6.
Change	means any change of a Component, including light changes, pursuant to the Change Control Procedures.
Change Control Procedures	means the procedures set forth in Attachment 1 of Schedule 6 (NEMO SDAC Change Control Procedure and NEMO SIDC Change Control Procedure).
Claiming Party	has the meaning set forth in Article 6.7 of Schedule 2 <u>(Financial modalities / budget / invoicing modalities)</u> .
Clearing and Settlement Arrangement	means any arrangement entered into by a Party (or by a Third Party on behalf of a Party) for clearing and settlement of the exchange of energy resulting from SDAC and/or SIDC. Clearing and Settlement Arrangements are Local Arrangements.
Competent Authority	means ACER, any NRA or any other European Union, national, federal, regional, state, local or other court, arbitral tribunal, administrative agency or commission or other governmental, municipal, administrative or regulatory body, authority, agency or inspectorate with jurisdiction over any one or more Parties to this Agreement.
Component	means all ICT systems (software and hardware), interfaces, procedures, functional requirements and corresponding technical specifications, related documentation or information, related services, or any other element part of the XBID Solution or IDA System.
Concerned Party	means any Party (not being the Defendant Party) which may be under an obligation to hold harmless and indemnify a Defendant Party.
Confidential Information	means: (i) any information, whether or not marked as confidential, exchanged between any two or more Parties in the context of this Agreement in any form whatsoever (verbal, written, electronic or other), such as, but not limited to, any technical, financial, commercial, testing and/or operating data; and (ii) the content of this Agreement.

Contracting Party	has the meaning given to that term in Clause 6.1(a).
Control	<p>means, for the purpose of the definition of “Affiliates”, the situation where a person:</p> <ul style="list-style-type: none"> (i) directly or indirectly owns a fraction of the capital in another company that gives a majority of the voting rights at such company's general meetings; (ii) holds alone a majority of the voting rights in a company by virtue of an agreement entered into with other partners or shareholders and this is not contrary to such company's interests; (iii) effectively determines the decisions taken at a company’s general meetings through the voting rights it holds; (iv) has the power to appoint or dismiss the majority of the members of company's administrative, management or supervisory structures; or (v) directly or indirectly holds a fraction of the voting rights above 40% of a company and no other partner or shareholder directly or indirectly holds a fraction larger than this participation. (vi) Two or more undertakings acting jointly are deemed to jointly control a company when they effectively determine the decisions taken at its general meetings. (vii) In any case, an undertaking is presumed to control a company when it exerts a decisive influence over it. The decisive influence is defined according to the organizational, economic and legal links between both undertakings, <p>and the term “Controlled” shall be construed accordingly.</p>
Cooperation	means the cooperation between the Parties, in accordance with the Scope and other relevant provisions of this Agreement, the CACM Regulation, the MCO Plan and the Algorithm Methodology of: the implementation, delivery and operation of the DA MCO Function and the ID MCO Function via the performance of NEMO Tasks.
DA Incident Committee	means the committee established pursuant to Clause 8.5.1 to manage an Incident impacting the DA MCO Function Operations.
DA Market Coupling	means a coordinated day-ahead electricity implicit auction mechanism, performing the matching of the supply and demand curves of different DA NEMOs, taking into account the cross border capacity made available by the TSOs, using and applying the DA MCO Function System; for the

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

	avoidance of doubt, for the purpose of this Agreement, the term DA Market Coupling includes the concept known as market splitting.
DA NEMO Common Costs	Means those costs incurred in connection with establishing and amending the SDAC which are recoverable pursuant to Schedule 2.
DA MCO Function Assets	means the systems, procedures, algorithm and service provider contracts used for the DA MCO Function Operations described under article 7.2(a) of the CACM Regulation and section 2, paragraph 13 of the MCO Plan.
DA MCO Function Assets Co-Owners	means those DA NEMOs that are also parties to the PCR Co-ownership Agreement, having joint ownership of the DA MCO Function Assets.
DA MCO Function Assets Licensee	means a DA NEMO that has been granted by the DA MCO Function Assets Co-Owners a license providing it with the right to use the DA MCO Function Assets in its own name as SDAC Coordinator or SDAC Backup Coordinator or SDAC Operator (as the case may be) solely to perform the DA MCO Functions Operations for the purpose of Single Day Ahead Coupling.
DA MCO Function Operations	means the task of matching orders from the day-ahead markets for different Bidding Zones and simultaneously allocating cross-zonal capacities, carried out by DA Operational NEMOs pursuant to article 7.2 of the CACM Regulation.
DA MCO Function System	means the data processing environment (software and hardware) that will be used to calculate the Market Coupling Results. Such data processing environment embeds the DA MCO Function Assets.
DA NEMO	means a NEMO, Party to this Agreement, designated to operate (with respect to at least one Bidding Zone) in the Single Day Ahead Market Coupling.
DA NEMO Task	means any task for the benefit of all DA NEMOs that needs to be performed in connection with this Cooperation during the term of this Agreement.
DA Operational Calendar	means the calendar setting forth the periods during which a SDAC Operator will assume the SDAC Coordinator and SDAC Backup Coordinator role pursuant to paragraph 13 of Schedule 5. The Operational Calendar is detailed in the DA Operational Procedures.
DA Operational Call	is any call concerning DA MCO Function Operations different from the Daily Call and the Incident Call as further described in the DA Operational Procedure OPE02.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

DA Operational NEMO	means a DA NEMO which, following its Operational Date, is entitled to participate – directly or via its Servicing NEMO – in the SDAC, thereby matching its Orders via the DA MCO Function System.
DA Operational Procedures	means the operational procedures applicable to the Single Day Ahead Coupling as more particularly described in Annex III to Schedule 5.
DA OPSCOM	means the DA NEMO only operational committee established pursuant to Clause 8.4, which is the body dealing only with SDAC operational matters such as incidents and Changes.
DA Order	means, with respect to each DA NEMO, a binding order to buy or sell a day-ahead electricity Product against payment, including but not limited to: hourly orders, block orders, MIC orders, MPC orders or PUN orders, as further defined in the relevant Market Rules.
DA Order Data	means the anonymized and aggregated DA Orders submitted on the DA Trading Platform of a DA Operational NEMO as further described in the DA Operational Procedure NOR03.
DA Trading Platform	means the IT infrastructure to which DA Orders are submitted by market participants. The DA Trading Platform may be operated either by a DA Operational NEMO or by a PX to which a DA Operational NEMO has delegated the activity of collecting Orders.
Daily Operational Call	means the daily call amongst the Operators during the performance of DA MCO Function Operations as further described in the DA Operational Procedures.
DAOA	means the Day-ahead Operations Agreement as further described in Recital K.
Data Protection Legislation	means the GDPR and all other relevant national and European laws and regulations concerning data protection, electronic communications and privacy.
Defaulting Party	has the meaning given to that term in Clause 21.1
Defendant Party	has the meaning given to that term in Clause 23.1
Disclosing Party	means any Party that discloses Confidential Information to another Party.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

Dispute	has the meaning set forth in Clause 27.1.
Disputing Party	has the meaning set forth in Clause 27.2.
Due Date	has the meaning given to that term in Article 7.2 of Schedule 2.
EEA	means the European Economic Area set by the EEA Agreement which entered into force on 1 st January 1994.
EnC CACM	has the meaning set forth in Recital “M”.
Equal Treatment Charter	means exhibit 6 to the XBID-MSA as amended from time to time.
EU	means the European Union established by the Treaty of Maastricht, with effect from 1 November 1993.
Euphemia	means the common matching algorithmic software for the calculation of SDAC and SIDC/IDA. Euphemia is part of the DA MCO Function Assets and SIDC/IDA Assets.
European Stakeholder Committee or “ESC”	The European stakeholder committee comprised of the representatives of the European Commission, ACER, ENTSO-E, NEMOs and the associations representing Distribution System Operators (DSOs), the European association of energy exchanges (Europex) and other stakeholder groups representing generators, suppliers and customers from across the European electricity sector. The European Stakeholder committee is governed by the Terms of Reference published on ACER internet site.
Exit Plan	has the meaning set forth in Clause 20.4(a).
Expert Panel	means the panel of independent experts constituted in accordance with the procedures to be attached to this Agreement as Schedule 10.
Explicit Participant	means person that is authorized by one or more concerned TSO(s) to request explicitly capacity through the XBID Solution on at least one interconnection to the exclusion of an ID Operational NEMO offering a market place for implicit intraday trading or a person acting on behalf of an ID Operational NEMO offering a market place for implicit intraday trading. Without prejudice to potential future addition of other borders pursuant to NRAs decision and process set forth in the CACM Regulation, only the France-German and the Slovenian-Croatian border is concerned by the access of Explicit Participants.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

External Representative	means the subcontractors, agents, lawyers, professional advisors, external consultants, insurers, financiers or any other entity appointed by a Party in relation to the Cooperation.
Force Majeure	shall have the meaning set forth in Clause 24.
Forced Exit	means, with respect to any one or more Parties, the termination of such Parties' participation in this Agreement by the other Parties in accordance with Clause 20.2(a).
Forced Exit Party	has the meaning given to that term in Clause 20.2(a).
Full Decoupling	means the situation governed by the FAL 02 procedure as detailed in the DA Operational Procedures, in which case it is not possible to produce DA Market Coupling Results for any Operational NEMOs (and the term " Fully Decouple " shall be construed accordingly).
GDPR	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, as amended from time.
GDPR SPOC	shall have the meaning set forth in Clause 29.4.2.
Global NDA	means the Single DA and ID Coupling Observership and Non-Disclosure Agreement" signed by NEMOs and TSOs and which entered into force on 23 February 2016.
Global Product	means all Products set up in the XBID System and eligible to be matched in the XBID System.
Go-Live	means the commencement of the DA MCO Function Operations or ID MCO Function Operations and/or SIDC/IDAs Operations.
Go-Live Date	means the date on which a DA NEMO or an ID NEMO commences commercial market operations in the production environment of the DA MCO Function System or the XBID System or the SIDC/IDA System and becomes a DA Operational NEMO or ID Operational NEMO.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

High Level Architecture (Day-ahead) or “HLA DA”	means the description provided in Annex I to Schedule 4.
High Level Architecture (Intraday) or “HLA Intraday”	means exhibit 4 to the IDOA.
High Level Meeting or “HLM”	means the all-CEO group as constituted pursuant to the terms of Clause 8 and Schedule 3 (Rules of Internal Order).
Historical Costs	shall have the meaning set forth Article 10.1 a) of Schedule 2.
IC SPOC Services	means the services provided in accordance with annex 1 to exhibit 15 of the IDOA.
ICC	means the International Chamber of Commerce with headquarters in 33-43 avenue du Président Wilson 75116 Paris, France.
ICT	means information and communication technologies.
ID Component	means all ICT systems (software and hardware), interfaces, procedures, functional requirements and corresponding technical specifications, related documentation or information, related services, or any other element part of the XBID Solution.
ID Coordinator	means the ID NEMO that effectively performs at the same time the IC SPOC services, the NEMO Central Admin services and the MPLS Network Service Provider SPOC services.
ID MCO Function	shall have the meaning set forth in article 7.2 of the CACM Regulation and in section 2 point 7 of the MCO Plan.
ID MCO Function Assets	means the systems, procedures, algorithm and service provider contracts used for the ID MCO Function.
ID MCO Function Operations	means the task of matching orders from the intra-day markets for different Bidding Zones and simultaneously allocating cross-zonal capacities, carried out by ID Operational NEMOs pursuant to article 7.2 of the CACM Regulation.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

ID NEMO	means a NEMO, Party to this Agreement, designated to operate (with respect to at least one Bidding Zone) in the Single Intraday Market Coupling.
ID NEMO Cooperation	means the cooperation set under Schedule 6 of this Agreement.
ID Operational NEMO	means a Party whose orders are being matched in SIDC/IDCT and/or SIDC/IDA.
ID OPSCOM	means the ID NEMO-only operational committee established pursuant to Clause 8.4, which is a body dealing with NEMO only SIDC operational matters such as incidents and Changes.
ID Order	means, with respect to each ID Operational NEMO, a binding order to buy or sell an intraday electricity Product against payment, as further defined in the relevant Market Rules.
ID NEMO Task	means any task for the benefit of all ID NEMOs that needs to be performed in connection with this Cooperation during the term of this Agreement.
ID Third Party Service Provider	means each of the service providers that have supplied one or more of the Identical NEMO Components of the XBID System or of the SIDC/IDA System and provides maintenance and hosting services for it.
IDCT Algorithm	means the common matching algorithmic software for the calculation of SIDC/IDCT. The IDCT Algorithm is part of the ID MCO Function Assets.
Identical NEMO Components	means an ID Component that must be identical for all ID Operational NEMOs when operating their cross border intraday market in accordance with the XBID Solution. For the avoidance of doubt, ID Components listed in Annex 2 (Identical ID Components) are deemed to be Identical ID Components.
IDOA	shall have the meaning set forth in recital H).
IDOA Change Control Procedure	means the change control procedure attached as exhibit 3 to the IDOA.
Incident	means, as the context requires, either: <ul style="list-style-type: none"> (i) the occurrence of a circumstance impacting DA MCO Function Operations preventing the SDAC Coordinator, SDAC Backup Coordinator and SDAC Operators from performing DA MCO Function Operations; or (ii) the occurrence of a circumstance impacting the operations of the ID MCO Function and SIDC/IDA Operations. With respect to SIDC/IDA Operations, means the occurrence of a circumstance impacting the SIDC/IDA Operations preventing the SIDC/IDA

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

	Coordinator, SIDC/IDA Backup Coordinator and SIDC/IDA NEMO Operators to perform SIDC/IDA Operations.
Individual Asset	means any asset (including business processes and procedures) different from a DA MCO Function Asset used by a Party for the performance of the DA MCO Function Operations.
Individual ID Component	means any ID Component which is not an Identical ID Component or an SIDC/IDA Asset.
Intellectual Property Rights or "IPR"	means any intellectual property right or other (property) right throughout the world, in all media, now existing or created in the future, for all versions and elements, in all languages, and for the entire duration of such rights, arising under applicable law, contract, or otherwise, and whether or not registered, registrable or perfected, including (a) rights in all inventions, discoveries, utility models, patents, reissues of and re-examined patents, or patent applications (wherever filed and wherever issued, including continuations, continuations-in-part, substitutes, and divisions of such applications and all priority rights resulting from such applications) now existing or hereafter filed, issued or acquired; (b) rights associated with works of authorship, including database rights, copyrights, moral rights, copyright applications, copyright registrations, synchronization rights, mask work rights, applications and registrations; (c) rights in computer software and programs, source codes, or business methods; (d) rights in materials; (e) rights associated with trade-marks, service marks, trade names, internet domain names, business names, logos, trade dress and the applications for registration and the registrations thereof; (f) rights relating to the protection of trade secrets, know-how and/or other Confidential Information; (g) design rights, whether registered or unregistered; and (h) rights analogous to those in this definition and any and all other proprietary rights relating to intangible property.
Internal Representative	means, with respect to any Party, the directors, officers, managers and employees of such Party, or of such Party's Affiliates.
Internal Resources	means, with respect to any Party, such Party's own internal resources (in terms of the experience, skills and time of any one or more of its Internal Representatives) as are deployed, or which may be deployed, for the purposes of the fulfilment of such Party's obligations under this Agreement, plus any such resources available to such Party through the utilization (either alone or jointly with any one or more other Parties) of the services of one or more Third Parties (not being a Third Party Service Provider).

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

IT Operation	means the service of making available to the Parties for daily 24h operational use the Identical NEMO Components, including interfaces and server infrastructure, as well as the technical operation and management thereof and possibly also maintenance and hosting thereof.
Joint SIDC Procedures	means the intraday operational procedures attached as exhibit 6 to the IDOA.
Local Arrangement	means: (a) any agreement and/or consensus of opinion, whether in writing or orally; or b) any Applicable Law, which applies to a subset of the Parties (as well as Third Parties as the case may be). For the sake of clarity: (i) DAOA, IDOA and XBID-MSA are not a Local Arrangement while instead (ii) Clearing and Settlement Arrangements are Local Arrangements.
Local ID Product	means all ID Products not set up in the XBID System and not eligible to be matched in the XBID System.
Local Trading Solution or "LTS"	means the complementary solution to the XBID Solution, that is used by a NEMO to collect, consolidate and anonymize trading data between the XBID Solution and the NEMO's Market Participants. There is no direct communication between a Market Participant and the XBID Solution. The Trading Solution(s) of the NEMO(s) communicate(s) with the XBID Solution only by means of the TS Client.
Market Coupling Steering Committee/ MCSC	means the governing body of SDAC and SIDC among NEMOs and TSOs as described in the DAOA and the IDOA.
Market Participant	means any natural or legal person authorised by a [Party] to submit Orders to such Party's DA Trading Platform or LTS (as the case may be).
Market Rules	with respect to each Party, means the terms and conditions regarding the organization, the functioning, the access to and the trading on its DA Trading Platform and/or LTS by its Market Participants.
Market Time Unit/MTU	means, consistently with art. 2 of Commission Regulation (EU) No 543/2013 of 14 June 2013, the period for which the market price is established or the shortest possible common time period for the two bidding zones, if their market time units are different.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

MCO Plan	means the plan that sets out how NEMOs shall perform the MCO Functions pursuant to article 7(2) of the CACM Regulation.
Methodology	means any term, condition or methodology referred to in art. 9 of CACM.
MIC	means the minimum income condition.
Modification	means a request for complex Changes, with a medium/high risk category, affecting multiple Components subject to the Change Control Procedure, or such Components which are under the responsibility of more than one Party;
Monthly Report	has the meaning given to that term in Article 4.12 of Schedule 2.
MPC	means the maximum payment condition.
MPLS	shall mean multiprotocol label switching.
MPLS Communication Network	means the robust and secure MPLS communication network between the LTS of certain ID Operational NEMOs and the XBID Solution hosted by the XBID System Service Provider.
MPLS Network Service Provider	means the service provider providing the communication services to all ID Operational NEMOs.
MPLS Network Service Provider SPOC	means the ID Operational NEMO appointed in accordance with paragraph 7.2(iii) of Schedule 6 in order to provide the services described in the document “XBID_NEMO_OTH_04-MPLS Incident Management”, as more particularly described in Annex 3 (ID Operational Procedures).
MPLS Services Framework Agreement	means the agreement entered into by the ID Operational NEMOs with the MPLS Network Service Provider.
National Regulatory Authority or “NRA”	means the relevant national regulatory authority designated at national level on the basis of article 35 of Directive 2009/72/EC of the European Parliament and the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC or, in case of a country for which this directive does not apply, the national regulatory authority designated at national level by similar legal provisions.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

NEMO	means a legal person designated as a “nominated electricity market operator” consistently with CACM Regulation or any relevant regulatory requirements (e.g., an intergovernmental agreement entered into by the EU or by the EU Member States) that apply to such legal person, as the case may be.
NEMO Central Admin or “NCA”	means the person performing the role described in Annex 3 to Schedule 6 (ID Operational Procedures), in particular in the document with the title “XBID_NEMO_OTH_03 – XBID NEMO Admins”.
NEMO Committee	means the governance body for the Cooperation established under the terms of this Agreement.
NEMO Coordinator	means the Party that, in the context of SIDC/IDCT, effectively performs at the same time the IC SPOC services, NEMO Central Admin services and MPLS Network Service Provider SPOC services.
NEMO Task	means any common task for benefit of all NEMOs that needs to be performed in connection with this Cooperation during the term of this Agreement.
NEMO Vote	means the collective vote that NEMOs submit for the purposes of MCSC decisions under the DAOA and the IDOA respectively.
NEMO Common Costs	means any one or more of the NEMO only SDAC or SIDC cost categories as more particularly described in Schedule 2 (Financial Schedule).
NEMO’s Specific Functionality	shall have the meaning set forth in paragraph 6.3 of Schedule 4.
Nominated Contact Person	has the meaning set forth in Clause 28.
Non-Co-owner DA NEMO	means any DA NEMO which is not a DA MCO Function Assets Co-owner.
Non-EU/EEA Country	means any country not being a member of the EU or the EEA, excluding for these purposes Northern Ireland pursuant to the Withdrawal Agreement.
Non-Operational Breach	means any breach of the Agreement different from an Operational Breach.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

Non-Operational DA NEMO	means any DA NEMO with respect to which the Operational Date has not yet occurred, i.e. a Party which is not using the DA Algorithm to match its DA Orders.
Non-Operational ID NEMO	means any ID NEMO that is not an ID Operational NEMO.
Non-Operational Liability	means the liability of a Defaulting Party for any breach different from an Operational Breach.
Non-Servicing NEMO	with respect to each Serviced NEMO, means any NEMO other than its Servicing NEMO.
Notification	means a request for change: (i) with a very low/low risk category, affecting a small number of ID Components subject to the Change Control Procedure owned by one or more ID NEMOs; and (ii) only to local items with no identified impact on Identical NEMO Components.
Observer	means a person which has been granted by the NEMO Committee the status described in Clause 17.2.
Operational Breach	means either a SDAC Operational Breach or SIDC/IDCT Operational Breach or SIDC/IDA Operational Breach.
Operational Decision	means any decision taken in the context of the day to day management of the DA MCO Function Operations, ID MCO Function Operations and SIDC/IDA Operations which applies to all Operational NEMOs. Operational Decisions are taken by the Operational NEMOs only. The following decisions, without limitation, shall be considered as Operational Decisions: a) any decision related to the application and interpretation of the Operational Procedures (other than decision made in the context of the resolution of any incident); b) resolution of incidents; c) decisions related to Go-Live.
Operational Liability	means the liability of a Defaulting Party for an Operational Breach.
Operational Liability Claim	means any claim for compensation by a Third Party towards a NEMO for any damage suffered or incurred by such Third Party arising out of or in connection with DA MCO Function Operations or ID MCO Function Operations (as the case may be), including pursuant to an alleged Operational Breach.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

Opinion	has the meaning set forth in Clause 27.6.
Partial Decoupling	<p>means with respect to:</p> <p>i) a session of DA MCO Function Operations, the situation, governed by the DA Operational Procedure FAL02, in which one or more DA Operational NEMOs are unable to participate in the DA MCO Function Operations.</p> <p>ii) a session of SIDC/IDA Operations, the situation, governed by the procedure set forth in the SIDC/IDA Operational Procedures, in which one or more ID Operational NEMOs are unable to perform SIDC/IDA Operations due to its/their inability to provide SIDC/IDA Individual Input Data.</p> <p>The term “Partially Decouple” shall be construed accordingly.</p>
Party	means any signatory party to this Agreement.
Paying Party	has the meaning set forth in Section II.6.2, c) of Schedule 2 <u>(Financial modalities / budget / invoicing modalities)</u> .
PCA	means the EU XBID PX Cooperation Agreement entered into by NP, EPEX, GME and OMIE on the 5th of June 2014, before the entering into force of CACM, in light of the future implementation of SIDC. The PCA was replaced by ANIDOA.
PCR Confidentiality Declaration	means the PCR Associate Member Confidentiality Declaration entered into by a Non-Co-owner NEMO governing the disclosure of information pertaining to the PCR Co-ownership Agreement.
PCR Co-owners	means those Parties that, as parties to the PCR Co-ownership Agreement, have joint ownership, among other assets, of the Euphemia and PMB.
PCR Co-ownership Agreement	means the agreement entered into by the PCR Co-owners establishing the co-ownership rights and obligations in respect of the DA MCO Function Assets.
PCR Licensee	means each and any Party that is entitled to use Euphemia and PMB for DA MCO Function Operations and/or SIDC/IDA Operations pursuant to a license agreement entered into with PCR Co-owners.
PCR Single Point of Contact or “PCR SPOC”	means a party to the PCR Co-ownership Agreement appointed by the other parties to enter into and/or to perform contracts with Third Party Service Providers of the DA MCO Function Assets under the PCR Co-Ownership Agreement.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

Permitted Purpose	means, in the context of the utilization of Confidential Information by a Recipient Party, for the purposes of the Scope and in connection with the performance of any one or more of the NEMO Tasks.
Personal Data	means any information qualified as personal data pursuant to article 4(1) of GDPR.
PMB	means the PCR Matcher and Broker as further described in Attachment 3 (High level functional architecture) to Schedule 6.
PMI	means the XBID Solution public message interface.
PMO	means such person with the requisite skills and experience as the NEMO Committee may appoint from time to time to perform such administrative tasks on behalf of the NEMO Committee as it may determine, including those tasks allocated to the Secretary under the terms of this Agreement.
Power Exchange or "PX"	means any legal person that operates a business which facilitates for its customers (via an appropriate IT platform) the execution of day-ahead and/or intraday wholesale electricity contracts for delivery to any one or more bidding zones (as such term is used in the CACM Regulation).
Power of Attorney	has the meaning given to that term in Clause 6.1(a).
Privacy Policy	has the meaning set forth in Clause 29.2.2.
PUN	means the Italian uniform purchase price.
Quarterly Account	has the meaning given to that term in Article 6.2 of Schedule 2.
Quarterly Report	has the meaning given to that term in Article 6.2 of Schedule 2.
Recipient Party	means any Party that receives Confidential Information from another Party.
Referral	has the meaning set forth in Clause 27.3.
Relevant Breach	has the meaning set forth in Clause 21.1.
REMIT	means Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

Request for Change or “RFC”	means a formal proposal containing a request for a change in accordance with the Change Control Procedures.
Requirement	means the description of any update, upgrade, modification or new development of the DA MCO Function Assets approved by the NEMO Committee.
Rules of Internal Order (RIO)	means Schedule 3 of the Agreement.
Scope	has the meaning set forth in Clause 3.
SDAC Backup Coordinator	means, with respect to the DA Coupling, the Operator which, in addition to performing its tasks as Operator on a given day, is prepared if necessary to take over the SDAC Coordinator role at any moment as further described in paragraph 11 of Schedule 5.
SDAC Coordinator	means a DA Operational NEMO, being an Operator, as further described in paragraph 10 of Schedule 5, which, in addition to performing its Operator tasks, is responsible for coordinating the operation of the DA MCO Function in accordance with paragraph 8 of Schedule 5 and the DA Operational Procedures.
SDAC Daily Observer	means each and any Serviced NEMO listed as such in the daily operational contact list as set forth in the DA Operational Procedures.
SDAC Final Market Coupling Results	means the final market coupling results following confirmation by TSOs (i.e. TSOs’ confirmation of the Preliminary Market Coupling Results), which shall comprise: <ul style="list-style-type: none"> a) a single clearing price for each Bidding Zone and Market Time Unit (MTU) in EUR/MWh, b) a single net position for each Bidding Zone and each MTU, c) the approximation of the matched volumes of each NEMO trading hub per Bidding Zone for each relevant MTU, d) the scheduled exchanges between Bidding Zones (in case of direct current interconnectors separately for each of them) and between scheduling areas e) scheduled exchanges between NEMO trading hubs per Bidding Zone for each relevant MTU ,

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

	<p>f) the information which enables the execution status of orders to be determined, and</p> <p>g) the acceptance ratio for each block as defined in the day-ahead products,</p> <p>plus such other results of the DA MCO Function Operations as the Parties may agree from time to time to be incorporated in the above list.</p>
SDAC Individual Input Data:	<p>means, with respect to each DA Operational NEMO, the data to be sent to the DA MCO Function System by itself or by its SDAC Servicing NEMO in order to calculate the SDAC Unconfirmed Results. Such data consists of:</p> <p>i) the network features provided by the relevant TSOs that shall be taken into account in the calculation of SDAC Unconfirmed Results,</p> <p>ii) its DA Order Data.</p>
SDAC Operational Breach	<p>means any breach by a DA Operational NEMO of Article 8-13 of Schedule 5 or of the DA Operational Procedures.</p>
SDAC Operational Date	<p>means the date on which a DA NEMO starts the operation of SDAC.</p>
SDAC Operator	<p>means a DA Operational NEMO, as further described in paragraph 12 of Schedule 5, performing the DA MCO Function Operations during DA Market Coupling, which provides the SDAC Coordinator with the information needed for the calculation of the Results, participates in the actions convened by the SDAC Coordinator, complies with commonly agreed decisions and accepts or rejects the Results in respect of its Individual Input Data (plus those of its Serviced NEMO(s)) in accordance with paragraph 8 of Schedule 5 and the DA Operational Procedures.</p>
SDAC Preliminary Market Coupling Results	<p>means the results calculated by the SDAC Coordinator through the DA MCO Function System and confirmed by the Operators (DA Operational Procedures NOR 6 – preliminary results confirmation), prior to the TSOs' final confirmation, which shall comprise:</p> <p>a) the single clearing price for each Bidding Zone and Market Time Unit (MTU) in EUR/MWh,</p> <p>b) the single net position for each Bidding Zone and each MTU,</p>

	<p>c) the approximation of matched volumes of each NEMO trading hub per Bidding Zone for each relevant MTU,</p> <p>d) the scheduled exchanges between Bidding Zones (in case of direct current interconnectors separately for each of them) and between scheduling areas,</p> <p>e) scheduled exchanges between NEMO trading hubs per Bidding Zone for each relevant MTU,</p> <p>f) the information which enables the execution status of orders to be determined,</p> <p>g) the acceptance ratio for each block as defined in the day-ahead products, and</p> <p>h) such other results as the Parties may agree from time to time to be incorporated in the above list.</p>
SDAC Serviced NEMO	means an DA Operational NEMO which has delegated, at least, its performance of DA MCO Function Operations to its SDAC Servicing NEMO, according to a bilateral service provision agreement.
SDAC Servicing NEMO	means, in respect of each SDAC Serviced NEMO, a DA MCO Function Asset Co-Owner acting in the name and for the account of such SDAC Serviced NEMO for at least the performance of DA MCO Function Operations.
SDAC Unconfirmed Results	<p>means the results calculated by the SDAC Coordinator, the SDAC Backup Coordinator and by any SDAC Operator through the DA MCO Function System described in Annex IV to Schedule 4, not yet confirmed as Preliminary Market Coupling Results, which shall comprise:</p> <p>a) the single clearing price for each Bidding Zone and Market Time Unit (MTU) in EUR/MWh,</p> <p>b) the single net position for each Bidding Zone and each MTU,</p> <p>c) the approximation of matched volumes of each NEMO trading hub per Bidding Zone for each relevant MTU,</p> <p>d) scheduled exchanges between NEMO trading hubs per Bidding Zone for each relevant MTU,</p> <p>e) the scheduled exchanges between Bidding Zones (in case of direct current interconnectors separately for each of them) and between scheduling areas,</p> <p>f) the information which enables the execution status of orders to be determined, and</p> <p>g) the acceptance ratio for each block as defined in the DA products,</p>

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

	plus such other results as the Parties may agree from time to time to be incorporated in the above list.
Secretary	means the legal or natural person implementing the practical organization of the Cooperation according to the guidance of the NC and/or the Chairperson pursuant to Article 3.5 of RIO.
Sharing Key	means, with respect to the sharing of NEMO-only Common Costs between relevant NEMOs, the methodology to be applied to calculate the appropriate share of such costs to be borne by each such NEMO, in compliance with the CACM Regulation and NRA guidance, and as more particularly described in Schedule 2.
Shipping Module or "SM"	means the module of the XBID Solution providing information from trades concluded within the SIDC. The Shipping Module receives and processes data from the SOB and the CMM, enriches and filters the data and makes it available to the defined recipients.
SIDC/IDA (s)	means the auction trading sessions of SIDC established by the Methodology for pricing intraday cross-zonal capacity, developed pursuant to Article 55 of Regulation (EU) 2015/1222 and approved by ACER with the decision 01/2019 of January 24 2019.
SIDC/IDA Assets	means the group of SIDC/IDA System's components formed by Euphemia, PMB and SIDC/IDA CIP Tool.
SIDC/IDA Backup Coordinator	means the Operator which in addition to performing the task as a SIDC/IDA NEMO Operator, is prepared, if necessary, to take over the SIDC/IDA Coordinator role at any moment as further described in Article 12.2.6. of Schedule 5.
SIDC/IDA CIP Services Agreement	means the agreement for the development and maintenance of the SIDC/IDA CIP Tool entered into by the Parties with the relevant Third Party Service Provider.
SIDC/IDA CIP Tool	means the software functioning as central interface point for SIDC/IDAs as further described in Annex 6 to Schedule 6 (Technical requirements). The SIDC/IDA CIP Tool is part of the SIDC/IDA Assets.
SIDC/IDA Coordinator	means an SIDC/IDA NEMO Operator, as further described in Article 12.2.5 of Schedule 5, which, in addition to performing its tasks, is responsible for coordinating the operation of the SIDC/IDAs in accordance with Article 12.2.5 of Schedule 5 and NEMO Operational Procedures.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

SIDC/IDA Daily Observer	means each and any SIDC/IDA Serviced NEMO listed as such in the daily operational contact list as set forth in the SIDC/IDA Operational Procedures.
SIDC/IDA Final Market Coupling Results	means the final SIDC/IDA market coupling results following confirmation by TSOs (i.e. TSOs' confirmation of the SIDC/IDA Preliminary Market Coupling Results), which shall comprise: a) a single clearing price for each Bidding Zone and Market Time Unit (MTU) in EUR/MWh, b) a single net position for each Bidding Zone and each MTU, c) the approximation of the matched volumes of each NEMO trading hub per Bidding Zone for each relevant MTU, d) the scheduled exchanges between Bidding Zones (in case of direct current interconnectors separately for each of them) and between scheduling areas, e) scheduled exchanges between NEMO trading hubs per Bidding Zone for each relevant MTU, f) the information which enables the execution status of orders to be determined, and g) the acceptance ratio for each block as defined in the SIDC/IDA Products, plus such other results as the Parties may agree from time to time to be incorporated in the above list.
SIDC/IDA Incident Committee	means the committee established pursuant to Clause 8.5.3 to manage an Incident impacting SIDC/IDA Operations.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

<p>SIDC/IDA Individual Input Data</p>	<p>means, with respect to each Operational ID NEMO, the data to be sent to the SIDC/IDA System by such Operational ID NEMO or by its SIDC/IDA Servicing NEMO in order to calculate the SIDC/IDA Results. Such data consists of:</p> <ul style="list-style-type: none"> i) the network features provided by the relevant TSOs that shall be taken into account in the calculation of SIDC/IDA Results, ii) its SIDC/IDA Order Data.
<p>SIDC/IDA NEMO Operator</p>	<p>means an ID Operational NEMO, as further described in Article 12.2.6, of Schedule 5 performing the SIDC/IDA Operations, which provides the SIDC/IDA Coordinator with the information needed for the calculation of the Results, participates in the actions convened by the SIDC/IDA Coordinator, complies with commonly agreed decisions and accepts or rejects the SIDC/IDA Results in respect of its SIDC/IDA Individual Input Data (plus those of its SIDC/IDA Serviced NEMO(s)) in accordance with Article 12.2 of Schedule 5 and NEMO Operational Procedures.</p>
<p>SIDC/IDA Operational Breach</p>	<p>means any breach by an ID Operational NEMO of Article 12.2 of Schedule 5 - except for Articles 14.1.1.1 and 14.1.1.2 of Schedule 5 - or of the Operational Procedures concerning IDA.</p>
<p>SIDC/IDA Operational Calendar</p>	<p>with respect to SIDC/IDA Operations, means the calendar setting forth the periods during which a SIDC/IDA NEMO Operator will assume the SIDC/IDA Coordinator role and SIDC/IDA Backup Coordinator role set forth in Article 12.2.7 of Schedule 5. The SIDC/IDA Operational Calendar is described in the NEMO Operational Procedures.</p>
<p>SIDC/IDA Operational Calls</p>	<p>is any call concerning operations different from the SIDC/IDA Session Call and the call convened when SIDC/IDA Incident occurs (governed by IDOA), as further described in the NEMO Operational Procedures.</p>
<p>SIDC/IDA Operations</p>	<p>means the process for the production of the SIDC/IDA Market Coupling Results in accordance with Article 12.2 of Schedule 5 and the NEMO Operational Procedures.</p>

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

SIDC/IDA Operational Procedures	means the procedures attached to this Agreement as Annex 3 to Schedule 5.
SIDC/IDA Order Data	means the anonymized and aggregated Orders submitted on the trading platform of an ID Operational NEMO;
SIDC/IDA Preliminary Market Coupling Results	<p>means the results calculated by the SIDC/IDA Coordinator through the SIDC/IDA System described in Annex 3 to Schedule 5</p> <p>and confirmed by the SIDC/IDA NEMO Operators, prior to TSOs' final confirmation, which shall comprise:</p> <ul style="list-style-type: none"> a) the single clearing price for each Bidding Zone and Market Time Unite (MTU) in EUR/MWh, b) the single net position for each Bidding Zone and each MTU, c) the approximation of matched volumes of each NEMO trading hub per Bidding Zone for each relevant MTU, e) the scheduled exchanges between Bidding Zones (in case of direct current interconnectors separately for each of them) and between scheduling areas, d) scheduled exchanges between NEMO trading hubs per Bidding Zone for each relevant MTU, f) the information which enables the execution status of orders to be determined, g) the acceptance ratio for each block as defined in the SIDC/IDA Products, and h) such other results as the Parties may agree from time to time to be incorporated in the above list.
SIDC/IDA Products	means all Products set up in the SIDC/IDA System and eligible to be matched in the SIDC/IDA System.
SIDC/IDA Serviced NEMO	means an ID Operational NEMO which has delegated, at least, its performance of SIDC/IDA Operations to its SIDC/IDA Servicing NEMO, according to a bilateral service provision agreement.
SIDC/IDA Servicing NEMO	means, in respect of each SIDC/IDA Serviced NEMO, a PCR Co-Owner acting in the name and for the account of such SIDC/IDA Serviced NEMO for at least the performance of SIDC/IDA Operations.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

SIDC/IDA Session Call	means each of the daily calls initiated by the SIDC/IDA Coordinator in order to manage SIDC/IDA Operations, as further described in the NEMO Operational procedures.
SIDC/IDA System	means the software and ICT applications (incl. hardware if any), as well as all relevant documentation pertaining thereto which is to be used for the performance of the SIDC/IDA.
SIDC/IDA Trading Platform	means the IT infrastructure to which SIDC/IDA Order Data are submitted by market participants. The SIDC/IDA Trading Platform may be operated either by a SIDC/IDA Operational NEMO or by a PX to which a SIDC/IDA Operational NEMO has delegated the activity of collecting SIDC/IDA Order Data.
SIDC/IDA Unconfirmed Results	means the results calculated by the SIDC/IDA Coordinator, the SIDC/IDA Backup Coordinator and by any SIDC/IDA NEMO Operator through the SIDC/IDA System described in Annex 3 to Schedule 5, not yet confirmed as SIDC/IDA Preliminary Market Coupling Results, which shall comprise: <ul style="list-style-type: none"> a) the single clearing price for each Bidding Zone and Market Time Unit (MTU) in EUR/MWh, b) the single net position for each Bidding Zone and each MTU, c) the approximation of matched volumes of each NEMO trading hub per Bidding Zone for each relevant MTU, e) the scheduled exchanges between Bidding Zones (in case of direct current interconnectors separately for each of them) and between scheduling areas, d) scheduled exchanges between NEMO trading hubs per Bidding Zones for each relevant MTU, f) the information which enables the execution status of orders to be determined, g) the acceptance ratio for each block as defined in the SIDC/IDA Products, and h) such other results as the Parties may agree from time to time to be incorporated in the above list.
SIDC/IDCT	means the single intraday coupling based on continuous trading as referred to in article 2 (27) of CACM.
SIDC/IDCT Cross NEMO Data	means, with respect to two (2) ID Operational NEMOs, output SIDC/IDCT data generated by the matching of orders submitted by or on behalf of those two (2) ID Operational NEMOs. They include trade prices, trade volumes, net positions of individual trades. For the avoidance of doubt, input data (such as data related to the orders submitted by each ID Operational NEMO) and derivative data (from input data and output data such as related indices) are SIDC/IDCT Individual Data.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

SIDC/IDCT Incident Committee or IC	means the committee established under the IDOA, to manage incidents in accordance with the document with the title “SIDC_JOINT_FAL_01 - Incident Management”, attached as exhibit 6 of the IDOA.
SIDC/IDCT Individual Data	means, with respect to each ID Operational NEMO, data generated by or on behalf of that ID Operational NEMO (e.g. input data, such as data related to the ID Orders submitted by ID Operational NEMOs, as well as output data, such as the trade prices, trade volumes, net positions of individual trades, as well as derivative data from input data and output data such as related indices).
SIDC/IDCT Operational Breach	means any breach by an ID Operational NEMO of the NEMO Operational Procedures concerning SIDC/IDCT.
SIDC/IDCT Operational Procedures	means the procedures attached to this Agreement as Annex 3 to Schedule 6.
SIDC/IDCT Serviced NEMO	means an ID Operational NEMO which has delegated the usage of the MPLS Communication Network and/or the rack space to its SIDC/IDCT Servicing NEMO, according to a bilateral service provision agreement.
SIDC/IDCT Servicing NEMO	means, in respect of each SIDC/IDCT Serviced NEMO, an ID Operational NEMO acting in the name and for the account of such SIDC/IDCT Serviced NEMO for the usage of the MPLS Communication Network and/or the rack space.
Single Day Ahead Coupling or “SDAC”	means the auctioning process described under article 2(26) of the CACM Regulation.
Single Intraday Coupling or “SIDC”	means both SIDC/IDCT and SIDC/IDA.
SM NEMO Admin or “SM NA”	means the ID NEMO responsible for the role described in Annex 3 (ID Operational Procedures) to Schedule 6, in particular in the document with the title “XBID_NEMO_OTH_03 – XBID NEMO Admins”.
SOB	means the shared order book module part of the XBID System. It contains the base functionality for continuous intraday trading, like order entry, order management and order matching.
SOB NEMO Admin or “SOB NA”	means the person which is responsible for modification and management of data which does not affect all NEMOs and which are not shared by all NEMOs, but are relevant to just one or a subset of NEMOs.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

SPOC	means special point of contract.
Standard Daily Rate	means the daily rate for the reimbursement of the costs incurred by a Party for the work of its own internal resources for the benefit of all NEMOs, or all DA Operational NEMOs, or all ID Operational as further described at Article 3.2 i) of Schedule 2.
Suspended Party	has the meaning set forth in Clause 20.3.
Suspension	has the meaning set forth in Clause 20.3.
Suspension Plan	has the meaning set forth in Clause 20.4.
DA Testing and Simulation Procedure	means the procedure set in Schedule 6 governing the rights and obligations of the Parties regarding testing of and performing simulations with the DA MCO Function System, in order to verify operational readiness to perform operations in compliance with the Operational Procedures and the acceptance criteria to be determined by the DA OPSCOM.
Third Party	means any person that is not a Party to this Agreement.
Third Party Claim	has the meaning given to that term in Clause 23.1
Third Party Loss	has the meaning given to that term in Clause 24.5.
Third Party Service Provider	has the meaning set forth in Clause 6.1.
Third Party Service Provider Agreement	has the meaning set forth in Clause 6.1(b).
TS Client	means the integrated AMPQ client software part of the NEMOs' LTS, used to connect to the XBID API via the dedicated MPLS network.
TSO	means a transmission system operator.
TSO Vote	means the collective vote that TSOs submit for the purposes of MCSC decisions under the DAOA and the IDOA respectively.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

Voluntary Exit	means, with respect to any one or more Parties, the termination of such Parties' participation in this Agreement on such Parties' own initiative in accordance with Clause 20.1.
Voluntary Exit Party	has the meaning set forth in Clause 20.1.
Voting Member	means a Party entitled to vote on a given matter.
Withdrawal Agreement	has the meaning set forth in Recital "N".
Working Hours	means 9 am to 5 pm CET on each Business Day.
XBID	means cross border intraday.
XBID Market APCA	means the "XBID Market All Party Cooperation Agreement", entered into by certain TSOs and certain Parties on July 15th 2014, as amended by the first amendment to the XBID Market APCA on July 1st 2015 and by the adherence and second amendment to the XBID Market APCA on December 1st 2015.
XBID Solution	means the overall solution, including amongst others the high level architecture and system set-up, general specifications, systems (hardware and software) and algorithms, terms and procedures, required for the ID NEMO Cooperation as described in the High Level Architecture (Intraday).
XBID System	means the software and ICT applications (incl. hardware if any), as well as all relevant documentation pertaining thereto, developed by the XBID System Service Provider based on the requirements provided by certain Parties and TSOs, which is to be used for the performance of the SIDC to interact with amongst others the LTS and TSOs' Systems.
XBID System Service Provider	means the service provider that has supplied the XBID System and provides maintenance and hosting services for it, being as at the date of signature of this Agreement, Deutsche Börse AG, an Aktiengesellschaft (AG) organised and existing under the laws of Germany, having its registered office at Mergenthalerallee 61, 65760 Eschborn, Germany, and registered in the Commercial Register Handelsregister HRB under Nr. 32232 and VAT DE 114151950.
XBID-DSA License	means the agreement under which the XBID System Service Provider has granted to certain Parties a license for the use of the XBID Solution as attached as exhibit 3 to the XBID-MSA.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

XBID-MSA	means the “Master Services Agreement for the XBID System”, including all annexes, originally signed on 8 June 2015 between, on the one hand, EPEX SPOT, EPEX SPOT Belgium, Nord Pool, OMIE and GME, and on the other hand, the XBID System Service Provider, as further amended from time to time.
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Technical terms used with respect to SIDC

API	means application programming interface - a message interface which allows external applications to exchange data (like instructions, trade information, error messages) with a software system.
Available Transfer Capacities (ATC)	means the constraints to be respected during capacity allocation to maintain the transmission system within operational security limits and have not been translated into cross-zonal capacity or that are needed to increase the efficiency of capacity allocation (in accordance with article 2 of the CACM Regulation).
Change Administrator	means the person in charge to coordinate the NEMOs' Change Control Procedure.
CMM Admin	means a capacities management module user role with administration rights.
ComTrader	means a front-end, designed for use with the XBID SOB trading architecture. Only admin users have access into ComTrader for XBID SOB.
Cross Border Trading	means trading of a commodity between two Bidding Zones.
Delivery Area	means a representation of an area in the delivery grid of a commodity which is managed by one TSO. It is a coherent part of the interconnected transmission system, including interconnectors, with connected demand facilities, or power generating modules, if any. When entering orders, a Delivery Area must be specified from which a bought commodity is received, or to which a sold commodity is delivered.
GUI	means graphical user interface.
Incident Management	means the IDOA procedure described in the document with title "XBID_JOINT_FAL_01

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

	Incident Management”, as part of exhibit 6 of the IDOA.
Information Flows	<p>The information flows represent information from one system to another. Although the information flows are represented as a direct arrow between the two systems, there exist several alternatives ways for implementing the flows, including the utilization of intermediate storage devices for internal Operational NEMOs’ information interchanges, where information could be stored by one system and read by the other.</p> <p>The information between Operational NEMOs, directly or via SIDC/IDA Servicing NEMO, and PCR Broker and among PCR Brokers is exchanged through web services in XML format. Information between PCR Matcher and PCR Algorithm is exchanged through a database where the PCR Matcher inserts all the input data and the PCR Algorithm writes the output data after the computation.</p>
Instrument	means the smallest independent tradable entity defined through a Product.
Internal Communication	means messages which define the communication flow between XBID NEMOs towards the predefined contacts of the distribution list.
Operational NEMOs Trading & Information Systems (NEMO IT System)	In SIDC/IDA, each Operational NEMO, directly or via SIDC/IDA Servicing NEMO, may maintain its own trading and information system and interact with its participants. PCR infrastructure, specially developed for PCR to work is integrated in the SIDC/IDA NEMO Operator’s IT systems, interacting with them in a standardized manner. The PCR project has defined specific interfaces between on the one hand the Operational NEMO Trading and Information systems and on the other hand the PCR Broker and it is left to the individual Operational NEMOs to implement these interfaces in their own trading and information

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

	systems or connect to the PCR Broker of its SIDC/IDA Servicing NEMO.
PCR	<p>PCR is a distributed approach to price coupling between different Bidding Zones managed by several SIDC/IDA NEMO Operators.</p> <p>In SIDC/IDA all SIDC/IDA NEMO Operators are capable of accessing all data input and running the algorithm to provide the market results. Main technical advantages of this approach are the reutilization of the existing infrastructures of all involved SIDC/IDA NEMO Operators, without needing to create new ones for any central sites, the existence of several emergency running sites (all SIDC/IDA NEMO Operators are capable of producing the results and providing them to the other in case of technical problems) and the disposition of running and fully tested solutions at each SIDC/IDA NEMO Operator for the potential decoupling situations.</p>
PCR Algorithm	The PCR Algorithm system is the actual algorithm (EUPHEMIA) that performs the calculation. It produces the prices, matched energies, accepted and rejected orders, and net positions area/flows between all Bidding Zones.
PCR Broker	<p>The PCR Broker is connected to the PCR Matcher, to one or more Operational NEMO information & trading systems, directly or via SIDC/IDA Servicing NEMO and to the other PCR Brokers. These connections provide the necessary control and data interchange functionalities to make the PCR run. In the PCR normal information flow, the PCR Broker is responsible for gathering matching input information (aggregated curves and interconnectors' capacities) from the Operational NEMOs, sending SIDC/IDA Results, validating them and sending the confirmation of the validity of the results.</p> <p>It also maintains and exchanges other types of information like network topology and</p>

	<p>configuration settings needed for the correct functioning of PCR.</p> <p>The PCR Broker includes an interface allowing the SIDC/IDA NEMO Operators to monitor the progress/status of the process and allowing them to influence the process particularly in exception cases.</p> <p>In normal operation mode, the PCR Broker performs its actions autonomously (files interchange, keep-alive messages, etc.), if possible. However, the existing interface allows each SIDC/IDA NEMO Operator to launch all these actions manually when needed.</p> <p>The PCR Broker system is capable of performing the same functions for all SIDC/IDA NEMO Operators. Depending on the temporary role of each IDA NEMO Operator (SIDC/IDA Coordinator, SIDC/IDA Backup Coordinator, SIDC/IDA NEMO Operator, etc.) it would perform some particular functions.</p>
<p>PCR Matcher</p>	<p>The PCR Matcher is an intermediary between the PCR Broker and the PCR Algorithm. It obtains the input information for the algorithm. PCR Matcher is responsible for:</p> <ul style="list-style-type: none"> • Receiving the input information from the PCR Broker (aggregated curves and interconnectors' capacities, network model, algorithm parameters, ...) and uploading them to the PCR Algorithm, • Validating input data, • Validating results from Euphemia (PCR Algorithm), • Producing additional information, if necessary, • Providing the results + additional information to the PCR Broker for distribution. <p>It works with the information coming from all Operational NEMOs directly or via SIDC/IDA Servicing NEMO gathered through the PCR Broker.</p>
<p>PCR Processes for IDA</p>	<p>PCR Process for SIDC/IDA is defined as all the different activities and operations (sub-processes) performed by the Operational</p>

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

	NEMOs, directly or via SIDC/IDA Servicing NEMO, to produce the SIDC/IDAs market coupling. The numbers in brackets in the descriptions correspond to the information flows with the same numbers in the diagram.
Product	means the basic framework used to generate Instruments within the Trading Module.
Reference Data	means the HLMly static data which is required by the Trading Module and Capacity Management Module to setup the platform and can be updated via the Reference Data GUIs.
SM Core	see XBID-Core.
SM WebGUI	means the user interface of the Shipping Module. In the WebGUI the admin can do all activity related to the SM, like Reference Data management or viewing the file transfer.
SOB Core	see XBID-Core.
SOB WebGUI	means the user interface of the SOB. In the WebGUI the admin can do all activity related to the SOB, like Reference Data management or market operation tasks.
Super Admin	means a user with rights in the system to create new admin users.
Trading Module	means the trading module of the XBID System.
XBID Core	means the central component of the XBID System. It processes all management requests like order entries, allocation requests, capacity publication requests and it is the only module that updates the XBID-Core database.
XBID Operator	means the person, working for an individual NEMO, operating the XBID System.
XBID OPSCOM	means the IDOA operational committee, which is a committee dealing with IDOA operational

All NEMO Cooperation Agreement (ANCA) - Attachment 1
 Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
 Amendment provisions
 Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

	issues such as incidents and changes to Components.
XBID-API SOB PMI	serves as single point of communication between the LTS and the XBID System.
XBID-API SOB PMI Exchange User	means a user role in the SOB of the XBID System which is used to connect LTS to the SOB.

SCHEDULE 2

Financial Modalities /Budget /Invoicing Modalities

This Schedule describes, pursuant to Clause 14, the processes to be applied by the Parties in handling, budgeting, categorising, reporting, calculating, sharing and invoicing of all NEMO Common Costs, comprising of:

- (i) NEMOs Common Costs for establishing and amending the SDAC;
- (ii) NEMOs Common Costs for establishing and amending the SIDC;
- (iii) NEMOs Common Costs for operating the SDAC; and
- (iv) NEMOs Common Costs for operating the SIDC.

Art 1 Process for NEMOs Common Costs incurred as of the Calendar Quarter following the month of entry into force of this Agreement

[REDACTED]

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Art 2 Costs categorization

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All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

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Art.3 Overall Yearly Budget

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All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

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4 Time Reporting to the Secretary

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All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

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All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

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All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

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All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

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6 Cost approval and invoicing mechanism

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All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

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7 Invoicing and Payments

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8 Fulfilment obligations arising from Slovak law

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9 Exit Plan and other costs

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10 Costs for Accession of an Applicant

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11 Cost sharing principles applicable to a new Party

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All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 2 – Financial Modalities /Budget /Invoicing Modalities

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ANNEX 1

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SCHEDULE 3
Rules of Internal Order

1. GENERAL

- (i) These Rules of Internal Order set forth certain internal rules with respect to the authority and powers of:
 - (a) the HLM;
 - (b) the NEMO Committee; and
 - (c) the DA OPSCOM and the ID OPSCOM.

- (ii) The bodies listed in Article 1 (i) above are established pursuant to Clause 8 of the Agreement (main body).

2. HIGH-LEVEL MEETING: POWERS AND COMPOSITION

- (i) Each Party is represented in the HLM by its CEO (or equivalent according to the relevant laws or statutes applicable to the Party). Each Party has one vote.

- (ii) The overall purpose of the HLM shall be to determine and direct the overall strategy and goals of the Cooperation, including without limitation by:
 - (a) defining for the NEMO Committee the annual objectives (with priorities, if relevant) of the Cooperation;
 - (b) evaluating the Cooperation with a view to examine and propose possible improvements to the Cooperation;
 - (c) providing ad-hoc advice to the NEMO Committee.

- (iii) The HLM shall meet at least twice per calendar year. Any member of the HLM may on reasonable grounds request an ad-hoc HLM meeting (date and time to be agreed between the HLM members acting reasonably) in addition to this minimum requirement. The CEO can nominate any individual from his or her company or a CEO of another Party to represent him or her at the (either regular or ad-hoc) HLM meeting.
- (iv) The Chairperson supports the organisation of the HLM, coordinates and chairs the meetings of the HLM unless differently decided by the HLM.
- (v) The HLM meeting shall be quorate when at least three quarters ($\frac{3}{4}$) of all Parties are present or represented at the meeting in question. The fulfilment of the quorum must be verified by the Chairperson, or another person appointed for such purpose by the HLM, before the start of each meeting of the HLM. In case the attendance at the meeting changes during the course of the meeting, the Chairperson, or another person appointed for such purpose by the HLM, shall verify whether the appropriate quorum is fulfilled again and inform the chairperson of the HLM and members of the HLM accordingly.
- (vi) For the avoidance of doubt, only CEO of ID NEMOs or his or her representative shall be permitted to vote (and be counted in the calculation of the quorum) on decisions concerning the ID Market Coupling and only CEO of DA NEMOs or his or her representative shall be permitted to vote (and be counted in the calculation of the quorum) on decisions concerning the DA Market Coupling. Any Party which is both an ID NEMO and a DA NEMO will be permitted to vote in every HLM decision.
- (vii) The business of the HLM shall be conducted at all times in a manner that is consistent with these Rules of Internal Order as well as such other principles and procedures as may be agreed in writing by the HLM from time to time.
- (viii) Notice of a meeting of the HLM shall be given in writing by the Chairperson, or by any other person appointed for such purpose by the HLM, to all the members of the HLM at least one (1) Calendar Month before the scheduled date of such HLM. The notices shall contain the date, place and time as well as the draft agenda of the meeting (including proposed draft decisions).
- (ix) A Party may propose to add issues on the agenda of any meeting of the HLM, and such proposals shall be taken into account provided they are received by the Chairperson, or by any other person appointed for such purpose by the HLM, by no later than the day falling fourteen (14) Business Days before such HLM.
- (x) The final agenda plus any supporting documentation, including with respect to any topics requiring a decision of the HLM on points on the agenda, shall be sent to all members of the HLM by no later than the day falling ten (10) Business Days before the meeting.

- (xi) Further items may be added to the agenda less than ten (10) Business Days before the relevant HLM meeting, but only by the unanimous email consent of the members of the HLM.
- (xii) A member of the HLM who attends the meeting is considered as having received due notice of the meeting and updated supporting documentation.
- (xiii) Any Party is entitled, without limitation, to request the postponement of any request for decision which is drafted *ex novo* during an HLM meeting.
- (xiv) Should any given HLM meeting not be quorate, the deliberation and decision-making process on the items which were on the agenda of such HLM meeting shall be made either in an ad hoc HLM meeting to be convened shortly thereafter (the same quorum being applicable), or via a unanimous written consent of all the Parties entitled to vote on such matter/decision, to be sent by e-mail.
- (xv) The adoption of a HLM decision requires that the Parties at the relevant meeting of the HLM to reach unanimity, provided the meeting in question is quorate. If unanimity cannot be reached between the relevant Parties, the relevant decision shall be taken by the HLM by means of more than 3/4 (i.e. 75%) of all Parties regardless of their effective attendance in the relevant meeting.
- (xvi) Decisions adopted by the HLM shall be recorded in the meeting minutes. The Chairperson, or any other person appointed for such purpose by the HLM, provides a copy of the meeting minutes, including all decisions adopted therein, to the HLM Members not later than two weeks following the HLM meeting.

2.1 OBJECTION to HLM decision

- (i) A HLM Member will have a right to object in writing to a decision of the HLM, provided such HLM Member was not one of the HLM Parties which voted in favour of the decision, within five (5) Business Days of receipt of the relevant minutes of such meeting on the grounds that such decision could result in a breach of national Applicable Law with which such Party has to comply. It is understood that the objection to a HLM decision does not suspend the efficacy of such decision of the HLM which shall be in force from the date of the relevant HLM meeting;
- (ii) Any Party raising an objection to a decision of the HLM pursuant to Article xvii (a) above must provide the HLM with reasonable background information to justify its objection. The HLM (comprised of all HLM members other than the member representing the objecting Party) will, based upon the information provided to it by the objecting Party, determine if the objection raised by such Party should be upheld or rejected as soon as possible.
- (iii) The HLM may reject the objection of any Party made under Article xvii (a) above if it considers that the grounds of the objection have not been reasonably substantiated by the objecting Party.
- (iv) If the HLM accepts the objection of a Party under Article xvii (a) above, the decision in question will be set aside and will be put back on the agenda for the next scheduled HLM meeting (or such ad-hoc meeting that may be arranged for this purpose).
- (xvii) The HLM may appoint its own dedicated resources (experts) for the fulfilment of specific HLM-related tasks, with the possible support of the NC for the practicalities of such appointment.
- (xviii) The costs incurred by retaining such resources as well as the cost incurred for the activities described under paragraph 2 (iv) above shall be treated as NEMO-only Common Costs for the purposes of this Agreement.
- (xix) Meetings of the HLM are in principle held physically. Exceptionally, the HLM meetings may also be validly held by video or teleconference with an electronic means of communication provided by the Chairperson, or by any other person appointed for such purpose by the HLM. The means of communication provided must at least allow the participants to:
 - (a) check the capacity and identity of the other participants;
 - (b) take direct note, simultaneously and without interruption, of the deliberations of the meeting;
 - (c) to exercise their right to vote on all matters on which the HLM is called upon to decide;
 - (d) participate in the debate and ask questions.

3. NEMO COMMITTEE: POWERS AND COMPOSITION

3.1 Powers

The NEMO Committee is the body responsible for making such decisions of the Parties as may be required from time to time to ensure the Parties fulfil their obligations under CACM, the MCO Plan, the Methodologies and this Agreement with respect to the Cooperation under the strategic guidance of the HLM.

3.2 Authorised Representatives

- (i) Each Party shall use its Best Efforts to ensure that it is duly represented at each meeting of the NEMO Committee by at least one authorised representative. Such authorised representative may be a person from its board of directors, its management team, an appropriately qualified and experienced employee or alternatively may be a delegate appointed in accordance with the terms of Clause 5 (where appropriate).
- (ii) Without prejudice to the right of any Party to ask for a postponement of any decision in accordance with paragraphs 3.8.1 (vii) and (viii) of this Schedule 3, each Party's authorised representative must be duly mandated to vote on all decisions on the agenda for such meeting in addition to all other decisions required to be made during the NEMO Committee meeting.

3.3 Non-voting Participants

Each Party is entitled to invite, in addition to its own authorised representative, other persons to attend and participate in a meeting of the NEMO Committee, provided that such persons shall not be entitled to vote on any matter. In any case where such person is not an Internal Representative of such Party, such person's attendance at the meeting in question shall be subject to no objection being raised by any other Party.

3.4 Chairperson

- (i) The role of Chairperson of the NEMO Committee shall be fulfilled by a person appointed to such role who is a senior manager of a Party and not a member of the NEMO Committee (i.e. an authorised representative as defined under paragraph 3.2 (i) of this Schedule 3).
- (ii) For the avoidance of doubt, for cost recovery purposes the Chairperson will be treated as an Internal Resource.
- (iii) The fulfilment of the role of Chairperson is dependent on the appointed person remaining a senior manager of a Party for all times during such appointment. In the event that the appointed Chairperson ceases to be a senior manager of a Party during the period of his/her appointment, the NEMO Committee may decide to terminate such Chairperson's appointment forthwith (or subject to such longer period of notice as the NEMO Committee may determine).
- (iv) In the absence of any event or circumstances referred to in paragraph (f) below bringing the appointment of a Chairperson to an end, the mandate of each Chairperson shall be 12 months starting with the day of his/her appointment (or such other term as the NEMO Committee may determine prior to the commencement of such appointment).
- (v) Unless differently decided by the NEMO Committee, no person can serve as Chairperson more than: (i) 3 consecutive terms; and/or (ii) 6 years in total.
- (vi) The death, incapacity, termination of contractual relationship or resignation of the Chairperson during his/her mandate, or the expiry of the mandated term pursuant to paragraph (d) above, will necessitate a fresh election of a new Chairperson to be held at the earliest opportunity. The NEMO Committee shall take the necessary steps to secure that the election of a new Chairperson is concluded in a timely fashion such that continuity and an organised transition of the performance of the Chairperson's duties is ensured.
- (vii) In any case where a new Chairperson must be elected:
 - (a) Each Party shall have the right to nominate one candidate of its choosing, being a person with the relevant skills and experience to perform such Chairperson role.
 - (b) The NEMO Committee will advise the Parties of the period during which nominations for the role of Chairperson may be submitted to the Secretary. Nominations will not be accepted after the expiry of such period.
 - (c) All nominated candidates are expected to provide details of their relevant skills and experience to the Secretary (in such agreed form as the Committee shall determine from time to time) for distribution to all other Parties by no later than the end of the nomination period.

- (d) As soon as possible following the end of the nomination period, the Secretary will inform the members of the NEMO Committee in writing (including via email or another suitable form of electronic communication) of the full list of candidates, together with the details provided of each candidate's experience.
- (e) The Parties will consider each of the candidates in good faith, taking care that the selected candidate will have enough time available to devote to the position, according to the requirements of the NEMO Committee.
- (f) As soon as reasonably possible following the expiry of the nomination period, the NEMO Committee shall hold a vote of its members to approve (where only one candidate) or determine (in any case where there is more than one candidate) which candidate should be appointed Chairperson.
- (g) The election of a Chairperson shall be carried out by the NEMO Committee, on the understanding that each Party shall have one vote, as follows:
 - aa. In the first instance, each Party shall use its respective best efforts to appoint a new Chairperson by unanimous decision of all the Parties.
 - bb. In the event that the Parties are not able to reach unanimity after no more than three attempts on the appointment of a Chairperson, an election for the post shall be held and the new Chairperson shall be selected by a 2/3rds majority vote of all Parties. For the avoidance of doubt, the required number of votes needed to attain a 2/3rds majority shall be calculated by dividing the total number of Parties by 2/3rds and then, if needed, rounding down the result to the nearest whole number.
 - cc. If no 2/3rds majority is achieved, the NEMO Committee shall notify all the Parties that the nomination process will be re-opened in accordance with paragraph vii above subject to the same terms and conditions.
 - dd. The process under paragraphs vii(aa), (bb) and (cc) shall be completed within five (5) Business Days.
 - ee. Where one or more new candidates are proposed per paragraph vii(cc) or no new candidates are proposed, paragraphs vii(aa), (bb), (cc) and (dd) shall be applied no more than two additional times.
 - ff. In the event that no Chairperson is elected after the second voting round pursuant to sub-paragraph (ee) above, the NEMO Committee shall discuss in good faith the reason for the failed election and decide on the next steps.
- (h) The Chairperson election voting processes outlined above may be conducted at any Committee meeting by email, phone or by a ballot (secret or otherwise) or a show-of-hands of the NEMO Committee members or via a proxy. For the avoidance of doubt, each step in the election process as outlined above must be subject to its own vote. Where

votes are cast via email, each of the Parties should send their vote to the Secretary (or to such other email address as the NEMO Committee may notify for these purposes).

- (i) For the avoidance of doubt:
 - aa. the rules described in this paragraph (g) apply exclusively to the Chairperson election process and do not set a precedent for setting other voting procedures that may be agreed by the NEMO Committee;
 - bb. nothing in paragraph 3 of this Schedule 3 (Decision Making Procedures) shall be capable of being deployed by any Party to challenge the election of a Chairperson which has otherwise been duly performed in accordance with these rules.

- (j) The Chairperson shall always act in a neutral manner, representing the HLM interest of the NEMO Committee. In this respect the Chairperson is entitled to register, in the name and for the account of the NEMO Committee, to public records (such as the EU Transparency Register) subject to the following conditions:
 - i) prior approval of the specific registration by the NEMO Committee, on a case by case basis;
 - ii) obligation for the NEMO for which the Chairperson is an internal resource to assure that the registration is cancelled or modified when such internal resource does not carry on anymore the Chairperson' role, as the case may be.

- (k) The Chairperson is non-voting member unless there is no voting representative from the Chairperson's Party attending the meeting for exceptional reasons. In such situation, the Chairperson is entitled to duly represent its Party in any vote of the NEMO Committee.

- (l) The Chairperson is responsible for communicating the NEMO Vote to the MCSC consistently with the IDOA and/or the DAOA.

3.5 Secretary

- (i) The Secretary is chosen by decision of the NEMO Committee upon proposal of the Parties. The Secretary shall not be from the same Party as the Chairperson. Alternatively, the function of the Secretary can be assigned to a Third Party Service Provider, provided that the compliance with confidentiality requirements of Article 13 of the CACM Regulation and this Agreement is duly assured under a written agreement.
- (ii) The Secretary has no voting rights. For the avoidance of doubt, the Secretary cannot be mandated as authorised representative of one of the Parties even in exceptional circumstances when the official voting representative cannot attend a meeting of the NEMO Committee.
- (iii) The Secretary is in charge of the follow up of the following activities, amongst others, as confirmed and detailed from time to time by the NEMO Committee:
 - (a) drafting the agenda, preparing session files of meetings and notices for meetings of the NEMO Committee and sending them, on behalf of the Chairperson;
 - (b) preparing the attendance list of the meetings of the NEMO Committee;
 - (c) verifying before the start of and during each meeting of the NEMO Committee that the quorum in accordance with the paragraph 3.8 (iii) is being met and if not, striving to solve the situation in cooperation with Chairperson or other Parties.
 - (d) ensuring that decisions taken during the NEMO Committee meeting are reviewed by all attending Parties immediately after the respective decision is taken;
 - (e) ensuring the drafting and circulation of the minutes of the meetings and/or of decisions;
 - (f) planning process;
 - (g) budgeting process;
 - (h) cost reporting, share calculation and input for invoicing processes;
 - (aa) overall status and progress reporting;
 - (bb) collecting the agenda points and preparation of the session file for the NEMO Committee;
 - (cc) meetings minutes;
 - (dd) document management in the common IT Platform;
 - (ee) organisation of calls and meetings;
 - (ff) entry/exit point for incoming/outgoing communication from/to external stakeholders;
 - (gg) support of consultation process.
- (iv) The Secretary will keep the minutes of the NEMO Committee meetings on a shared storage facility accessible to all Parties, but each Party shall ensure its own record keeping of the copies of the minutes it receives from the Secretary.

- (v) The costs of the Secretary will be considered a NEMO-only Common Cost.
- (vi) With respect to Parties' alignment described under paragraph (xiv), sub-paragraphs (a) and (b) of Clause 8.3.6, the NEMO Committee will determine the NEMO Vote.

3.6 Meetings

- (i) The NEMO Committee shall meet at least once every two months, except if the Chairperson considers such meeting is not necessary given the absence of matters to be discussed.
- (ii) Additional meetings shall be held whenever at least three (3) Parties require so by written request to all Parties specifying the proposed date, place and time as well as the agenda of such meeting, such request to be served not less than seven (7) Business Days before the proposed date of the relevant meeting.
- (iii) Notice of a meeting of the NEMO Committee shall be given by the Secretary in writing to all the members of the NEMO Committee at least ten (10) Business Days before the scheduled date of such NEMO Committee meeting. The notices shall contain the date, place and time as well as the draft agenda of the meeting (including proposed draft decisions), as approved by the Chairperson.
- (iv) A Party may propose to add matters on the agenda of any meeting of the NEMO Committee, and such proposals shall be taken into account provided they are received by the Secretary by no later than 12:00 CET on the day falling three (3) Business Days before such NEMO Committee meeting.

- (v) The final agenda plus any supporting documentation, including with respect to any topics requiring a decision of the NEMO Committee on points on the agenda, shall be sent to all members of the NEMO Committee by no later than 17:00 CET on the day falling three (3) Business Days before the meeting. The final agenda shall be structured by dividing the items in SDAC items, SIDC items and common items (i.e. items that concern both SDAC and SIDC).
- (vi) Further items may be added to the agenda less than three (3) Business Days before the relevant NEMO Committee meeting, but only by the unanimous decision of the Parties in attendance at the meeting in question.
- (vii) A member of the NEMO Committee who attends the meeting is considered as having received due notice of the meeting and the updated supporting documentation.
- (viii) The NEMO Committee may meet either physically or by remote meeting devices (such as e.g. conference call, video call, written procedure, etc.). Actual physical participation in meetings shall be the preferred basis of attendance and the Parties shall use their respective Best Efforts to ensure this is possible. Participating via conference call, video call etc. shall be limited to when strictly necessary.
- (ix) The duty of the practical organisation of the meetings of the NEMO Committee is borne by the Secretary.

3.7 Establishment of work groups AND TASK FORCES

The NEMO Committee may set up work groups and task forces to assist the NEMO Committee. In such event, the NEMO Committee determines the composition and approves all the organisational aspects of such further bodies. Any such work group or task force created by the NEMO Committee shall take a position on a given matter by unanimity of all the parties to such work group or task force. Should unanimity not be possible on any matter, the work group or task force shall escalate the matter to the NEMO Committee. Each Party is entitled to participate in such work groups or task forces provided:

- (a) the mandate of such work group or task force will include matters concerning both Single Day-Ahead Coupling and Single Intraday Coupling; or
- (b) the mandate of such work group or task force will include matters concerning only DA Market Coupling or only ID Market Coupling and it is designated to operate within the relevant market timeframe of such work group or task force.

3.8 DECISION MAKING RULES OF THE NEMO COMMITTEE

3.8.1 General principles

- (i) The general rule will require the Parties in attendance at the relevant meeting of the NEMO Committee to reach unanimity, provided the meeting in question is quorate. If unanimity cannot be reached between the relevant Parties, the relevant decision may be taken by means of ANCA QMV.
- (ii) Exceptions to this general rule (i.e. unanimity followed by ANCA QMV, if unanimity cannot be reached) are the following:
 - (a) the voting rule applicable to the election of the Chairperson pursuant to paragraph 3.4(g) of this Schedule 3;
 - (b) the matters to be decided only by unanimity as specified in paragraph 3.8.3 of this Schedule 3;
 - (c) the matters to be decided by CACM QMV as specified in paragraph 3.8.4 of this Schedule 3.
- (iii) The NEMO Committee meeting shall be quorate when at least three quarters ($\frac{3}{4}$) of all Parties entitled to vote on any given decision are represented at the meeting in question. For the avoidance of doubt, only ID NEMOs shall be permitted to vote (and be counted in the calculation of the quorum) on decisions concerning the ID Market Coupling and only DA NEMOs shall be permitted to vote (and be counted in the calculation of the quorum). Any Party which is both an ID NEMO and a DA NEMO will be permitted to vote in every NEMO Committee decision, with the exception set out in (xi).
- (iv) The fulfilment of the quorum must be verified by the Secretary before the start of each meeting of the NEMO Committee. In case the attendance at the meeting changes during the course of the meeting the Secretary shall verify whether the appropriate quorum is fulfilled again and inform the Chairperson and Parties accordingly.
- (v) The decisions of the NEMO Committee shall be shown, discussed and recorded by the Secretary in the minutes of the relevant NEMO Committee meeting.

- (vi) No Party may challenge a decision reflected in the minutes of a NEMO Committee meeting otherwise than for non-compliance with the requirements of paragraph 3.8(iii) or in accordance with paragraph 3.8.2 (i) or (ii) below.
- (vii) Any Party is entitled to request the postponement of any decision prepared in advance of the relevant NEMO Committee meeting (and not adjusted or amended during such meeting), provided that:
 - (a) such Party describes in reasonable detail its reasons for requesting the postponement; and
 - (b) such decision is postponed only once (for a maximum duration of two weeks).
- (viii) Any Party is entitled, without limitation, to request the postponement of any decision which is drafted or amended during a NEMO Committee meeting.
- (ix) Should any given NEMO Committee meeting not be quorate, the deliberation and decision-making process on the points which were on the agenda of such NEMO Committee meeting shall be made either in an ad hoc NEMO Committee meeting to be convened shortly thereafter (the same quorum being applicable), or via a unanimous written consent of all the Parties entitled to vote on such matter/decision, to be sent by e-mail.
- (x) If the Parties cannot reach unanimity or cannot make the decision using the relevant qualified majority vote procedure, then the deadlock procedure shall apply.
- (xi) A Party which is designated as a NEMO in a Non-EU/EEA Country shall be entitled to vote in the relevant decision making process subject to the following exceptions:
 - i) with respect to the decisions described under paragraph 3.8.2 (iv) and paragraph 3.8.3 (i), (c) and (e), such Party is not entitled to vote against a proposal of decision unanimously agreed by the Parties which are designated as NEMOs with respect to countries within the EU or the EEA;
 - ii) such Party is not entitled to vote on proposals of decisions that Parties which are designated as NEMOs in an EU or EEA country must take to assure compliance with EU law;

- (xii) subject to Article 3.8.1 (xi) above, only DA Operational NEMOs or ID Operational NEMOs are Voting Members with respect to Operational Decision and the decisions referred to under art. 3.8.3 (f), (g), (h) and (i) below.

3.8.2 Right to Object; Deemed Consent

- i. A Voting Member not attending a meeting of the NEMO Committee will have a right to object in writing to any decision of the NEMO Committee taken on the basis of unanimity of all Parties attending such meeting, provided that such objection is notified to the Secretary within five (5) Business Days of receipt of the relevant minutes. On receipt of such objection, the relevant decision will be set aside and the matter will be put back on the agenda for the next scheduled NEMO Committee meeting (or such ad-hoc meeting as the Secretary may arrange for this purpose).
- ii. A Voting Member will have a right to object in writing to a decision of the NEMO Committee taken on the basis of the ANCA QMV procedure, provided such Voting Member was not one of the ANCA QMV majority Parties which voted in favour of the decision, within five (5) Business Days of receipt of the relevant minutes of such meeting on the grounds that such decision could result in any one or more of the following:
 - (a) a discriminatory or adverse effect on such Voting Member's ability to comply with the CACM Regulation or to operate coupling activities; or
 - (b) a conflict with a national or European legal or regulatory requirement or breach of Applicable Law with which such Party has to comply; or
 - (c) an unreasonable or discriminatory financial burden being imposed on such Party; or
 - (d) such Party being effectively prevented or hindered from operating within any bidding zone or another Party gaining an advantage over it in any bidding zone; or
 - (e) a breach of one or more provisions of this Agreement.
- iii. Any Party raising an objection to a decision of the NEMO Committee pursuant to paragraph 3.8.2(i) or (ii) above must provide the NEMO Committee with reasonable background information to justify its objection. The NEMO Committee (comprised of all members of the NEMO Committee other than the member representing the objecting Party) will, based upon the information provided to it by the objecting Party, determine if the objection raised by such Party should be upheld or rejected as soon as possible.
- iv. The NEMO Committee may reject the objection of any Party made under paragraph 3.8.2(ii) if it considers that any one or more of the grounds stipulated under paragraph 3.8.2 (ii)(a)-(e) above have not been reasonably substantiated by the objecting Party. Any decision of the NEMO Committee to reject the objection

raised by such Party shall require the unanimity of all Parties in attendance at the relevant meeting of the NEMO Committee (except for the objecting Party), provided the meeting in question is quorate. In rejecting such objection, the NEMO Committee must provide in writing to the objecting Party its detailed reasons why it does not accept the objecting Party's grounds for objection.

- v. Any dispute or difference between the Parties with respect to a decision of the NEMO Committee with respect to the validity of an objection under paragraph 3.8.2 (ii) above will be finally resolved in accordance with Clause 27.
- vi. In the absence of any objection being raised by a Party, the decision of the NEMO Committee will be deemed to have been duly made with effect from the date of the NEMO Committee meeting in question.
- vii. If the NEMO Committee accepts the objection of a Party under paragraph 3.8.2 (ii), the decision in question will be set aside and will be put back on the agenda for the next scheduled NEMO Committee meeting (or such ad-hoc meeting as the Secretary may arrange for this purpose).
- viii. For the avoidance of doubt, CACM QMV decisions shall not be subject to the objection procedure outlined above, but shall instead require the relevant blocking minority to be attained in accordance with article 9 of the CACM Regulation.

3.8.3 Matters Requiring All Party Consent

Certain decisions of the NEMO Committee shall always require the full unanimous consent of all Parties to this Agreement, as follows:

- (a) decisions on amendments to the ANCA, with the exception of Schedule 7 (Contact details), as described in Clause 18 of the Agreement (main body). For the avoidance of any doubt, such decisions include the decisions on recommendations for amendment to the NEMO operational procedures proposed by DA OPSCOM or ID OPSCOM;
- (b) decision on the termination of the ANCA (by all Parties);
- (c) budget decisions as specified in paragraph 3.8.5 (iii) below;
- (d) decisions on any Dispute referred to the NEMO Committee arising under the Agreement;
- (e) decisions on escalations to ACER/NRAs as specified in paragraph 3.8.6 (i);

- (f) Operational Decisions of the NEMO Committee. For the avoidance of any doubt, Operational Decisions of DA OPSCOM or ID OPSCOM which are escalated to the NEMO Committee are comprised in this category. With respect to the Operational Decisions of the NEMO Committee, only DA Operational NEMOs or ID Operational NEMOs are Voting Members according to the relevant timeframe (SDAC or SIDC);
- (g) decisions on NEMO-only Common Costs for the execution of DA MCO Function Operations or ID MCO Function Operations or SIDC/IDA Operations as further detailed in Schedule 2 (Cost sharing, monitoring and settlement). For the avoidance of any doubt such decisions include the decisions regarding change requests under the Change Control Procedure. With respect to such decisions, only DA Operational NEMOs or ID Operational NEMOs are Voting Members according to the relevant timeframe (SDAC or SIDC) unless differently provided in Schedule 2 (Cost sharing, monitoring and settlement);
- (h) decisions of the NEMO Committee on escalations pursuant to art 4.5.3 (Protection of the interests of the DA and/or ID Non-Operational NEMOs). With respect to such decision, only DA Operational NEMOs or ID Operational NEMOs are Voting Members according to the relevant timeframe (SDAC or SIDC)
- (i) decisions to express NEMO Vote with respect to operational decisions under DAOA or IDOA
- (j) the decision to reject a decision taken by ANCA QMV pursuant to paragraph 3.8.2 (iv) of this Schedule 3;
- (k) the decision to launch an email decision-making process on a specific matter/decision pursuant to paragraph 3.8.8 of this Schedule 3.
- (l) the decisions to approve the Exit Plan or Suspension Plan.
- (m) the decisions to approve amendments to the agreements with the Third Party Service Providers of the DA MCO Function Assets or SIDC/IDA Assets, or to conclude any agreement in relation thereto.

3.8.4 Matters Subject to CACM QMV

3.8.4.1 Matters/decisions that concern the further development, consultation, approval, submission, implementation, publication of changes to the MCO Plan as well as all other terms and conditions or methodologies pursuant to art. 9 of CACM Regulation shall be made in accordance with CACM QMV if the full unanimous consent of all the Parties cannot be obtained.

3.8.4.2 A Party which is designated as a NEMO only with respect to one or more Non-EU/EEA Countries is not entitled to vote on matters subject to CACM QMV.

3.8.5 Budget Decisions

- (i) Budget decisions may comprise a range of possible individual decisions, e.g.: agreement of an individual budget line item, appointment of a senior and/or junior Secretary, appointment of Chairperson, acceptance of work group/task force budget, work assigned by NEMO Committee to an individual Party, travel expenses of Chairperson and work group/task force leaders.
- (ii) The following Budget decisions shall be subject to ANCA QMV in the event of any failure to achieve unanimity according to paragraph 3.8.1(i) above:
 - (a) if the year to year difference within the budget in question does not exceed +/-3% compared to the previous year;
 - (b) for any within-year allocation (full or partial) of the available contingency for such year's budget.
 - (c) for the reallocation of budget items other than the contingency within the budget, provided that: (X) there is no increase or decrease of any single budget item greater than 25% as a result of such reallocation; and (Y) there is no impact on the overall amount of the budget (i.e. the total amount of the budget and the total amount of the contingency remains the same).
- (iii) All other budget-based decisions shall be decided by unanimity of the NC, subject to any non-attending Party's right to object as described in paragraph 3.8.2 (i).

3.8.6 Deadlock

- (i) If it is not possible for the NEMO Committee (having made at least three attempts) to make a decision on a matter then, via a decision taken by unanimity, the NEMO Committee may solicit the NRAs and/or ACER for a non-binding opinion on such Deadlock (the "**Deadlock Opinion**"). Upon receipt of the Deadlock Opinion, the Parties shall seek in good faith to reach a decision between them based on the Deadlock Opinion.

- (ii) Where, having endeavoured to resolve a Deadlock according to paragraph 3.8.6 (i) above, the NEMO Committee remains unable to make a binding decision which threatens in the opinion of any Party to seriously hinder or delay the continued operation of this Agreement, any one or more of the Parties may seek to refer the matter for resolution to the Expert Panel, provided that in any case where Schedule 10 has not yet been introduced as part of this Agreement, the Parties may seek to refer the matter for resolution as a Dispute in accordance with the provisions of Clause 27.7 of this Agreement.

3.8.7 Urgent Decisions

- (i) On the application of any Party, a matter/decision may be categorised as urgent by the Chairperson (an “**Urgent Decision**”), in which case:
 - (a) There will be an ad-hoc meeting of NEMO Committee set up as soon as possible by the Secretary for which the urgent matter to be decided will be on the agenda (the agenda to clearly state that such decision is being dealt with under the urgent timetable). The final agenda plus any supporting documentation with respect to such ad-hoc meeting shall be sent to all members of the NEMO Committee by no later than 17:00 CET on the day falling at least 2 Business Days before the meeting.
 - (b) The maximum number of attempts by the NEMO Committee to reach an urgent decision shall be two (2).
- (ii) The period of time for any non-attending Party to object to an urgent unanimity decision shall be two (2) Business Days.
- (iii) The period of time to raise minority protection grounds to object to an urgent ANCA QMV decision shall be two (2) Business Days from receipt of the relevant minutes of the meeting.

- (iv) Urgent decision(s) of the NEMO Committee shall be recorded by the Secretary in a separate written decision document, prepared, shown, discussed and approved after each decision is taken during the relevant NEMO Committee meeting. A copy of this separate decision document shall be circulated to the relevant Voting Members by the Secretary, on the very same date of the meeting. This separate decision document will also be reflected in the minutes of the NEMO Committee meeting during which it was adopted. Such minutes are elaborated in accordance with the provisions below, it being understood, for the avoidance of any doubt, that neither the urgent decision(s) nor the separate decision document can be subject to any further challenge or modification by any of the Voting Members who attended such meeting and voted in favour of such urgent decision. With respect to those Voting Members either not attending the NEMO Committee meeting in question or not voting in favour of such urgent decision, the relevant provisions of paragraph 3.8.2 shall apply.

3.8.8 Written Decisions

- (i) The DA NEMOs and ID NEMOs shall always be entitled to make decisions on any matter by written resolution including e-mail. In such cases the Secretary will prepare the necessary resolution. With respect to decisions taken via email, the relevant Voting Members must previously agree by unanimity to launch an email decision-making process on a specific matter/decision.
- (ii) On receipt, any individual DA NEMO or ID NEMO may within ten (10) Business Days of receipt of the relevant resolution either signify its acceptance/rejection of the proposed resolution or otherwise object to such decision being so determined in which case the matter shall be decided at a scheduled or ad-hoc meeting of the NEMO Committee.

3.8.9 Minutes of NEMO Committee Meetings

- (i) Without prejudice to paragraph 3.8.7 (iv) of this Schedule 3 (Urgent Decisions):
 - (a) all decisions of the NEMO Committee shall be clearly recorded by the Secretary both during the meeting (via a live on screen facility) and in the minutes of the relevant meeting.
 - (b) the draft minutes will be circulated to the members of the NEMO Committee by the Secretary, by no later than three (3) Business Days after the date of the relevant NEMO Committee meeting.
 - (c) each Party may comment on the minutes until they are formally approved (but may not challenge a decision reflected in such minutes otherwise than in accordance with paragraph 3.8.2). The minutes of each NEMO Committee meeting will normally be approved as the first item on the agenda of the next NEMO Committee meeting.
- (ii) The decision(s) of the NEMO Committee meeting as recorded in the formally approved minutes shall be binding on the relevant Parties with retroactive effect from the date of the meeting at which the decision (not the approval) was made.
- (iii) A copy of the approved minutes will be signed by the Chairperson and circulated to the members of the NEMO Committee by the Secretary (in scanned format), within five (5) Business Days from the date of approval.

4. DA OPSCOM AND ID OPSCOM

4.1 Tasks

The DA OPSCOM and the ID OPSCOM has the following tasks established in the Agreement or delegated to them by the NEMO Committee:

- i) to take the decisions that are assigned to DA OPSCOM or ID OPSCOM pursuant to this Agreement such as the Operational Decisions of DA OPSCOM or ID OPSCOM;
- ii) preparation and recommendation of amendments to operational procedures or introduction of new operational procedures for the approval of the NEMO Committee;
- iii) elaboration of advice and recommendations to the NEMO Committee on the design and operation of the SDAC (the DA OPSCOM) and the SIDC (the ID OPSCOM);
- iv) performance of all acts in relation to the monitoring of the daily operations of the SDAC and/or the SIDC and ensuring the well-functioning and continuity of them;
- v) performance of the tasks provided for in the Change Control Procedures (Schedule 6). For the avoidance of any doubt, such tasks include the provision of proposals and recommendations to the NEMO Committee for the approval of change requests, consistently with the terms and conditions of the Change Control Procedure.
- vi) organization and coordination of testing activities in the context of the Change Control Procedures (Schedule 4);
- vii) organization and coordination of training activities;
- viii) discussion and evaluation of any Incident;
- ix) recommendation of operational improvements based on experience;
- x) perform any other specific task delegated expressly to it by the NEMO Committee.

4.2 Composition and Functioning

- i) The DA OPSCOM and/or the ID OPSCOM is composed of persons acting in the following capacities:

- (a) voting representatives of DA Operational NEMOs or ID Operational NEMOs;
 - (b) invited non-voting representatives of Non-Operational DA NEMOs or Non-Operational ID NEMOs;
 - (c) the chairpersons of, respectively, the DA OPSCOM and/or the ID OPSCOM;
and
 - (d) the secretaries of, respectively, the DA OPSCOM and/or the ID OPSCOM;
- ii) The Voting Members of the of DA OPSCOM and/or ID OPSCOM shall propose to the NEMO Committee one of them to act as chairperson of the DA OPSCOM and/or ID OPSCOM. The duration of the chairperson appointment will be for one year term, unless differently decided by the NEMO Committee.
 - iii) The Voting Members of the of DA OPSCOM and/or ID OPSCOM shall propose to the NEMO Committee one of them or a Third Party as a secretary of the DA OPSCOM and/or ID OPSCOM. The duration of the secretary appointment will be for one year term, unless differently decided by the NEMO Committee.
 - iv) Each DA Operational NEMO or ID Operational NEMO is entitled to nominate one or several representatives to the DA OPSCOM and/or the ID OPSCOM provided that, in either case, any such Party shall, regardless of the number of representatives nominated by it to either the DA OPSCOM and/or the ID OPSCOM, always be limited to a maximum of one (1) vote per committee.
 - v) Each non-Operational DA NEMO or a non-Operational ID NEMO is entitled to nominate one or several non-voting representatives to the DA OPSCOM and/or the ID OPSCOM.
 - vi) All representatives nominated to the DA OPSCOM and/or the ID OPSCOM shall be designated by a Party in writing. The list of such representatives, including their contact details, shall be held by either the DA OPSCOM secretary or the ID OPSCOM secretary (as appropriate). A Party may change a nominated representative in the DA OPSCOM and/or the ID OPSCOM by providing the new contact details to the DA OPSCOM secretary and/or the ID OPSCOM secretary (as appropriate).
 - vii) Each Party shall be, with respect to each meeting of the DA OPSCOM and/or the ID OPSCOM, duly represented either:

- (a) by one or more of its nominated representatives; or
 - (b) if none of its nominated representatives are able to attend a meeting of the DA OPSCOM and/or the ID OPSCOM, by any other person duly mandated and empowered to take decisions binding upon its company on all items of the agenda.
- viii) Any representative of a Party nominated to the DA OPSCOM and/or the ID OPSCOM may represent more than one Party provided it is duly mandated to do so. If a Party's nominated representative is unable to attend a DA OPSCOM and/or ID OPSCOM meeting, such Party may mandate the representative of another Party (i.e. a member of DA OPSCOM and/or ID OPSCOM of another Party) as its proxy to represent it, provided that the mandating Party provides the secretary of the DA OPSCOM and/or ID OPSCOM (as appropriate) with a copy of the appropriate authorisation of the other Party's representative which it wishes to appoint as its proxy before the relevant DA OPSCOM and/or ID OPSCOM meeting.. The same rules shall apply to the appointment of a proxy representative of a Non-Operational DA NEMO or Non-Operational ID NEMO.
- ix) In order to ensure a continuous optimal coordination, each of the DA OPSCOM and/or ID OPSCOM shall normally meet every two (2) weeks and at least once a month, unless agreed otherwise by the DA OPSCOM and/or ID OPSCOM. The DA OPSCOM and/or ID OPSCOM calls and meetings shall take place only on Business Days and during Working Hours, unless otherwise unanimously agreed. The DA OPSCOM and/or ID OPSCOM may meet either physically or by telephonic or electronic meeting devices (such as e.g. conference call, video call, written procedure, etc.). Any representative of a Party nominated to the DA OPSCOM or ID OPSCOM, or the chairperson, may propose the cancellation of a DA OPSCOM and/or ID OPSCOM meeting with a minimum of two (2) Business Days` notice. In the absence of any objection to such cancellation proposal by any other Party's representative, the relevant DA OPSCOM or ID OPSCOM will be cancelled.
- x) Any Voting Member of the DA OPSCOM or ID OPSCOM may request, respectively, an extraordinary DA OPSCOM or ID OPSCOM meeting. In the absence of any objection to such request by any other Party's representative, such request shall be deemed to have been agreed and the secretary shall prepare and send an invitation for such a meeting giving an appropriate notice in advance to all representatives of the relevant DA NEMOs or ID NEMOs (as the case may be).
- xi) In addition to the planned meetings, an urgent DA OPSCOM and/or ID OPSCOM meetings are requested by the chairpersons of, respectively, the DA OPSCOM and/or the ID OPSCOM when an Incident occurs. Such urgent DA OPSCOM and/or ID OPSCOM meetings are to be organized as soon as possible after the escalation, preferably the same day and in any event by no later than the next Business Day.

- xii) The chairperson and secretary of the relevant DA OPSCOM and/or ID OPSCOM meeting shall prepare and circulate an agenda for each DA OPSCOM and/or ID OPSCOM meeting. The agenda shall contain as a minimum details of any Incident and proposed changes. Furthermore, it may include items such as the organization of testing and training activities.
- xiii) Each Party commits to be present or represented at each DA OPSCOM and/or ID OPSCOM meeting at which it is entitled to participate. In case a Party does not attend a DA OPSCOM and/or ID OPSCOM meeting and fails to arrange mandated proxy representation, it shall be presumed to accept the relevant DA OPSCOM and/or ID OPSCOM decisions. In case such non-attending Party objects to a decision, it should indicate this within two (2) Business Days after distribution of the minutes. In such case, on receipt of such objection, the relevant decision will be set aside and the matter will be put back on the agenda for the next scheduled DA OPSCOM and/or ID OPSCOM meeting (or such extraordinary meeting as the relevant secretary may arrange for this purpose).
- xiv) the DA OPSCOM and/or the ID OPSCOM is entitled to invite a Third Party to participate in its meetings subject to Art 4.5.2 ii) below.

4.3 Costs of the secretary of the DA OPSCOM or the ID OPSCOM

The costs of the secretary of the DA OPSCOM and/or the ID OPSCOM are Common Costs, and shall be shared as set forth in Schedule 2 (Financial Modalities/Budget/Invoicing Modalities) of this Agreement.

4.4 Reporting and external communication

The DA OPSCOM and the ID OPSCOM shall each periodically report to the NEMO Committee. In addition, the DA OPSCOM and the ID OPSCOM shall each provide input for the NEMO Committee on regulatory reports or other external communications organized by the NEMO Committee.

4.5 Decisions

4.5.1 General rules

- i) Decisions of the DA OPSCOM and/or the ID OPSCOM shall be binding provided they are taken in accordance with this Schedule 3 and are otherwise compliant with this Agreement.
- ii) Decisions of the DA OPSCOM and/or the ID OPSCOM shall be unanimously approved by the relevant Voting Members (i.e. the representatives of the DA Operational NEMOs or of the ID Operational NEMOs). In case of any disagreement, the issue is escalated to the NEMO Committee. The representatives of any invited Non Operational DA NEMOs or of Non Operational ID NEMOs are entitled to participate

in the discussions on DA OPSCOM decisions or the ID OPSCOM decisions without voting rights.

- iii) The decisions of the of the DA OPSCOM and/or the ID OPSCOM shall be recorded in minutes, circulated to the participants as soon as possible and in any event within five (5) Business Days after the DA OPSCOM and/or the ID OPSCOM meeting in question. Final approval of the minutes, by consensus, shall be sought at the next DA OPSCOM and/or the ID OPSCOM meeting. In case of any disagreement on the minutes, the issue shall be escalated to the NEMO Committee. Final minutes shall be stored in the common (online) storage place referred to in paragraph 3.5 (iv).

4.5.2 Validation of DA OPSCOM or ID OPSCOM decisions by the NEMO Committee

- i) Should a decision (or several accumulated decisions) of the DA OPSCOM or the ID OPSCOM have a financial impact in excess of the yearly budget assigned to the DA OPSCOM or the ID OPSCOM or of a specific amount decided upon by the NEMO Committee, it shall be subject to validation by the NEMO Committee.
- ii) The NEMO Committee shall validate unanimously by deemed acceptance (i.e. no objection by any member of the NEMO Committee within 5 Business Days) the invitation of Third Party different from a service provider of the NEMOs decided by the DA OPSCOM or the ID OPSCOM.

4.5.3 Protection of the interests of Non Operational DA NEMOs or of Non Operational ID NEMOs

4.5.3.1 In the event that a decision taken by the DA OPSCOM or ID OPSCOM has or is likely to have a material adverse effect on the interests of one or more Non Operational DA NEMO or Non Operational ID NEMO, the affected Non Operational DA NEMO or Non Operational ID NEMO shall be entitled to raise its/their concerns in respect of such decision to the NEMO Committee. In such event the affected Non Operational DA NEMO or Non Operational ID NEMO shall submit a written notice to the NEMO Committee within five (5) Business Days from the date on which the decision of the DA OPSCOM or ID OPSCOM was taken, together with an explanation of the alleged material adverse effect. In case of more than one affected Non Operational DA NEMO or Non Operational ID NEMO, the notice can be submitted to the NEMO Committee jointly.

4.5.3.2 The Parties agree that a decision of DA OPSCOM or ID OPSCOM will be deemed, inter alia, to have a material adverse effect on the interests of a Non Operational DA NEMO or Non Operational ID NEMO in the following cases:

i)

[REDACTED]

ii)

[REDACTED]

4.5.3.3 The escalated decision can only be suspended until the escalation procedure is completed provided that DA OPSCOM or ID OPSCOM unanimously agrees to suspend the decision. Decisions in respect of incident resolution can never be suspended

4.5.3.4 Following the receipt of the notice sent by the affected Non Operational DA NEMO or Non Operational ID NEMO, the NEMO Committee must meet within seven (7) Business Days from the date of receipt of the written notice to resolve the objection against the concerned decision. Any decision on the matter shall be made unanimously by the DA and/or ID Operational NEMOs (i.e. the Voting Members on

such matter). Within the NEMO Committee, DA or ID Operational NEMOs shall have the obligation to consider in good faith the concerns raised by the affected Non Operational DA NEMO or Non Operational ID NEMO.

5 DA INCIDENT COMMITTEE, SIDC/IDCT INCIDENT COMMITTEE, SIDC/IDA INCIDENT COMMITTEE

The decisions of the DA Incident Committee, the SIDC/IDCT Incident Committee and of the SIDC/IDA Incident Committee shall be unanimously approved by the relevant Voting Members (i.e. the representatives of the DA Operational NEMOs or of the ID Operational NEMOs) consistently with the relevant DA Operational Procedures or ID Operational Procedures. In case of any disagreement, the issue is not escalated to the NEMO Committee, since such decision must be taken in real time. The representatives of any Non Operational DA NEMOs or of Non Operational ID NEMOs are entitled to participate as observers in the discussions of the DA Incident Committee, the SIDC/IDCT Incident Committee and of the SIDC/IDA Incident Committee, without voting rights, only if expressly foreseen by the relevant DA Operational Procedures or ID Operational Procedures.

6. ESCALATIONS

6.1.1 Escalation of matters from working groups and task forces

The NEMO Committee shall act as an escalation body for any work group or task force established by the NEMO Committee. The decisions of the NEMO Committee on the matters escalated by working groups or task forces shall be taken applying ANCA QMV.

6.1.2 Escalation of matters from DA OPSCOM and the ID OPSCOM

The NEMO Committee shall act as an escalation body for both the DA OPSCOM and the ID OPSCOM. The decisions of the NEMO Committee on the matters escalated by the DA OPSCOM or by the ID OPSCOM shall be taken applying ANCA QMV unless the escalated matter concerns an Operational Decision of the DA OPSCOM or the ID OPSCOM for which unanimity applies pursuant to paragraph f) of Article 3.8.3 of this Schedule 3 (RIO).

SCHEDULE 4

ALL NEMO DAY-AHEAD OPERATIONS AGREEMENT (ANDOA)

Article 1. SCOPE

This Schedule 4 sets forth the specific rights and obligations of the DA NEMOs in respect of the SDAC taking into account article 7 of the CACM Regulation and any other relevant Applicable Law. This Schedule 4 applies only to DA NEMOs.

Article 2. DA NEMOS' OPERATIONAL COMMITMENTS

- 2.1 The DA NEMOs commit to jointly design, cooperate, develop, test, implement and maintain the DA MCO Function Assets without prejudice to such ownership rights as may be vested with respect to the DA MCO Function Assets pursuant to the PCR Co-ownership Agreement. The DA NEMOs accept, by entering into the Agreement, that the DA MCO Function Assets listed in Annex I to this ANDOA, as updated from time to time, shall be used for the performance of DA MCO Function Operations.
- 2.2 Each DA NEMO commits to have in place the Individual Assets needed to ensure the proper performance of DA MCO Function Operations.

Article 3. DA MCO FUNCTION ASSETS

3.1 TITLE TO DA MCO FUNCTION ASSETS

The rights pertaining to the DA MCO Function Assets are owned by the DA MCO Function Assets Co-owners and are governed by the PCR Co-ownership Agreement. Therefore, it is understood that no DA NEMO shall, by virtue of this Agreement, gain any rights of ownership or interest in any Intellectual Property Rights owned by the DA MCO Function Assets Co-owners.

3.2 MCO FUNCTION ASSETS CO-OWNERS

- 3.2.1 All DA NEMOs acknowledge and agree that the DA MCO Function Assets are made available by the DA MCO Function Assets Co-owners “as is” without any warranty or representation, express or implied, whatsoever, including but not limited to warranty of non-infringement of third-party rights, warranties of merchantability and fitness for any particular purpose, in particular in respect of the correct functioning or the absence of defects or errors. For the avoidance of doubt, the foregoing is without prejudice to the obligation of the DA NEMOs to cooperate to jointly restore any hidden defects in DA MCO Function Assets possibly discovered in operating the DA MCO Function System in accordance with Schedule 6 (NEMO SDAC Change Control Procedures).

3.2.2 As a consequence of Article 3.2.1, the DA MCO Function Assets Co-owners shall have no liability towards any Non Co-owner DA NEMO with respect to:

- i) the DA MCO Function Assets not being fit for a particular purpose;
- ii) non-compliance of the DA MCO Function Assets with local requirements;
- iii) interruption of operations caused by DA MCO Function Assets;
- iv) change requests to the DA MCO Function Assets approved by the DA NEMOs.

3.2.3. Subject to the obligations detailed under this Agreement, the DA MCO Function Assets Co-owners will keep their full independency and self-determination for their own business. In particular, the DA MCO Function Assets Co-owners are entitled to further or differently develop the DA MCO Function Assets which are co-owned pursuant to the PCR Co-ownership Agreement provided that they will bear the costs of such further or different development and such further or different development has no identified impact on the functionalities of the DA MCO Function Assets. In the event of there being an identified impact on the functionalities of the DA MCO Function Assets, [Schedule 6 (NEMO SDAC Change Control Procedure including complete DA Testing and Simulation Procedure) shall apply to such further or different development.

3.3 DESIGN AND DEVELOPMENT OF THE DA MCO FUNCTION ASSETS

3.3.1 The Non Co-owner DA NEMOs shall jointly cooperate with the DA MCO Function Assets Co-Owners in the design and development of the DA MCO Function Assets in order to ensure that the DA MCO Function Assets are designed and developed in accordance with Annex II (High level functional architecture) and any further requirements and specifications established by the NEMO Committee or any other body designated by the NEMO Committee. Any changes to Annex II (High level functional architecture) and further requirements and specifications provided by the NEMO Committee are subject to Schedule 6 (NEMO SDAC Change Control Procedure).

3.3.2 During the design and development process, the NEMO Committee or any other body designated by the NEMO Committee will coordinate and follow up the progress made by the DA NEMOs, possibly assisted in this task by ad hoc working groups as set forth in Schedule 3 (RIO).

3.4 THIRD PARTY SERVICE PROVIDERS OF THE DA MCO FUNCTION ASSETS

3.4.1 The DA MCO Function Assets Co-owners undertake to procure and manage the development and maintenance of the DA MCO Function Assets in accordance with the applicable provisions of Schedule 6 (NEMO SDAC Change Control Procedure) and any other relevant provision of this Agreement. In particular, the DA MCO Function Assets Co-owners shall:

- a. manage the implementation of change requests with Third Party Service Providers of the DA MCO Function Assets consistently with Schedule 6 (NEMO SDAC Change Control Procedure);

- b. pay Third Party Service Providers of the DA MCO Function Assets consistently with the provisions of Schedule 2 (Financial Modalities /Budget /Invoicing Modalities).
- 3.4.2 The Non Co-owner NEMOs accept the Third Party Service Providers of the DA MCO Function Assets and acknowledge that there are contracts in place between them and the DA MCO Function Assets Co-owners at the time of the entering into force of this Agreement.
- 3.4.3 In the event of negotiations with the Third Party Service Providers of the DA MCO Function Assets, such as negotiations on change requests, the DA MCO Function Assets Co-owners shall regularly inform the Non Co-owner NEMOs on the status of such negotiations concerning directly the DA MCO Function Assets used for the DA MCO Function Operations.
- 3.4.5 Following a successful claim of a Third Party Service Provider of the DA MCO Function Assets directly related to the provision of services for the DA MCO Function Assets, Non Co-owner DA NEMOs shall share on equal basis with the DA MCO Function Assets Co-owners (with all DA NEMOs bearing the same share) any indemnification that the DA MCO Function Assets Co-owners are due to pay to a Third Party Service Provider of the DA MCO Function Assets - including any related procedural costs (including attorney's fees and internal costs) borne by the DA MCO Function Assets Co-owners, - provided that such claim:
- a. is a direct consequence of instructions approved by the NEMO Committee according to art. 3.4.4; and
 - b. does not derive from i) a breach of contract with the Third Party Service Provider of the DA MCO Function Assets which qualifies as fraud or intentional misconduct or gross misconduct or gross negligence committed by the DA MCO Function Assets Co-owners or ii) a breach of the Agreement by the DA MCO Function Assets Co-owners.
- 3.4.6 In the event of indemnifications paid by the Third Party Service Provider of the DA MCO Function Assets directly related to the provision of services for the DA MCO Function Assets, such indemnification shall be shared among the affected Non Co-owner DA NEMOs and the DA MCO Function Assets Co-owners proportionality to the amount of the effective individual damage.
- In such event, Non Co-owner DA NEMOs shall share on equal basis with the DA MCO Function Assets Co-owners (with all DA NEMOs bearing the same share) any related procedural costs (including attorney's fees and internal costs) which the DA MCO Function Assets Co-owners would not be able to recover from the Third Party Service Provider.
- 3.4.7 Should a Non Co-owner NEMO suffer a direct damage from any act or omission of a Third Party Service Provider of the DA MCO Function Assets directly related to the provision of services for the DA MCO Function Assets, such Non Co-owner NEMO is entitled to request the DA MCO Function Assets Co-owners to lodge a claim against the Third Party Service Provider of the DA MCO Function Assets. Following such request, the relevant PCR SPOC shall then lodge the claim against the concerned Third Party Service Provider of the DA MCO Function Assets it being understood that:

- i) only the relevant PCR SPOC shall lead the claim although fully cooperating with the concerned Non Co-owner NEMO in any response and defense as reasonably required;
- ii) the relevant PCR SPOC shall not enter into any settlement without the prior consent of the concerned Non Co-owner NEMO, such consent not to be unreasonably withheld or delayed;
- iii) the concerned Non Co-owner NEMO waives any right to claim compensation for damages from the DA MCO Function Assets Co-owners in case no or partial indemnification is paid by the concerned Third Party Service Provider of the DA MCO Function Assets;
- iv) the concerned Non Co-owner NEMO shall indemnify the relevant PCR SPOC for any related procedural costs (including attorney's fees and internal costs) which the latter would not be able to recover from the Third Party Service Provider of the DA MCO Function Assets.

For the avoidance of any doubt, the liability and compensation limitations set forth in the Agreement and in the agreement in force with the Third Party Service Provider of the DA MCO Function Assets are in no way affected by this provision.

- 3.4.8 Should any third party set a successful claim based on the breach of procurement law that is not applicable to the DA MCO Function Assets Co-owners, the Non Co-owner DA NEMO(s) to whom such procurement law is applicable shall reimburse the DA MCO Function Assets Co-owners for any indemnification paid to such third party.

3.5 TESTING AND IMPLEMENTATION OF THE DA MCO FUNCTION SYSTEM BEFORE SDAC OPERATIONAL DATES

Any Non-Operational DA NEMO shall perform before its SDAC Operational Date the testing and simulations of the DA MCO Function System set under the DA Testing and Simulation Procedure. Such testing and simulations shall be coordinated with the procedures set under the DAOA.

3.6 CHANGES TO THE DA MCO FUNCTION ASSETS AND INDIVIDUAL ASSETS

3.6.1. Any request for change to any of the DA MCO Function Assets or Individual Assets made by a DA NEMO or a subset of the DA NEMOs shall be formulated and handled in accordance with [Schedule 6 (NEMO SDAC Change Control Procedure)] in compliance with the following principles:

- i) in case of changes to DA MCO Function Assets, [Schedule 6 (NEMO SDAC Change Control Procedure)] of this Agreement applies; in case of changes to Individual Assets, the Schedule 6 (NEMO SDAC Change Control Procedure) solely applies to the extent that such change has an impact on the DA MCO Function Operations;
- ii) DA NEMOs shall assure the consistency of Schedule 6 (NEMO SDAC Change Control Procedure) with the change control procedure described in the DAOA.

- 3.6.2 Following the final approval of the request for change to the DA MCO Function Assets by the DA NEMOs consistently with Schedule 6 (NEMO SDAC Change Control Procedure)] the DA MCO Function Assets Co-owners shall request the relevant Third Party Service Provider of the DA MCO Function Assets to implement the approved change pursuant to Article 3.6.1 above.
- 3.6.3 If a request for change to the DA MCO Function Assets in accordance with Article 3.6.1 and 3.6.2 arises out of or in connection with a change in business processes, Market Rules or traded products of the requesting DA NEMO(s) which shall not be implemented for all DA NEMOs (hereafter referred to as a **“NEMO’s Specific Functionality”**), the other DA NEMOs shall accept the requested change to the DA MCO Function Assets and facilitate the implementation thereof, provided that the requested change is compatible with the Requirements and the other conditions described in the Algorithm Methodology. The other DA NEMOs shall facilitate the implementation of a requested change to the DA MCO Function Assets to implement a NEMO’s Specific Functionality provided that the requesting DA NEMO(s) pay(s) all the costs related to such change, it being understood that in the event of several requesting DA NEMOs each requesting DA NEMO shall pay its share of such costs consistently with the CACM Regulation and Schedule 2 (Financial Modalities /Budget /Invoicing Modalities). In the event a non-requesting DA NEMO wishes at a later stage to also implement the NEMO’s Specific Functionality, it will be entitled to do so provided it pays its share in the costs for the change to the DA MCO Function Assets paid by the requesting DA NEMO(s) consistently with the CACM Regulation and Schedule 2 (Financial Modalities /Budget /Invoicing Modalities). To this aim, the requesting DA NEMO(s) shall provide the NEMO Committee with an overview of the costs incurred for the change to the DA MCO Function Assets as a result of the implementation of the NEMO’s Specific Functionality.
- 3.6.4 The foregoing is without prejudice to the obligation of the DA NEMOs to use at all times the same version of the DA MCO Function Assets for operating the Single Day Ahead Coupling.
- 3.6.5 Changes to the DA MCO Function Assets and/or Individual Assets subject to Schedule 6 (NEMO SDAC Change Control Procedure)] shall only be put into operation for the DA MCO Function Operations after having been duly tested in accordance with the provisions of the Schedule 6 (NEMO SDAC Change Control Procedure)] as the case may be, and provided such testing demonstrates compliance with the acceptance criteria as indicated in the Schedule 6 (NEMO SDAC Change Control Procedure)] unless the DA NEMOs requesting the change to the DA MCO Function Assets and/or Individual Assets, respectively, assures or demonstrates, consistently with the Schedule 6 (NEMO SDAC Change Control Procedure including complete DA Testing and Simulation Procedure), that the requested change has no identified impact on the functionalities of the DA MCO Function Assets. For the avoidance of doubt, the requesting DA NEMO is responsible for the assessment made and/or proof provided in respect of the absence of identified impact on the functionalities of the DA MCO Function Assets and the other DA NEMOs shall be entitled to rely on such assessment without any further verification to be made by them consistently with Schedule 6 (NEMO SDAC Change

Control Procedure)] .The requesting DA NEMO shall be liable towards the other DA NEMOs pursuant to Article 12 for any misrepresentation, fault or negligence in such assessment.

3.7. MAINTENANCE OF DA MCO FUNCTION ASSETS AND INDIVIDUAL ASSETS

3.7.1 Maintenance of the DA MCO Function Assets shall be managed by the DA MCO Function Assets Co-owners pursuant to Article 2.4 (Third Party Service Providers of the DA MCO Function Assets).

3.7.2. Each DA NEMO shall ensure the maintenance of the Individual Assets for which it is individually responsible, if any.

4. DAILY OPERATION OF THE DAY AHEAD MCO FUNCTION

4.1 Any DA Operational NEMO is entitled to participate in DA MCO Function Operations directly (as SDAC Operator) or indirectly (as SDAC Serviced NEMO), provided that the following conditions are met:

i) [REDACTED]

ii) [REDACTED]

iii) [REDACTED]

4.2 [REDACTED]

4.3 [REDACTED]

4.4 [REDACTED]

[Redacted]

4.5 [Redacted]

i) [Redacted]

ii) [Redacted]

iii) [Redacted]

4.6 [Redacted]

4.7 [Redacted]

4.8 [Redacted]

i) [Redacted]

- ii) [Redacted]
 - iii) [Redacted]
 - iv) [Redacted]
- [Redacted]

4.9 [Redacted]

4.10 [Redacted]

- i) [Redacted]
 - ii) [Redacted]
- [Redacted]

4.11 [Redacted]

4.12 [Redacted]

4.13 [Redacted]

4.14 [Redacted]

[Redacted text block]

4.15 [Redacted text block]

4.1 DECOUPLING

[Redacted text block]

i) [Redacted text block]

ii) [Redacted text block]

[Redacted text block]

4.2 [Redacted text block]

4.3 [Redacted text block]

i) [Redacted text block]

[REDACTED]

ii) [REDACTED]

iii) [REDACTED]

iv) [REDACTED]

5. SDAC COORDINATOR ROLE

5.1 [REDACTED]

i) [REDACTED]

a. [REDACTED]

b. [REDACTED]

c. [REDACTED]

d. [REDACTED]

e. [REDACTED]

- ii) [Redacted]
- iii) [Redacted]
- iv) [Redacted]
- v) [Redacted]
- vi) [Redacted]
- vii) [Redacted]
- viii) [Redacted]
- ix) [Redacted]

6. SDAC BACKUP COORDINATOR ROLE

6.1 [Redacted]

- i) [Redacted]
- ii) [Redacted]
- iii) [Redacted]

- iv) [Redacted]
- v) [Redacted]
- vi) [Redacted]
- vii) [Redacted]

7. SDAC OPERATOR ROLE

- 7.1 [Redacted]
- i) [Redacted]
- ii) [Redacted]
- 7.2 [Redacted]
- 7.3 [Redacted]
- 7.4 [Redacted]
- i) [Redacted]

- [REDACTED]
- ii) [REDACTED]
- iii) [REDACTED]
- iv) [REDACTED]
- v) [REDACTED]
- vi) [REDACTED]
- vii) [REDACTED]
- viii) [REDACTED]
- ix) [REDACTED]

8. APPOINTMENT OF SDAC COORDINATOR AND SDAC BACKUP COORDINATOR

- 8.1 [REDACTED]
- 8.2 [REDACTED]
- 8.3 [REDACTED]

[REDACTED]

8.4 [REDACTED]

9. REMUNERATION OF SDAC COORDINATOR AND SDAC BACKUP COORDINATOR

[REDACTED]

10. OWNERSHIP AND RIGHT OF USE OF SDAC INDIVIDUAL INPUT DATA, SDAC UNCONFIRMED RESULTS, SDAC PRELIMINARY MARKET COUPLING RESULTS AND SDAC FINAL MARKET COUPLING RESULTS

10.1 [REDACTED]

10.2 [REDACTED]

i) [REDACTED]

ii) [REDACTED]

[Redacted text block]

10.3 [Redacted text block]

i) [Redacted text block]

[Redacted text block]

ii) [Redacted text block]

iii) [Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

10.4

[REDACTED]

i)

[REDACTED]

ii)

[REDACTED]

11. PUBLICATION OF SDAC FINAL MARKET COUPLING RESULTS

11.1

[REDACTED]

11.2

[REDACTED]

11.3

[REDACTED]

12. LIABILITY - BREACHES OF SCHEDULE 4

Any breach of Schedule 4 is governed by Clause 21 of the Agreement and by the specific provisions provided hereby. For the avoidance of any doubt, the liability limitations provided in this Article 12 are subject to Clause 21.1.7 (of the main body of the Agreement).

12.1. OPERATIONAL LIABILITY

12.1.1 Each DA NEMOs, hereby explicitly waives any right to claim compensation for damages against each other related to:

i) [Redacted]

ii) [Redacted]

[Redacted]

12.1.2 [Redacted]

12.1.3 [Redacted]

i) [Redacted]

- ii) [REDACTED]
- iii) [REDACTED]
- iv) [REDACTED]
- v) [REDACTED]
- vi) [REDACTED]

12.1.4 [REDACTED]

- 12.1.5 [REDACTED]
- i) [REDACTED]
 - ii) [REDACTED]

12.2 NON-OPERATIONAL LIABILITY

The non-operational liability of the Defaulting Party for a Non-Operational Breach of Schedule 4 is subject to the following limitations:

- (i) [REDACTED]
- (ii) [REDACTED]

12.3 THIRD PARTY CLAIMS

12.3.1 In the event of a Third Party Claim, Clause 23 (of the main body of the Agreement) applies to the extent consistent with the following Article 12.3.2.

12.3.2 The Defendant Party shall as soon as reasonably practicable, give written notice of a Third Party Claim to the NEMO Committee provided that:

- (i) the claim is grounded on an alleged breach of the Operational Procedures; or

(ii) the claim is grounded on an alleged malfunctioning of the DA MCO Function System; or

(iii) such notice to the NEMO Committee needed to determine the source of the alleged breach; or

(iv) such notice to the NEMO Committee is reasonably required for the well-functioning of the Cooperation.

12.3.3 The limitations of liability provided under Article 12.1 and 12.2 above apply to the hold harmless obligation of the Defaulting Party for the Third Party Loss suffered by the Defendant Party.

For the avoidance of any doubt, should a Third Party Claim be an Operational Liability Claim, the Defaulting Party(ies) shall hold harmless and indemnify the Defendant Party only if and to the extent that the breach of the Defaulting Party(ies) qualifies as fraud ("*bedrog*" / "*fraude*") or intentional fault / misconduct ("*opzettelijke fout*" / "*faute intentionnelle*").

13. RECORDING OF TELEPHONE CONVERSATIONS

13.1 DA NEMOs acknowledge and accept that, in the context of DA MCO Function Operations audio and video meetings shall be recorded and may serve as proof of decisions taken.

13.2 Recording of audio or video meetings conversations shall be done in accordance with the Applicable Law and the DA Operational Procedures. The DA NEMOs Parties shall cooperate in good faith to ensure such compliance. In particular they shall ensure that the relevant operational procedure describes the purpose of such recordings, the modalities regarding notification of the existence of such audio or video recordings and the duration of the recordings' storage. The DA NEMOs shall take the necessary measures to ensure that their representatives, staff and subcontractors that participate to DA MCO Function Operations meetings are made aware of the existence of these recordings and accept that participation to such conversations is considered as an acceptance of these recordings.

14 AMENDMENTS

Pursuant to Clause 18.2 (of the main body of the Agreement), any amendment to this Schedule 4, with the exception of its Annexes which are approved by the Nemo Committee,

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

shall be approved unanimously in writing and signed by an authorised representative of each
DA NEMO.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

Annexes to Schedule 4

Annex I List of DA MCO Function Assets

Annex II High level functional architecture;

Annex III Technical Readiness for the Coordinator, Back Up Coordinator and Operator;

Annex IV Operational Procedures;

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

Annex I

List of DA MCO Function Assets

Project Place link:



All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

Annex II

High level functional architecture

Project Place link:



All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

Annex III

Technical Readiness for the SDAC Coordinator, SDAC Back Up Coordinator and SDAC Operator

Project Place link:



All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

Annex IV

Operational Procedures

Project Place link:



SCHEDULE 5
ALL INTRADAY OPERATIONAL AGREEMENT (ANIDOA)

ARTICLE 1. PURPOSE OF THE AGREEMENT

The purpose of the Agreement is to set forth the main terms and conditions of the ID NEMO Cooperation between the ID NEMOs, taking into account article 7 of the CACM Regulation and any other relevant Applicable Law. This Schedule 4 applies only to ID NEMOs.

ARTICLE 2. THE ID NEMO COOPERATION

For the purpose of the ID NEMO Cooperation the ID NEMOs undertake to cooperate in accordance with the terms of the Agreement, the CACM Regulation and any other relevant Applicable Law.

In this respect, each ID NEMOs commits to:

- i) jointly ensure the development, testing, and maintenance of the Identical NEMO Components;
- ii) jointly manage and operate the ID MCO Function and SIDC/IDA;
- iii) jointly manage the relationship with the TSOs under the IDOA and the relationship with the service providers that are jointly contracted or that provide services to the benefit of all ID NEMOs;
- iv) connect its LTS with the XBID System so as to allow its Global Products to be matched via the XBID System;
- v) ensure that the ID NEMO Cooperation is limited to what is necessary to perform the ID MCO Function and SIDC/IDA;
- vi) ensure that the performance of the ID MCO Function and SIDC/IDA shall be based on the principle of non-discrimination and ensure that no NEMO receives unjustified economic advantages deriving from its role in the ID MCO Function and SIDC/IDA;
- vii) cooperate to design, develop, test, implement and maintain the SIDC/IDA Assets without prejudice to the ownership right upon Euphemia and PMB as per the PCR Co-ownership Agreement. The ID NEMOs, by entering into this Agreement, accept that the SIDC/IDA Assets listed in Annex I (Identical NEMO Components), as updated from time to time, shall be used for the performance of SIDC/IDA Operations; and
- viii) have in place the Individual NEMO Components needed to ensure the proper performance of ID MCO Function and SIDC/IDA.

ARTICLE 3 ASSETS FOR SIDC/IDCT AND SIDC/IDA

3.1.1. SIDC/IDCT: Identical NEMO Components

3.1.1.1 Rights (including IPR), title, interests in Identical NEMO Components and the Identical NEMO Components themselves, as developed by one or more ID NEMOs (or

developed on their joint behalf), including any subsequent modification, and rights (including IPR), title, interests in Identical NEMO Components transferred to one or more ID NEMOs are automatically co-owned by all ID NEMOs.

3.1.1.2 [REDACTED]

[REDACTED]

3.1.1.3 Article Article 3.1 above implies that the use, commercialisation, disposal, management, maintenance, further development, modification of the Identical NEMO Components or the rights (including IPR), title, interests pertaining thereto is subject to the consent of all ID Operational NEMOs unless otherwise provided under the Agreement or otherwise agreed in writing.

3.1.1.4 [REDACTED]

3.1.1.5 [REDACTED]

3.1.2. SIDC/IDA: assets used for SIDC/IDA Operations

3.1.2.1 Title to SIDC/IDA Assets

The rights pertaining to SIDC/IDA Assets are:

- a) with respect to Euphemia and PMB, owned by the PCR Co-owners and governed by the PCR Co-ownership Agreement. Therefore, it is understood that no ID NEMOs shall gain by virtue

- of this Agreement any right of ownership or interest in any Intellectual Property Rights owned by the PCR Co-owners;
- b) with respect to SIDC/IDA CIP Tool, owned by all ID NEMOs parties to the SIDC/IDA CIP Services Agreement, according to the terms provided therein.

3.1.2.2 PCR Co-owners

3.1.2.2.1. All ID NEMOs acknowledge and agree that the Euphemia and PMB are made available by the PCR Co-owners “as is” without any warranty or representation, express or implied, whatsoever, including but not limited to warranty of non-infringement of third-party rights, warranties of merchantability and fitness for any particular purpose, in particular in respect of the correct functioning or the absence of defects or errors. For the avoidance of doubt, the foregoing is without prejudice to the obligation of the ID NEMOs to cooperate to jointly restore, in accordance with Schedule 6 (NEMO SIDC Change Control Procedure), any hidden defects in Euphemia and PMB possibly discovered in performing SIDC/IDA Operations.

3.1.2.2.2. As a consequence of Article 3.1.2.2.1 the PCR Co-owners have no liability towards non PCR Co-owner NEMOs with respect to:

- i) Euphemia and PMB not being fit for a particular purpose;
- ii) non-compliance of the Euphemia and PMB with local requirements;
- iii) interruption of operations caused by Euphemia and PMB;
- iv) change requests to Euphemia and PMB approved by the ID Operational NEMOs.

3.1.2.2.3 Apart from the obligations set under this Agreement, the PCR Co-owners will keep their full independency and self-determination for their own business. In particular, the PCR Co-owners are entitled to further or differently develop Euphemia and PMB which are co-owned pursuant to the PCR Co-ownership Agreement provided that they will bear the costs of such further or different development and such further or different development has no identified impact on the functionalities of Euphemia and PMB that are necessary for SIDC/IDA Operations. Differently, in the event of an identified impact on the functionalities of Euphemia and PMB Assets that are necessary for SIDC/IDA Operations, then the relevant provisions of IDOA shall apply.

3.1.2.2.4 Maintenance of Euphemia and PMB shall be managed by the PCR Co-owners pursuant to the below Article 8.3.1 (Third Party Service Providers of the Euphemia and PMB). Each ID NEMOs shall ensure the maintenance of the Individual NEMO Component for which it is individually responsible, if any.

3.1.2.3 Design and Development of Euphemia and PMB

The ID NEMOs that are not PCR Co-owners shall jointly cooperate with the PCR Co-Owners in the design and development of the Euphemia and PMB in order to ensure that Euphemia and PMB are designed and developed in accordance with Annex II

(Technical Requirements) and any further requirements and specifications established by the NEMO Committee or any other body designated by the NEMO Committee for the purposes of SIDC/IDA design, development, implementation, or Operations. Any changes to the requirements and specifications of Euphemia and PMB provided in Annex II (Technical requirements) and any further requirements and specifications provided by the NEMO Committee shall be consistent with the requirements and specifications for SIDC/IDA set under IDOA.

Article 4 REQUIREMENTS

4.1. Requirements of the XBID Solution

4.1.1 All Identical NEMO Components, to be developed, implemented and/or used for or in the context of the XBID Solution, and the IT Operation of such Identical NEMO Components shall comply at least with the following requirements:

- i) the requirements set forth in the CACM Regulation, the MCO Plan and the applicable Methodologies;
- ii) any requirements set forth in the XBID-MSA or otherwise agreed with the XBID System Service Provider;
- iii) the requirements agreed with the TSOs in the IDOA (as long as not conflicting with the XBID-MSA);
- iv) the requirements set forth in the Agreement (and in particular Annex I (Identical NEMO Components), Annex II (Technical requirements) and the SIDC/IDCT Operational Procedures).

4.1.2 Each ID NEMO is responsible for its Individual NEMO Components and, consistently with Article 6 each ID Operational NEMO shall individually ensure that its Individual NEMO Components involved in the XBID Solution enable the operation of the SIDC.

4.1.3 ID NEMOs shall comply with the High Level Architecture of the XBID Solution attached as exhibit 4 to the IDOA (as updated from time to time).

4.2 Requirements of the SIDC/IDA System

4.2.1 All SIDC/IDA Assets, to be developed, implemented and/or used for or in the context of SIDC/IDA System and the IT Operation of such SIDC/IDA Assets shall comply at least with the following requirements:

- i) the requirements set forth in the CACM Regulation, the MCO Plan and the applicable Methodologies;
- ii) any requirements set forth in any of the agreements with the Third Parties Service Providers or otherwise agreed with the relevant Third Party Service Provider;

- iii) the requirements agreed by NEMOs and TSOs pursuant to the IDOA (as long as not conflicting with any of the agreements with the Third Parties Service Providers);
- iv) the requirements set forth in the Agreement (and in particular Annex I (Identical NEMO Components), Annex II (Technical requirements) and the SIDC/IDA Operational Procedures).

4.2.2 Each ID NEMO is responsible for its Individual NEMO Components and, consistently with Article 6, each ID Operational NEMO shall individually ensure that its Individual NEMO Components involved in the SIDC/IDA System enable the operation of the SIDC/IDA.

4.2.3 ID NEMOs shall comply with the High Level Architecture of the SIDC/IDA System attached as exhibit 4 to the IDOA (as updated from time to time).

Article 5 IDENTICAL NEMO COMPONENTS

5.1 General principles

- 5.1.1. For those Identical NEMO Components that are not already developed at the entry into force of the Agreement and for any further developments of Identical NEMO Components, the ID Operational NEMOs shall jointly design, develop and test the Identical NEMO Components (or ensure that they are designed, developed and tested on their joint behalf) in accordance with the timeframes and requirements set forth in Article 4 above (Requirements of the XBID Solution). During the development process, the NEMO Committee or any other body designated by the NEMO Committee shall coordinate and follow up the progress made by the ID Operational NEMOs in respect of the development and testing.
- 5.1.2. In respect of rights, title and interests pertaining to the developments of the Identical NEMO Components the following principles shall apply:
 - i) the ID NEMOs must be entitled to jointly use such Identical NEMO Component for the implementation and operation of the SIDC to the fullest extent possible under Applicable Law and relevant agreements. Licenses granted, as the case may be, by a service provider, to the ID NEMOs shall always be jointly granted to all ID NEMOs in accordance with the principles set forth in Clause 25 of the main body of the Agreement (Intellectual Property Rights – Right of use), to ensure a non-discriminatory treatment between the ID NEMOs;
 - ii) any changes to the Identical NEMO Components are governed by Article 6 below (Change Request);
 - iii) any rights (including IPR) granted by a service provider to the ID NEMOs shall be made subject to adequate proof by the service provider of the existence and scope of the rights granted (e.g. via due diligence of relevant documents); and

- iv) if one or several ID NEMOs are (co-)owner(s) of a technology or application that is part of Identical NEMO Components, such ID NEMOs shall assure that all the other ID NEMOs will have the possibility to be granted an equal share in such rights.

5.2 XBID System

5.2.1. The ID NEMOs agree to maintain and make available to each other, the TSOs and the relevant Explicit Participants, the XBID System with a view to allowing 24/7 trading of Global Products.

5.2.2. The ID NEMOs that are not a party to the XBID-MSA acknowledge and agree that:

i) [REDACTED]

ii) [REDACTED];

iii) [REDACTED]

iv) [REDACTED]

5.2.3. [REDACTED]

5.2.4. Each ID NEMO shall comply with any specific requirements imposed by the XBID System Service Provider in respect of access to and security of the XBID System.

5.2.5. Each ID NEMO shall take measures to prevent incidents in or related damage to the XBID System.

5.2.6. [REDACTED]

i) [REDACTED]

ii) [REDACTED]

iii) [REDACTED]

5.2.7. **Connection of LTS to the XBID System**

5.2.7.1 Each ID NEMO shall have a right, in accordance with the specifications and the timings set forth in exhibit 7 of the IDOA (Technical Readiness), to have its LTS connected to the XBID System so that it can communicate with the XBID System on a 24/7 basis.

5.2.7.2 [REDACTED]

5.2.8. **Communication network and rack space**

5.2.8.1 [REDACTED]

i) [REDACTED]

[REDACTED]

ii)

[REDACTED]

iii)

[REDACTED]

iv)

[REDACTED]

5.2.8.2

[REDACTED]

[REDACTED]

5.2.8.3 The ID NEMOs shall comply with the technical requirements regarding the communication network, as taken up in section I of the Annex II (Technical requirements).

5.2.8.4 Network communication services

5.2.8.4.1 SIDC/IDCT servicing

[REDACTED]

[REDACTED]

5.2.8.4.2 SIDC/IDA servicing

[REDACTED]

[REDACTED]

5.3 Management, maintenance and future changes to Identical NEMO Components

5.3.1. General

The ID Operational NEMOs shall jointly manage and maintain the Identical NEMO Components (possibly via intervention of service providers) and assure that such management and maintenance are compliant with the requirements set forth by the CACM Regulation, the applicable Methodologies, the IDOA and any further agreement between the ID NEMOs or with service providers.

5.3.2. List of Identical NEMO Components

5.3.2.1 ID NEMOs shall make and keep up to date a list of all Components (if any) that qualify as Identical NEMO Components to be attached as Annex I (Identical NEMO Components).

5.3.2.2 An ID Operational NEMO may request the adaptation of Annex I (Identical NEMO Components), provided that such request is motivated by changes in technical, economical or other aspects compared to the initial list which result in making an Individual NEMO Component an Identical NEMO Component or conversely which result in making an Identical NEMO Component an Individual NEMO Component. The adaptation of Annex I (Identical NEMO Components) is subject to NEMO Committee decision pursuant to Clause 18.2.

Article 6 CHANGE REQUEST

6.1 Any changes or enhancements to the Identical NEMO Components and Individual NEMO Components that are governed by the IDOA Change Control Procedure, are subject to the IDOA Change Control Procedure. For any decision to be taken by the NEMOs under the IDOA Change Control Procedure, shall apply.

6.2

[REDACTED]

[REDACTED]

6.3 In respect of Individual NEMO Components for SIDC/IDCT, only the Changes that require changes of the Identical NEMO Components or that impact the functionalities or the operation of the Identical NEMO Components, are subject to Schedule 6 (NEMO SIDC Change Control Procedure).

6.4 The results of changes to the Identical NEMO Components in compliance with the applicable change control procedure shall automatically be considered an Identical NEMO Component except to the extent the ID Operational NEMOs decide otherwise in accordance with Article 5.3.2.2.

6.5 New developments of Identical NEMO Components shall be tested by the ID Operational NEMOs, unless TSOs only shall, according to the IDOA, perform the testing for these developments. Non-operational ID NEMOs do not to participate in such tests performed by the ID Operational NEMOs and shall be bound by any acceptance of such new developments by the other ID Operational NEMOs.

6.6 Changes to the SIDC/IDA Assets and Individual NEMO Components used for SIDC/IDA Operations

6.6.1. Any request for changes for SIDC/IDA by an ID NEMO or a subset of the ID NEMOs to any of the SIDC/IDA Assets and Individual NEMO Components used for SIDC/IDA Operations shall be compliant with the following principles:

i) in case of changes to SIDC/IDA CIP Tool, the IDOA change control procedure solely applies;

ii) in case of changes to Euphemia and/or PMB, the relevant provisions of IDOA shall apply. Following the final approval of the request for change to Euphemia and PMB by the ID Operational NEMOs consistently with the relevant provisions of IDOA, the PCR Co-owners shall request the relevant SIDC/IDA Third Party Service Provider to implement the approved change.

iii) in case of changes to Individual NEMO Components, the IDOA change control procedure applies to the extent that such change has an impact on the SIDC/IDA Operations;

6.6.2. Any request for change for SDAC by a Party or a subset of the Parties to Euphemia and/or PMB or Individual NEMO Components used for SIDC/IDA must comply with the relevant provision of IDOA in case such request for change may have an impact on SIDC/IDA Operations.

6.6.3 The foregoing is without prejudice to the obligation of the ID NEMOs to use at all times the same version of the SIDC/IDA Assets for SIDC/IDA Operations.

6.7 Changes involving TSOs requirements for the XBID System

In respect of TSOs requirements related to Identical NEMO Components or to TSOs only

Components (e.g. CMM), ID Operational NEMOs shall jointly submit the relevant TSOs only change requests accepted under the IDOA to the XBID System Service Provider and, if agreed with the TSOs, negotiate these with the XBID System Service Provider.

Article 7 IMPLEMENTATION OF THE XBID SOLUTION

7.1. Each ID NEMO commits to conclude the necessary agreements for the implementation of the XBID Solution and to put into service, use and operate the Identical NEMO Components as soon as reasonably possible, with the objective to implement, in accordance with the Applicable Law, the XBID Solution in the Bidding Zones where such ID NEMOs operates.

The foregoing implies that the ID NEMO(s) on each side of an interconnector that take into account the cross border capacity in the continuous matching of the orders submitted in its (their) Bidding Zone are competent for ensuring and commit to ensure that i) the necessary arrangements with the TSO(s) and/or the necessary regulation(s) to allocate intraday cross border capacity for the interconnector concerned and ii) the related cross border shipping arrangements and Clearing and Settlement Arrangements are in place as soon as possible and in any event as of the Go-Live for the ID NEMOs concerned by such Go-Live

7.2. The ID Operational NEMOs shall decide unanimously on the operational readiness of the Identical NEMO Components. The ID Operational NEMOs may unanimously decide to put into operation Identical NEMO Components even though not all requirements referred to in Article 4 are yet available.

7.3. Without prejudice to Article 7.2, if any NEMO(s) is(are) ready and wish(es) to use Identical NEMO Components for operating the XBID Solution subject to successful testing for a local isolate market, it (they) may exceptionally and temporarily use Identical NEMO Components provided that the productive environment provided by the XBID System Service Provider (and only that one) is used, subject to decision of the NEMO Committee (which shall address amongst others related cost sharing aspects) and in compliance with the IDOA Change Control Procedure and Schedule 6 (NEMO SIDC Change Control Procedure).

7.4. The operation of the LTS of an Operational NEMO remains the individual responsibility of such Operational NEMO and falls outside the scope of the Agreement although the operation of the LTS must be in accordance with the Agreement.

8 CONTRACTUAL MODEL OF SERVICES TO BE CONTRACTED IN THE CONTEXT OF THE ID NEMO COOPERATION

8.1 Services related to Identical NEMO Components

8.1.1 In deviation from Clause 6.1 a) (of the main body) and unless differently decided by the NEMO Committee, any assignment by the ID Operational NEMOs to an ID

NEMO or a Third Party to perform services regarding Identical NEMO Component in the context of the development, testing, implementation and IT Operation, shall be under a multilateral services (level) agreement to be entered into by all ID NEMOs together with the relevant ID Third Party Service Provider or any other service provider selected pursuant to Clause 6 (of the main body) and comprising any provision requested by any ID NEMOs if required to comply with its Applicable Law or, if such service provider refuses the inclusion of such provision in the multilateral service (level) agreement, under a contractual structure to be agreed upon by the ID Operational NEMOs.

- 8.1.2 The content of the service (level) agreement referred to under Article 8.1.1 shall be agreed upon jointly by all the ID Operational NEMOs and shall encompass the common and standard clauses for such type of service amongst which clauses in respect of, inter alia, service description, auditability of costs, fee indexation or adaptation, termination, change management, performance management (including service levels), liability and penalties for non-performance as well as the points mentioned under Clause 6.2 (of the main body) .
- 8.1.3 Securing the compliance of the service (level) agreement with any Applicable Law is the duty of the ID NEMO(s) that enter into such service (level) agreement.
- 8.1.4 The principles set forth in this Article 8.1 shall also be applicable to any acquisition of rights, including Intellectual Property Rights, and title to any interests in assets, goods or materials, including documentation and Confidential Information.

8.2 Services related to specific Individual NEMO Components

- 8.2.1 An ID NEMO may contract the development of specific functionalities of a LTS connected to the XBID System and developed by the XBID System Service Provider provided that:
- i) the XBID System Service Provider has undertaken appropriate commitments to ensure that:
 - A) the granting of rights by the XBID System Service Provider shall in no way prevent the other NEMOs to be granted at least the same rights in the specific functionalities; and
 - B) NEMOs who have procured or wish to procure a trading system connected to the XBID System and developed by the XBID System Service Provider are treated in a fair and non-discriminatory manner by the XBID System Service Provider in respect of the costs charged for and the terms and modalities applicable to any granted rights; and
 - ii) the possibility is guaranteed towards other ID NEMOs to convert upon agreement of all ID NEMOs such rights into a joint license or joint ownership.

8.2.2 Securing the compliance of the service agreement for the development of such specific functionalities with any Applicable Law is the duty of the ID NEMO(s) that enter into such service agreement.

8.2.3 The principles set forth in this Article 8.2 shall also be applicable to any acquisition of rights, including Intellectual Property Rights, and title to any interests in assets, goods or materials, including documentation and Confidential Information.

8.3 Services related to Euphemia and PMB

8.3.1 ID Third Party Service Providers of the Euphemia and PMB

8.3.1.1 For the purposes of the SIDC/IDA, the PCR Co-owners undertake to procure and manage the development and maintenance of Euphemia and PMB in accordance with the relevant provisions of IDOA and of this Agreement. In particular, the PCR Co-owners shall:

- a. manage the implementation with the ID Third Party Service Providers of Euphemia and PMB of change requests agreed consistently with the relevant provisions of IDOA and of this Agreement
- b. pay the ID Third Party Service Providers of Euphemia and PMB consistently with the provisions of Schedule 2 (Financial modalities / budget / invoicing modalities).

8.3.1.2 The non PCR Co-owner NEMOs accept the ID Third Party Service Providers of Euphemia and PMB for the purposes of the SIDC/IDA and acknowledge that there are contracts in place between them and the PCR Co-owners at the time of the entering into force of this Agreement.

8.3.1.3 In the event of negotiations with the ID Third Party Service Providers of Euphemia and PMB concerning SIDC/IDAs, such as negotiations on change requests, the PCR Co-owners shall regularly inform the non PCR Co-owner NEMOs on the status of such negotiations.

8.3.1.4 Following a successful claim of a ID Third Party Service Provider of Euphemia and/or PMB directly related to the provision of services for Euphemia and/or PMB in the context of their usage for SIDC/IDAs, non PCR Co-owner NEMOs shall share on equal basis with the PCR Co-owners (with all ID NEMOs bearing the same share) any indemnification that the PCR Co-owners are due to pay to such ID Third Party Service Provider of Euphemia and/or PMB - including any related procedural costs (including attorney's fees and internal costs) borne by the PCR Co-owners, provided that such claim:

- a. is a direct consequence of instructions approved by the NEMO Committee and /or MCSC; and
- b. does not derive from i) a breach of contract with the ID Third Party Service Provider of Euphemia and/or PMB which qualifies as fraud or intentional misconduct or gross misconduct or gross negligence committed by the PCR Co-owners or ii) a breach of the Agreement by the PCR Co-owners.

8.3.1.5 In the event of indemnifications paid by the ID Third Party Service Provider of Euphemia and/or PMB directly related to the provision of services for Euphemia and/or PMB

in the context of their usage for SIDC/IDAs, such indemnification shall be shared among the affected non PCR Co-owner NEMOs and the PCR Co-owners proportionally to the amount of the effective individual damage. In such event, non PCR Co-owners shall share on equal basis with the PCR Co-owners (with all ID NEMOs bearing the same share) any related procedural costs (including attorney's fees and internal costs) which the PCR Co-owners would not be able to recover from the ID Third Party Service Provider.

8.3.1.6 Should a non PCR Co-owner NEMO suffer a direct damage from any act or omission of a ID Third Party Service Provider of Euphemia and/or PMB directly related to the provision of services for the SIDC/IDAs, such non PCR Co-owner NEMO is entitled to request the PCR Co-owners to lodge a claim against the ID Third Party Service Provider of Euphemia and/or PMB. Following such request, the relevant PCR Co-Owner shall then lodge the claim against the concerned ID Third Party Service Provider of Euphemia and/or PMB it being understood that:

- i) only the relevant PCR SPOC shall lead the claim although fully cooperating with the concerned non PCR Co-owner NEMO in any response and defense as reasonably required;
- ii) the relevant PCR SPOC shall not enter into any settlement without the prior consent of the concerned non PCR Co-owner NEMO, such consent not to be unreasonably withheld or delayed;
- iii) the concerned non PCR Co-owner NEMO waives any right to claim compensation for damages from the PCR Co-owners in case no or partial indemnification is paid by the concerned ID Third Party Service Provider of Euphemia and/or PMB;
- iv) the concerned non PCR Co-owner NEMO shall indemnify the relevant PCR SPOC for any related procedural costs (including attorney's fees and internal costs) which the latter would not be able to recover from the ID Third Party Service Provider of Euphemia and/or PMB.

For the avoidance of any doubt, the liability and compensation limitations set forth in this Agreement and in the agreement in force with the ID Third Party Service Provider of Euphemia and/or PMB are in no way affected by this provision.

8.3.1.7 Should any Third Party set a successful claim based on the breach of procurement law that is not applicable to the PCR Co-owners, the non PCR Co-owner NEMO(s) to whom such procurement law is applicable to shall reimburse the PCR Co-owners for any indemnification paid to such Third Party.

9 SPECIFIC PROVISIONS REGARDING THE RELATION WITH THE XBID SYSTEM SERVICE PROVIDER

9.1 [REDACTED]

9.2

9.3

10 TRADED PRODUCTS

10.1 Global Products

Only Global Products can be traded via the XBID System.

In respect of Global Products NEMOs shall comply with the relevant provisions of the CACM Regulation and the applicable Methodologies.

Changes to the Global Products shall be subject to the IDOA Change Control Procedure.

10.2 SIDC/IDA Products

Only SIDC/IDA Products can be traded via the SIDC/IDA Assets.

In respect of SIDC/IDA Products, NEMOs shall comply with the relevant provisions of the CACM Regulation and the applicable Methodologies.

Changes to the SIDC/IDA Products shall be subject to the IDOA Change Control Procedure and/or Schedule 6 (NEMO SIDC Change Control Procedure).

11 GO-LIVE & TECHNICAL READINESS

11.1 In respect of Go-Live, NEMOs shall comply with the relevant provisions of the IDOA regarding Go-Live and technical readiness.

11.2 Accession to all agreements with joint service providers for SIDC/IDCT or SIDC/IDA, including any agreements to be signed according to such agreements with such service

providers (e.g. the escrow agreement mentioned in attachment 3A to the XBID-DSA License), is required for an Operational NEMO's Go-Live.

11.3 In order to participate in SIDC/IDAs Operations, each ID NEMO shall perform the testing and simulations of the SIDC/IDA System set under the IDOA.

11.4 Clearing and Settlement Arrangements

11.4.1 ID NEMOs commit to cooperate to ensure that the Clearing and Settlement Arrangements are put into place by the concerned entities performing clearing and settlement as of Go-Live for the ID NEMOs concerned by such Go-Live.

11.4.2 ID NEMOs shall be entitled to execute Go-Live provided the relevant Clearing and Settlement Arrangements are in force.

11.4.3 ID NEMOs shall discuss and decide on the joint requirements in respect of Clearing and Settlement Arrangements and shall ensure that any such agreed joint requirements are implemented in the Clearing and Settlement Arrangements.

12 DAY TO DAY OPERATION

12.1 Day to day operation of the ID MCO Function

12.1.1 General principle

12.1.1.1 The Operational NEMOs shall operate the ID MCO Functions and in particular the SOB in compliance with the provisions on operations as set forth in the CACM Regulation, the MCO Plan, the Methodologies, the IDOA and the Agreement (including the ID Operational Procedures as set forth in the ID Operational Procedures. To the extent the ID Operational Procedures refer to all NEMOs or to all PXs, such reference is to be understood as a reference to the ID Operational NEMOs only.

12.1.1.2 Detailed local procedures may be defined in the Local Arrangements, if needed, between the relevant subset of ID NEMOs. These local procedures shall comply with the principles set forth in Clause 2.5.1, 2.5.2 and 2.5.3 (of the main body).

12.1.1.3 The ID NEMOs shall comply with the technical requirements regarding the day to day operation of the ID MCO Function, as set forth in section III of the Annex II (Technical requirements).

12.1.2 Operational roles

12.1.2.1 Admin roles

In respect of administration of the SOB and the Shipping Module (SM), the following tasks are distinguished, as further described in the ID Operational Procedures:

- (a) the SOB NEMO Admin (SOB NA);
- (b) the SM NEMO Admin (SM NA); and
- (c) the NEMO Central Admin (NCA).

The abovementioned roles are to be performed in accordance with the description in the ID Operational Procedures, and each NEMO performing this role shall take the necessary measures to avoid the damage caused to other NEMOs while performing these roles and to take the required actions in case of errors or irregularities. In case of errors or irregularities the other NEMOs shall as soon as possible inform the relevant NEMOs in order to perform the relevant actions.

Each Operational NEMO shall nominate a SOB NEMO Admin (either a person of its own company or of another Operational NEMO) in accordance with the ID Operational Procedures and Annex IV (NEMO Central Admin services).

Each Operational NEMO shall nominate a SM NEMO Admin (either a person of its own company or of another Operational NEMO) in accordance with the ID Operational Procedures. The NEMO Central Admin services shall be governed by Annex IV (NEMO Central Admin services).

All Operational NEMOs agree to appoint the NEMO Central Admin in accordance with Annex IV (NEMO Central Admin services).

The ID NEMOs shall comply with the technical requirements regarding the NEMO Central Admin, as set forth in section III.4 of the Annex II (Technical requirements).

12.1.2.2 IC SPOC Role

Annex 1 to exhibit 15 of the IDOA regarding IC SPOC Services (as amended from time to time) shall apply to the IC SPOC Services provided by a NEMO to the other NEMOs.

[REDACTED]

[REDACTED]

i) [REDACTED]

ii) [REDACTED]

iii)

[REDACTED]

iv)

[REDACTED]

The NEMO assigned to perform effectively the IC SPOC Services shall pay such amount to the NEMO that provided the IC SPOC Services as back-up.

12.1.2.3 MPLS Network Service Provider SPOC

In respect of the network communication services for connection between the XBID System and the LTS of the NEMOs provided by the MPLS Network Service Provider, all Operational NEMOs agree to appoint a MPLS Network Service Provider SPOC for the services described in Annex III (SIDC/IDCT Operational Procedures). The NEMO providing the IC SPOC Services shall act as MPLS Network Service Provider SPOC.

12.1.3 Process in case of an Incident during operations

12.1.3.1 In case of an Incident during operations ID Operational NEMOs shall follow the relevant operational procedures of IDOA and the SIDC/IDCT Operational Procedures.

12.1.3.2 In case of an Incident during operations, ID NEMOs agree that any instruction to XBID System Service Provider to stop the XBID System from running shall be subject to a unanimous decision of all affected ID Operational NEMOs. Any decision to restart the XBID System, as well as the decision to make it again available for operations (in case the restart and the use for operations is not at the same time (“market put on hold”)), shall be subject to a unanimous decision of all affected ID Operational NEMOs and each affected ID Operational NEMOs shall take the necessary measures to avoid that in cases where the XBID System Service Provider has restarted the XBID System but that the market is put on hold, orders are submitted to the XBID System.

12.1.3.3 Article 7.2. IDOA also applies *mutatis mutandis* in case of Incidents affecting Operational NEMOs only.

12.2 Day to day operation of the SIDC/IDA

12.2.1 Principles

12.2.1.1 Coupling

Any ID Operational NEMO is entitled to participate in SIDC/IDA Operations directly (as SIDC/IDA Operator) or indirectly (as SIDC/IDA Serviced NEMO), following the:

- i) compliance with the specific requirements set for the safety and reliability of operations established in Annex III (SIDC/IDA Operational Procedures); and
- ii) successful completion of the testing and simulations of the SIDC/IDA System set under the IDOA;
- iii) it is understood that, in respect of SIDC/IDA Serviced NEMO, the above conditions shall be complied with by its respective SIDC/IDA Servicing NEMO;
- iv) each Operational NEMO is responsible for the SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Market Coupling Final Results in respect of its SIDC/IDA Individual Input Data, since each Operational NEMO has the opportunity, directly or via delegation through its SIDC/IDA Servicing NEMO, to validate its SIDC/IDA Unconfirmed Results. The delegation and the operational details that shall apply between a SIDC/IDA Serviced NEMO and its SIDC/IDA Servicing NEMO shall be established under the relevant bilateral service agreement;
- v) it is understood, that the Go-Live Date of an ID NEMO shall be fixed only once its compliance with all the requirements set under the Agreement is verified by the competent bodies, consistently with the relevant SIDC/IDA Operational Procedures and in compliance with the operational procedures of the IDOA.

12.2.1.2 Each SIDC/IDA Daily Observer has the right to receive information on the SIDC/IDA Operations during its performance (e.g. via emails and/or silent participation in the SIDC/IDA Session Calls), but without any right to directly intervene (i.e. speak) within the SIDC/IDA Session Calls, except in case of an Incident in which case the affected SIDC/IDA Daily Observer is entitled to directly intervene (i.e. speak) in accordance with the operational procedures of IDOA

12.2.1.3 In order to perform SIDC/IDA Operations:

- i) one SIDC/IDA Coordinator and one SIDC/IDA Backup Coordinator shall be appointed in accordance with the provisions of this Article and Annex III(SIDC/IDA Operational Procedures);
- ii) the SIDC/IDA Coordinator, the SIDC/IDA Backup Coordinator and the SIDC/IDA NEMO Operators shall install and operate a version of SIDC/IDA System accepted by all the SIDC/IDA NEMO Operators (i.e. certified version);
- iii) there will be no direct communication between a SIDC/IDA Serviced NEMO and SIDC/IDA NEMO Operators during the performance of SIDC/IDA Operations, other than through its SIDC/IDA Servicing NEMO. The SIDC/IDA Serviced NEMO delegates at least its responsibility for real-time operational processes to the SIDC/IDA Servicing NEMO.

12.2.1.4 The SIDC/IDA Operations shall on a daily basis be simultaneously performed by the SIDC/IDA Coordinator, the SIDC/IDA Backup Coordinator and by the SIDC/IDA NEMO Operators entitled to take over the SIDC/IDA Coordinator and SIDC/IDA Backup Coordinator role in accordance with the provisions of this Article, Annex II (Technical requirements) and Annex III (SIDC/IDA Operational Procedures). The SIDC/IDA NEMO Operators have the right to perform in

shadow mode SIDC/IDA Operations as defined in the ID Operational Procedures.

12.2.1.5 In order to perform SIDC/IDA Operations, each Operator shall send to the PMB, using standard formats, its SIDC/IDA Individual Input Data (including the SIDC/IDA Individual Input Data of its SIDC/IDA Serviced NEMO(s)), on a daily basis in accordance with the provisions of the ID Operational Procedures. In respect of its SIDC/IDA Individual Input Data, each SIDC/IDA NEMO Operator is responsible only for the data submitted on its SIDC/IDA Trading Platform and the SIDC/IDA Trading Platform of its SIDC/IDA Serviced NEMO, as the case may be.

12.2.1.6 Taking into account the information provided pursuant to Article 12.2.1.5, the SIDC/IDA Coordinator, the SIDC/IDA Backup Coordinator, and the SIDC/IDA NEMO Operators entitled to take over the SIDC/IDA Coordinator and SIDC/IDA Backup Coordinator role shall calculate on a daily basis the SIDC/IDA Unconfirmed Results by operating the SIDC/IDA System in accordance with the SIDC/IDA Operational Procedures. The SIDC/IDA Unconfirmed Results produced by the SIDC/IDA System, as calculated by the SIDC/IDA Coordinator, shall be used for the validation process of the SIDC/IDA Preliminary Market Coupling Results and the SIDC/IDA Market Coupling Results. Each SIDC/IDA NEMO Operator is entitled to accept or reject the SIDC/IDA Unconfirmed Results calculated by the SIDC/IDA Coordinator on the basis of the calculations concerning its SIDC/IDA Individual Input Data (including the SIDC/IDA Individual Input Data of its SIDC/IDA Serviced NEMO(s)), in accordance with the provisions of the SIDC/IDA Operational Procedures. The agreed reasons for rejecting the SIDC/IDA Result calculated by of the SIDC/IDA Coordinator may be only the following:

- a. Portfolio allocation checks not successfully performed;
- b. Core requirements not fulfilled (e.g.: flows greater than the limit);
- c. Any other reason accepted by the NEMO Committee as reason for rejecting the SIDC/IDA Unconfirmed Results.

The Operator rejecting the SIDC/IDA Unconfirmed Results calculated by the SIDC/IDA Coordinator shall motivate the rejection by indicating one of the above reasons.

12.2.1.7 In the event of an Incident, the SIDC/IDA Coordinator, the SIDC/IDA Backup Coordinator and SIDC/IDA NEMO Operator(s) shall participate in a conference call convened by the SIDC/IDA Coordinator (the "SIDC/IDA Incident Committee") pursuant to the operational procedures of IDOA. It is understood that the management of Incident is out of the scope of this Agreement and governed by IDOA.

12.2.1.8 Any Incident shall be referred to the first following meeting of the ID OPSCOM with a view to evaluating if and what measures need to be taken to prevent such Incident in the future.

12.2.1.9 During SIDC/IDA Operations, the SIDC/IDA Coordinator, the SIDC/IDA Backup Coordinator and the SIDC/IDA NEMO Operator(s) undertake(s) to perform the

tasks set forth in Articles 12.2.7 and 12.2.8 and 12.2.9. In the event the SIDC/IDA Coordinator fails to perform the SIDC/IDA Coordinator role as described in Article 12.2.7, the SIDC/IDA Backup Coordinator, as indicated in the SIDC/IDA Operational Calendar, shall take over the SIDC/IDA Coordinator role.

12.2.1.10 The SIDC/IDA Coordinator, SIDC/IDA the Backup Coordinator and SIDC/IDA NEMO Operator(s) i) can have access at the same time to the required information to assess due performance of SIDC/IDA Operations and have the possibility to intervene to ensure due performance of SIDC/IDA Operations, and ii) have the possibility to run in shadow mode in real time Euphemia and iii) have the right to Partially Decouple or request Cancellation under the conditions set forth in 12.2.2 and 12.2.3.

12.2.1.11 It is understood that in case of failure of an Operator, SIDC/IDA Operations will continue applying the relevant procedure set in the SIDC/IDA Operational Procedures.

12.2.2 Partial Decoupling

12.2.2.1 Provided that:

- i) each ID Operational NEMO – it being understood that any decision taken in this respect by a SIDC/IDA Serviced NEMO is communicated to the SIDC/IDA NEMO Operators by its SIDC/IDA Servicing NEMO - has the right to Partially Decouple as a last resort solution pursuant to Article 12.2.9.3; and
- ii) Partial Decoupling is provided by the SIDC/IDA Operational Procedures in case of inability of an Operational NEMO to provide SIDC/IDA Individual Input Data;
- iii) fall-backs are provided by the SIDC/IDA Operational Procedures;

Partial Decoupling undertaken in compliance with the SIDC/IDA Operational Procedures shall not constitute a default or a contractual breach by the relevant ID Operational NEMOs.

12.2.2.2 An Operational NEMO which becomes aware of a default of its central counter party shall, acting in good faith, give due consideration to whether in all the circumstances and given the possible adverse effects on the overall market it should Partially Decouple from one or more areas of the SIDC/IDA market according to the SIDC/IDA Operational Procedures and until the circumstances impacting its central counterparty have been resolved.

12.2.3 Cancellation

12.2.3.1. Cancellation is governed by IDOA. For the avoidance of any doubt, the ID NEMOs agree that:

- i) Cancellation undertaken in compliance with the operational procedures of IDOA shall not constitute a default or a contractual breach by the ID NEMOs under this Agreement;
- ii) NEMOs are not entitled to claim against each other under this Agreement in case Cancellation is undertaken in breach of the operational procedures of IDOA.

12.2.3.2. As a consequence of art. 12.2.2. and 12.2.3, to the extent possible under the Applicable Law, each ID Operational NEMO hereby commits before its Go-Live:

i) to provide in either one or more of the following options:

a. its Market Rules; or

b. in any unilateral act enforceable towards a Third Party related to the performance of the SIDC/IDA Operations; or

c. in any legal/regulatory provision enforceable towards a Third Party related to the performance of the SIDC/IDA Operations;
or

d. in any agreements entered into with a Third Party – such as, but not limited to, a market participant, a TSO - related to the performance of the SIDC/IDA Operations,

that it is entitled to implement Partial Decoupling and/or Cancellation and that Partial Decoupling and/or Cancellation is an agreed solution in case of Incident adopted by the relevant Market Rules consistently with the relevant Methodologies, it being understood that, as consequence, Partial Decoupling and/or Cancellation does not lead in itself to any indemnification obligation towards such Third Parties for damages incurred by such Partial Decoupling and/or Cancellation. Additionally, no ID NEMO may provide that SIDC/IDA Operations are conducted under an obligation of result.

- ii) to provide their Best Efforts to defend themselves and the other ID NEMO(s) according to the principle set under 12.2.4.1 in case of a contractual or extra-contractual Third Party claim;

- iii) without prejudice to Clause 12 (Communication) as regards communication to Third Parties, not to express any opinion in contradiction with the principle set under 12.2.4.1.
- iv) pursuant to Article 14.1.1.1. (Waivers) not to claim from the other Operational NEMOs any damage arising from Partial Decoupling and/or Cancellation and/or SIDC/IDA Suspension.

12.2.3.3. To the extent permitted under Applicable Law, the ID Operational NEMOs will adopt all reasonable measures to prevent Partial Decoupling and/or Cancellation and/or SIDC/IDA Suspension from being considered by any Third Party - such as a market participant or TSO – as a default or a breach of this Agreement.

12.2.4 SIDC/IDA Coordinator role

The SIDC/IDA Coordinator undertakes:

- i) to coordinate and supervise the SIDC/IDA Operations, in accordance with the SIDC/IDA Operational Procedures, by:
 - a. verifying during the timings indicated in the SIDC/IDA Operational Procedures that the SIDC/IDA System installed in its IT environment, the interfaces to the other ICT systems involved in SIDC/IDA Operations and the data exchange mechanisms and procedures are functioning according to the SIDC/IDA Operational Procedures, and to keep all SIDC/IDA NEMO Operators, SIDC/IDA Daily Observers and SIDC/IDA Service Providers informed in accordance with the SIDC/IDA Operational Procedures;
 - b. convening the SIDC/IDA Session Call;
 - c. acting as single point of contact of all ID Operational NEMOs for all communications related to the performance of SIDC/IDA Operations;
 - d. requesting from the SIDC/IDA Backup Coordinator and any SIDC/IDA NEMO Operator the information required according to the SIDC/IDA Operational Procedures in the context of the performance of SIDC/IDA Operations and ensuring the receipt of such information;

- e. replying to any request formulated by the SIDC/IDA Backup Coordinator or an SIDC/IDA NEMO Operator in accordance with the SIDC/IDA Operational Procedures;
- ii) to perform SIDC/IDA Operations and calculate the SIDC/IDA Unconfirmed Results in accordance with Article 12.2 and the SIDC/IDA Operational Procedures;
- iii) to accept that a SIDC/IDA Backup Coordinator takes over its role in the cases mentioned in the SIDC/IDA Operational Procedures and to take the necessary actions, if any, to that effect;
- iv) to intervene in the event of an Incident by performing the actions indicated in the SIDC/IDA Operational Procedures;
- v) to indicate to the SIDC/IDA Backup Coordinator and SIDC/IDA NEMO Operators the actions that they must perform in accordance with the SIDC/IDA Operational Procedures, either individually or in cooperation with the SIDC/IDA Backup Coordinator, other SIDC/IDA operators (TSOs and/or NEMOs) or the SIDC/IDA Coordinator;
- vi) to convene an SIDC/IDA Incident Committee in accordance with the SIDC/IDA Operational Procedures and/or the Joint SIDC Procedures in the event of an Incident;
- vii) to fill out and provide the SIDC/IDA Backup Coordinator and all SIDC/IDA NEMO Operators and SIDC/IDA Daily Observers with a report in accordance with the standard format attached to the SIDC/IDA Operational Procedures, summarizing the steps verified during that day SIDC/IDA session by the SIDC/IDA Coordinator according to the SIDC/IDA Operational Procedures;
- viii) to fill out and provide the SIDC/IDA NEMO Operators and the SIDC/IDA Daily Observers with an Incident report for all Incidents, with a description of the Incident, the estimated cause and the measures taken to remedy such Incident;
- ix) to convene the SIDC/IDA Operational Calls, if foreseen by the SIDC/IDA Operational Procedures.

12.2.5 SIDC/IDA Backup Coordinator role

The SIDC/IDA Backup Coordinator undertakes:

- i) to verify that the SIDC/IDA System installed in its IT environment, the interfaces with other ICT systems involved in SIDC/IDA Operations and the data exchange mechanisms and procedures are functioning in accordance with the SIDC/IDA Operational Procedures and to inform the SIDC/IDA Coordinator of any irregularity;
- ii) to perform SIDC/IDA Operations and calculate in shadow mode the SIDC/IDA Unconfirmed Results produced by the SIDC/IDA System, in accordance with Article 12.2.1.10 and the SIDC/IDA Operational Procedures and indicate any irregularity it may become aware of to the SIDC/IDA Coordinator;
- iii) to ensure that it is prepared to take over the SIDC/IDA Coordinator role at any moment, in accordance with the SIDC/IDA Operational Procedures and the SIDC/IDA Operational Calendar;
- iv) within the SIDC/IDA Incident Committee, in accordance with the SIDC/IDA Operational Procedures and/or the Joint SIDC Procedures, to take over the role of SIDC/IDA Coordinator in accordance with the SIDC/IDA Operational Calendar if it is indicated as first following SIDC/IDA Coordinator therein, perform the SIDC/IDA Operations and calculate the SIDC/IDA Unconfirmed Results in accordance with Article 12.2.1.6 and the SIDC/IDA Operational Procedures ;
- v) to provide, in accordance with the SIDC/IDA Operational Procedures, the SIDC/IDA Coordinator with any information requested pursuant to the SIDC/IDA Operational Procedures;
- vi) to participate in any SIDC/IDA Session Call or SIDC/IDA Incident Committee convened by the SIDC/IDA Coordinator in accordance with the SIDC/IDA Operational Procedures and/or the Joint SIDC Procedures; in the event the SIDC/IDA Backup Coordinator will not participate in the SIDC/IDA Session Call, SIDC/IDA Operational Call or SIDC/IDA Incident Committee, the SIDC/IDA Backup Coordinator is deemed to have accepted any decision taken during such SIDC/IDA Session Call, SIDC/IDA Operational Call or SIDC/IDA Incident Committee pursuant to the SIDC/IDA Operational Procedures and/or the Joint SIDC Procedures;

vii) to comply with any measure taken in the SIDC/IDA Session Call, SIDC/IDA Operational Call or SIDC/IDA Incident Committee pursuant to the SIDC/IDA Operational Procedures and/or the Joint SIDC Procedures.

12.2.6 SIDC/IDA NEMO Operator role

12.2.6.1. Any SIDC Operational NEMO is entitled to participate in SIDC/IDA Operations as SIDC/IDA NEMO Operator provided that such SIDC Operational NEMO:

- i) is a PCR Co-Owner or a PCR Licensee; and
- ii) satisfies specific technical requirements set in Annex III (SIDC/IDA Operational Procedures).

12.2.6.2. For each session of SIDC/IDA Operations, the SIDC/IDA NEMO Operator that is indicated as first following SIDC/IDA Backup Coordinator in the SIDC/IDA Operational Calendar shall take over the SIDC/IDA Coordinator role at any moment, in case both the SIDC/IDA Coordinator and SIDC/IDA Backup Coordinator for such session are not able to perform the SIDC/IDA Operations, and calculate the SIDC/IDA Unconfirmed Results in accordance with Article 12.2.1.6 and the SIDC/IDA Operational Procedures.

12.2.6.3. The SIDC/IDA NEMO Operator is entitled to ask the SIDC/IDA Coordinator, under the conditions set under the SIDC/IDA Operational Procedures and before sending to the SIDC/IDA Coordinator the respective SIDC/IDA Individual Input Data, to undertake SIDC/IDA Partial Decoupling, bearing in mind however, that SIDC/IDA Partial Decoupling and/or Cancellation shall only serve as a last resort solution.

12.2.6.4. Each SIDC/IDA NEMO Operator undertakes and has the right:

- i) to verify that its SIDC/IDA System, the interfaces with other ICT systems involved in SIDC/IDA Operations and the data exchange mechanisms and procedures are functioning in accordance with the SIDC/IDA Operational Procedures and to inform the SIDC/IDA Coordinator of any irregularity;
- ii) in the case it calculates in shadow mode the SIDC/IDA Unconfirmed Results in accordance with Article 12.2.1.10 and the SIDC/IDA Operational Procedures, to indicate any irregularity it may become aware of to the SIDC/IDA Coordinator;

- iii) to ensure that its contact details set in the SIDC/IDA Operational Procedures are updated;
- iv) to provide, in accordance with the SIDC/IDA Operational Procedures, the SIDC/IDA Coordinator with any information requested pursuant to the SIDC/IDA Operational Procedures;
- v) to participate in any SIDC/IDA Session Call, SIDC/IDA Operational Call and SIDC/IDA Incident Committee convened by the SIDC/IDA Coordinator in accordance with the SIDC/IDA Operational Procedures and/or the Joint SIDC Procedures; in the event an SIDC/IDA NEMO Operator does not participate in the SIDC/IDA Session Call, SIDC/IDA Operational Call and SIDC/IDA Incident Committee, such SIDC/IDA NEMO Operator is deemed to have accepted any decision taken during that SIDC/IDA Session Call, SIDC/IDA Operational Call and SIDC/IDA Incident Committee pursuant to the SIDC/IDA Operational Procedures and/or the Joint SIDC Procedures;
- vi) to comply with any measure taken in the SIDC/IDA Session Call, SIDC/IDA Operational Call, and SIDC/IDA Incident Committee pursuant to the SIDC/IDA Operational Procedures and/or the Joint SIDC Procedures;
- vii) to run in real time Euphemia in shadow mode; and
- viii) to accept or reject the SIDC/IDA Unconfirmed Results according to Article 12.2.1.6 in respect of its SIDC/IDA Individual Input Data and/or of any one or more of its SIDC/IDA Serviced NEMO(s), as the case may be.

12.2.7 Appointment of SIDC/IDA Coordinator and SIDC/IDA Backup Coordinator

12.2.7.1. Any SIDC/IDA NEMO Operator is entitled to act as SIDC/IDA Coordinator and/or as SIDC/IDA Backup Coordinator on a rotating basis provided that the conditions established in the relevant NEMO Operational Procedure for acting as SIDC/IDA Coordinator and SIDC/IDA Backup Coordinator are duly fulfilled. Nevertheless, each ID NEMO is entitled to renounce to its SIDC/IDA Coordinator or SIDC/IDA Backup Coordinator task, upon timely request to the NEMO Committee.

12.2.7.2. Only one ID Operational NEMO can act as SIDC/IDA Coordinator or SIDC/IDA Backup Coordinator for SIDC/IDA Operations at a given time/day. In the event several

ID Operational NEMOs have requested to act as SIDC/IDA Coordinator or SIDC/IDA Backup Coordinator, such ID Operational NEMOs shall act as SIDC/IDA Coordinator or SIDC/IDA Backup Coordinator on a rotating basis in accordance with Article 12.2.10.1.

12.2.7.3. The NEMO Committee shall approve the SIDC/IDA Operational Calendar in which it is indicated which ID Operational NEMO shall act as SIDC/IDA Coordinator or as SIDC/IDA Backup Coordinator respectively, in accordance with the SIDC/IDA Operational Procedures. Any request to act as SIDC/IDA Coordinator and SIDC/IDA Backup Coordinator shall be addressed to the NEMO Committee. Once the request is received by the NEMO Committee and provided that the conditions established in the Agreement and in the SIDC/IDA Operational Procedures for acting as SIDC/IDA Coordinator and SIDC/IDA Backup Coordinator are fulfilled, upon recommendation by the ID OPSCOM the NEMO Committee shall accept the inclusion of the ID Operational NEMO in the SIDC/IDA Operational Calendar and the NEMO Committee or any other body designated by the NEMO Committee shall adjust the SIDC/IDA Operational Calendar accordingly. The NEMO Committee shall decide as of which day a new party to the Agreement shall start its performance as SIDC/IDA Coordinator.

12.2.7.4. In case of non-fulfilment of its obligations as described above, the SIDC/IDA Coordinator or SIDC/IDA Backup Coordinator may be suspended by a decision of the NEMO Committee which shall be taken without the vote of the ID NEMO that should be suspended from the performance of the SIDC/IDA Coordinator or SIDC/IDA Backup Coordinator role.

12.2.8 Remuneration of Coordinator and Backup Coordinator

Remuneration of SIDC/IDA Coordinator and SIDC/IDA Backup Coordinator roles is described in Schedule 2 (Financial modalities / budget / invoicing modalities).

12.2.9 Publication of SIDC/IDA Market Coupling Results

12.2.9.1. Each ID Operational NEMO will publish its SIDC/IDA Market Coupling Final Results according to the SIDC/IDA Operational Procedures.

12.2.9.2. An ID Operational NEMO is entitled to publish SIDC/IDA Market Coupling Final Results of another ID Operational NEMO provided that the latter has expressly approved in writing such publication.

12.2.9.3. ID Operational NEMOs undertake, in accordance with Clause 10 (Confidentiality), to ensure the transparency of the SIDC/IDA Market Coupling Final Results in accordance with the Applicable Law, measures and/or decisions of administrative or other public authorities, as far as within the competence of these authorities.

13 DATA

13.1 SIDC/IDCT data

13.1.1 SIDC/IDCT Individual Data shall remain the exclusive property of the relevant ID Operational NEMO. As a consequence thereof, the relevant ID Operational NEMO shall be exclusively vested with all rights (including but not limited to Intellectual Property Rights), title and interests pertaining to such SIDC/IDCT Individual Data. Any use of SIDC/IDCT Individual Data by other ID NEMOs shall be either i) strictly limited to the purpose of exercising their respective rights (e.g. monitoring of the performance of the XBID System, simulations under common tool (if available and agreed according to [Article 13.1.3](#))) or performing their respective obligations under the Agreement and the IDOA or ii) subject to prior written authorization of the concerned ID Operational NEMO and the terms and conditions (if any) of such ID Operational NEMO's authorization .

13.1.2 SIDC/IDCT Cross NEMO Data are individually owned by each of the two concerned ID Operational NEMOs, i.e, the two relevant ID Operational NEMOs shall be individually vested with all rights (including but not limited to Intellectual Property Rights), title and interests pertaining to such SIDC/IDCT Cross NEMO Data. SIDC/IDCT Cross NEMO Data may be freely used (without payment or consent) by the relevant ID Operational NEMOs only, acting independently for their respective business (including the commercial use). Any use of SIDC/IDCT Cross NEMO Data by other ID NEMOs shall be either i) strictly limited to the purpose of exercising their respective rights (e.g. monitoring of the performance of the XBID System, simulations with anonymized data under common tool (if available and agreed according to [Article 13.1.3](#))) or performing their respective obligations under the Agreement and the IDOA or ii) subject to prior written authorization of both concerned ID Operational

NEMOs and the terms and conditions (if any) of such ID Operational NEMOs' authorization.

13.1.3 ID NEMOs may agree on a common tool to be able to perform SIDC/IDCT simulations with anonymized historical SIDC/IDCT data. Such agreement shall contain the modalities of use of the tool to perform simulations and the terms and conditions in respect of publication of the results of the simulations.

13.2 SIDC/IDA data

13.2.1 All rights (including but not limited to Intellectual Property Rights), title and interests pertaining to SIDC/IDA Order Data shall remain the exclusive property of the relevant ID Operational NEMO.

13.2.2 The ownership of the SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Final Market Coupling Results is governed by the following terms and conditions:

i) should there be in a given Bidding Zone only one ID Operational NEMO, the relevant SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Final Market Coupling Results shall be owned by such ID Operational NEMO;

ii) should there be in a given Bidding Zone two or more ID Operational NEMOs, such ID Operational NEMOs shall be individually vested with all rights (including but not limited to Intellectual Property Rights), title and interests pertaining to the elements a), b) and d) of the SIDC/IDA Final Market Coupling Results and of SIDC/IDA Preliminary Market Coupling Results definitions. Such elements a), b) and d) of the SIDC/IDA Final Market Coupling Results and the SIDC/IDA Preliminary Market Coupling Results may be freely used (without payment or consent) by such ID Operational NEMOs only, acting independently for their respective business (including the commercial use), unless expressly agreed otherwise under the local arrangements (multi NEMO arrangement) or in any other relevant agreement among them. The ID NEMOs will work in good faith to clarify the ownership of the SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Final Market Coupling Results in the occurrence of Partial Decoupling in Bidding Zones with two or more ID

Operational NEMOs via an amendment to this Agreement at the first available opportunity.

13.2.3 In addition to the data use as specified in Article 13.2.2 above, the following uses of SIDC/IDA Individual Input Data, SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Final Market Coupling Results are allowed without payment or consent:

i) all SIDC/IDA NEMO Operators are entitled to receive from the PMB the SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Market Coupling Final Results for their performance of SIDC/IDA Operations. It is understood that the Serviced NEMOs do not receive directly from PMB the SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Market Coupling Final Results which are provided by their SIDC/IDA Servicing NEMO subject to the relevant service agreement;

ii) the SIDC/IDA Individual Input Data, SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Market Coupling Final Results can be individually and/or jointly used by each Operational NEMO for simulation, testing and monitoring purposes strictly in compliance with SIDC/IDA Operational Procedures;

iii) with respect only to certain items of SIDC/IDA Market Coupling Final Results - whether or not such have already been lawfully published by one or more Operational NEMO (either via its website or otherwise) - namely market clearing prices, clearing volumes, with the exception of simulation data - each Operational NEMO is entitled to provide a Third Party (excluding TSOs) with any one or more of such items provided that the relevant Operational NEMO shall always:

- a. clearly mention the source of such data items;
- b. provide a disclaimer safeguarding the owner of such data items in case data were wrongly used/transmitted;
- c. the provision of such items of SIDC/IDA Market Coupling Final Results has no commercial purpose, i.e. no direct or indirect remuneration is paid by the Third Party which is provided with such items.

It is understood that:

- Any use described under items i), ii) iii) above shall by no means enable any identification of market participants.
- Any other usage different from the ones described under Article 13.2.2 ii) and Article 13.2.3 from i) to iii) shall be subject to prior written authorization of the owner of such SIDC/IDA Individual Input Data, SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Market Coupling Final Results (e.g. in local arrangements or in any other relevant agreement as the case may be).
- any provision or usage of SIDC/IDA Market Coupling Final Results by TSOs is governed by IDOA and it is not subject to this Article 13.2.3.

13.2.4. If an ID Operational NEMO ascertains that its SIDC/IDA Individual Input Data, the SIDC/IDA Unconfirmed Results, the SIDC/IDA Preliminary Market Coupling Results and the SIDC/IDA Market Coupling Final Results enables the identification of its market participants, such ID Operational NEMO shall promptly notify the other ID NEMOs. In such event all ID NEMOs in possession of such SIDC/IDA Individual Input Data, SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Market Coupling Final Results shall:

i) return to the notifying ID Operational NEMO all documents (including copies) and other material (whether in written or other form e.g. computer disks) in its possession, custody or control that bear or incorporate any part of such SIDC/IDA Individual Input Data, SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Market Coupling Results; and

ii) destroy all documents and other material in its possession, custody or control which bear or incorporate any part of such SIDC/IDA Individual Input Data, SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results and SIDC/IDA Market Coupling Final Results (except that a copy may be kept, if necessary, for recordkeeping purposes). ID NEMOs in possession of such SIDC/IDA Individual Input Data, SIDC/IDA Unconfirmed Results, SIDC/IDA Preliminary Market Coupling Results

and SIDC/IDA Market Coupling Final Results shall certify such destruction upon request.

13.3 Data reporting

With respect to SIDC/IDCT, the ID Operational NEMOs shall, when fulfilling their reporting obligations under REMIT, take into account section IV of Annex II (Technical requirements).

14 LIABILITY

Any breach of this Schedule 5 is governed by the Clause 21 (of the main body) and by the specific provisions provided hereby. For the avoidance of any doubt, the liability limitations provided in this Article 14 are subject to Clause 21.1.7 (of the main body of the Agreement).

14.1 Operational Liability

14.1.1 SIDC/IDA Operational Liability

14.1.1.1 With respect to breaches concerning or in relation to SIDC/IDA, each ID NEMO, hereby explicitly waives any right to claim compensation for damages against each other related to:

i) [REDACTED]

ii) [REDACTED]

a. [REDACTED]

[REDACTED]

b. [REDACTED]

c. [REDACTED]

d. [REDACTED]

[REDACTED]

A) [REDACTED]

[REDACTED]

B) [REDACTED]
[REDACTED]
[REDACTED]

C) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

D) [REDACTED]
[REDACTED]
[REDACTED]

E) [REDACTED]
[REDACTED]

F) [REDACTED]
[REDACTED]

G) [REDACTED]
[REDACTED]

14.1.1.2 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

14.1.1.3 [REDACTED]
[REDACTED]

i) [REDACTED]

ii) [REDACTED]

iii) [REDACTED]

iv) [REDACTED]
[REDACTED]

v) [REDACTED]

vi) [REDACTED]

14.1.1.4 [REDACTED]
[REDACTED]
[REDACTED]

14.1.2 SIDCT/IDCT Operational Liability

14.1.2.1 With respect to breaches concerning or in relation to SIDC/IDCT, the Operational Liability of the Defaulting Party for a relevant breach of this Schedule 5 is subject to the following limitations:

- (i) [REDACTED]
[REDACTED]
 - a. [REDACTED]
[REDACTED]
 - b. [REDACTED]
[REDACTED]
- (ii) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

14.1.2.2 For the avoidance of doubt, to the extent that no obligation under the SIDC/IDCT Operational Procedures or SIDC/IDA Operational Procedures has been breached, the application of relevant procedures (such as Cancellation or Partial Decoupling within the context of SIDC/IDA) shall not be considered as a breach of the Agreement. ID NEMOs acknowledge that these SIDC/IDCT Operational Procedures or SIDC/IDA Operational Procedures have been designed by the ID NEMOs and that these procedures shall apply in case of Full Decoupling, or Cancellation or Partial Decoupling, and are considered a

satisfactory solution by the ID NEMOs in case of Full Decoupling, or Cancellation or Partial Decoupling.

14.2 Non-Operational Liability

14.2.1 SIDC/IDA Non-Operational Liability

[Redacted]

14.2.2 SIDC/IDCT Non-Operational Liability

[Redacted]

- a. [Redacted]
- b. [Redacted]

14.3 Lump Sum

14.3.1 [Redacted]

14.3.2 [Redacted]

- (i) [Redacted]
- (ii) [Redacted]

[Redacted]

[REDACTED]

14.3.3 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

14.4 Third Party Claims – Hold Harmless (“Vrijwaring” / “Garantie”)

14.4.1 In the event of a Third Party Claim, Clause 23 (of the main body of the Agreement) applies to the extent it is consistent with the following Article 14.4.2.

14.4.2 Third Party Claims concerning SIDC/IDA

14.4.2.1 [REDACTED]
[REDACTED]
(i) [REDACTED]
(ii) [REDACTED]
(iii) [REDACTED]
[REDACTED]
(iv) [REDACTED]
[REDACTED]

14.4.2.2 [REDACTED]
[REDACTED]
[REDACTED]

14.4.3 Third Party Claims concerning SIDC/IDCT

14.4.3.1 [REDACTED]
[REDACTED]
[REDACTED]

14.4.3.2 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

14.4.4 Third Party claim by a TSO for IDOA breaches – hold harmless and indemnification between ID NEMOs

[REDACTED]

14.5 Total Cap

[REDACTED]

15 Recording of telephone conversations

15.1 ID NEMOs acknowledge and accept that, in the context of ID MCO Function Operations and/or SIDC/IDA Operations audio and video meetings shall be recorded and may serve as proof of decisions taken.

15.2 Recording of audio or video meetings conversations shall be done in accordance compliance with the Applicable Laws. The ID NEMOs shall cooperate in good faith to ensure such compliance. In particular they shall ensure that the relevant operational procedure describes the purpose of such recordings, the modalities regarding notification of the existence of such audio or video recordings and the duration of the recordings' storage. The ID NEMOs shall take the necessary measures to ensure that their representatives, staff and subcontractors that participate in ID MCO Function Operations and/or SIDC/IDA Operations

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

meetings are made aware of the existence of these recordings and accept that participation to such conversations is considered as an acceptance of these recordings.

LIST OF ANNEXES

ANNEX I Identical NEMO Components

ANNEX II Technical requirements

ANNEX III Operational Procedures (SIDC/IDCT and SIDC/IDA)

ANNEX IV NEMO Central Admin services

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

ANNEX I
Identical NEMO Components

Project Place link:



All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

ANNEX II

Technical requirements

Project Place link:



All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

ANNEX III
Operational Procedures (SIDC/IDCT and SIDC/IDA)

Project Place link:



All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 4 - ANDOA

ANNEX IV
NEMO Central Admin services

Project Place link:



All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

SCHEDULE 6
Attachments concerning topics that are common to SDAC and SIDC

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – ANIDOA

LIST OF ATTACHMENTS

Attachment 1

Change Control Procedure

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – ANIDOA

ATTACHMENT 1

Change Control Procedure

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – ANIDOA

SECTION A

NEMO SDAC Change Control Procedure

including complete Testing and Simulation Procedure

INDEX

INDEX 206

1.	INTRODUCTION	207
1.1.	Definitions	208
1.2.	Scope	210
2.	BODIES AND ROLES INVOLVED	211
2.1	Change Control Board (CCB)	211
2.1.1	Introduction	211
2.1.2	Tasks of CCB	211
2.2	Central Change Administrator (CCA).....	212
2.2.1	Tasks of CCA	213
2.3	CCB representative(s) of NEMOs	214
2.3.1	Tasks of CCB members	214
2.4.	Implementation Manager	215
2.4.1	Introduction	215
3.	PROCEDURE DETAILS	215
3.1.	Outline of the Change Control Procedure.....	215
3.1.1	Notifications	215
3.1.2	Light Notifications	215
3.1.3	Modifications	216
3.1.4	Urgent Modifications	217
3.1.5	Regulatory Changes.....	217
3.1.6	General Process considerations	217
3.2.	Process description tables.....	218
3.2.1	Introduction	218
3.2.2	Activity and Timing Information	218
3.2.3	RfC Procedure for Light Notifications	220
3.2.4	RfC Procedure for Notifications	221
3.2.5	RfC Procedure for Urgent Modifications	224
3.2.6	RFC Procedure for Modifications	227
4.	RISK AND IMPACT ALLOCATION	237
4.1	Categories.....	237
4.2	Component impact.....	237
5.	CHANGE CONTROL FORMS	238
5.1.	Introduction.....	238
5.2.	Request for Change Form.....	239
5.3.	Solution Proposal Form	245
5.4.	Impact Assessment Form	246
5.5.	Implementation Plan Form	248
5.6.	Objections Form	251

1. Introduction

This document describes the Change Control Procedure (hereinafter also “CCP”) to be used for the design, developments, maintenance and update of the DA MCO Function Assets.

This CCP provides a controlled process in which Changes can be implemented within an efficient and controlled environment with a minimal level of disruption and with controlled risk.

The process aims at tracking any Change, small or large, related to the design, developments, maintenance and update of the DA MCO Function Assets.

The Change under this CCP may be initiated by any Party or group of Parties as Originator(s). It is understood that if a Change is requested by a working group all Parties shall be considered as Originators.

For request for changes (RfCs) related to any Requirements concerning the DA MCO Function Assets or RfCs having an impact on the Algorithm Performance, the RfC shall follow the Cascade Process. The Cascade Process is graphically outlined in the picture on page 4 and provides the following main steps:

- submission of the RfC at the appropriate level (i.e. DAOA, or ANDOA, or PCR Co-ownership Agreement, as the case may be) and forwarding down/up through the Cascade Process to the higher/lower levels necessary - according to the potential impact of the Change - for assessment, proposal of implementation, and for the final approval;
- the submitted RfC potentially impacting the DA MCO Function Assets and/or the Algorithm Performance is evaluated via the Technical Assessment of the DA MCO Function Asset Co-owners pursuant to the PCR Co-ownership Agreement Change Control Procedure, and such Technical Assessment shall result – unless a situation of Denial occurs - in a proposal for implementation moving back upwards to the appropriate level for the final approval;
- in the event that the Technical Assessment would determine a cost for implementation beyond the yearly agreed budget, the DA MCO Function Assets Co-owners will notify to the CCB such occurrence; in this case the notification shall be forwarded by the CCB to the relevant bodies (i.e. the NEMO Committee and any other relevant task force, as the case may be) together with possible mitigating measures. In such case the NEMO Committee shall specifically decide upon the related increase of budget;
- In the occurrence of Denial, the DA MCO Function Assets Co-owners shall provide the Originator with a detailed explanation of the reasons that caused such Denial; following the provision of the explanation the Originator may reformulate the RfC;
- In the occurrence of Denial, the Originator(s) may request the DA MCO Function Assets Co-owners to provide - as an additional service against payment - a revision of the Requirements pertaining the RfC, in order to amend the RfC at the appropriate level;
- the Steering Committee of the appropriate level - depending on the impacted parties/assets - is responsible for the approval/rejection of the RfC.

Changes with no/minor impact on DA MCO Function Assets (i.e. Notifications and Light Notifications) shall be notified to the CCB via the CCA but do not need to go through the approval process of the NEMO Committee;

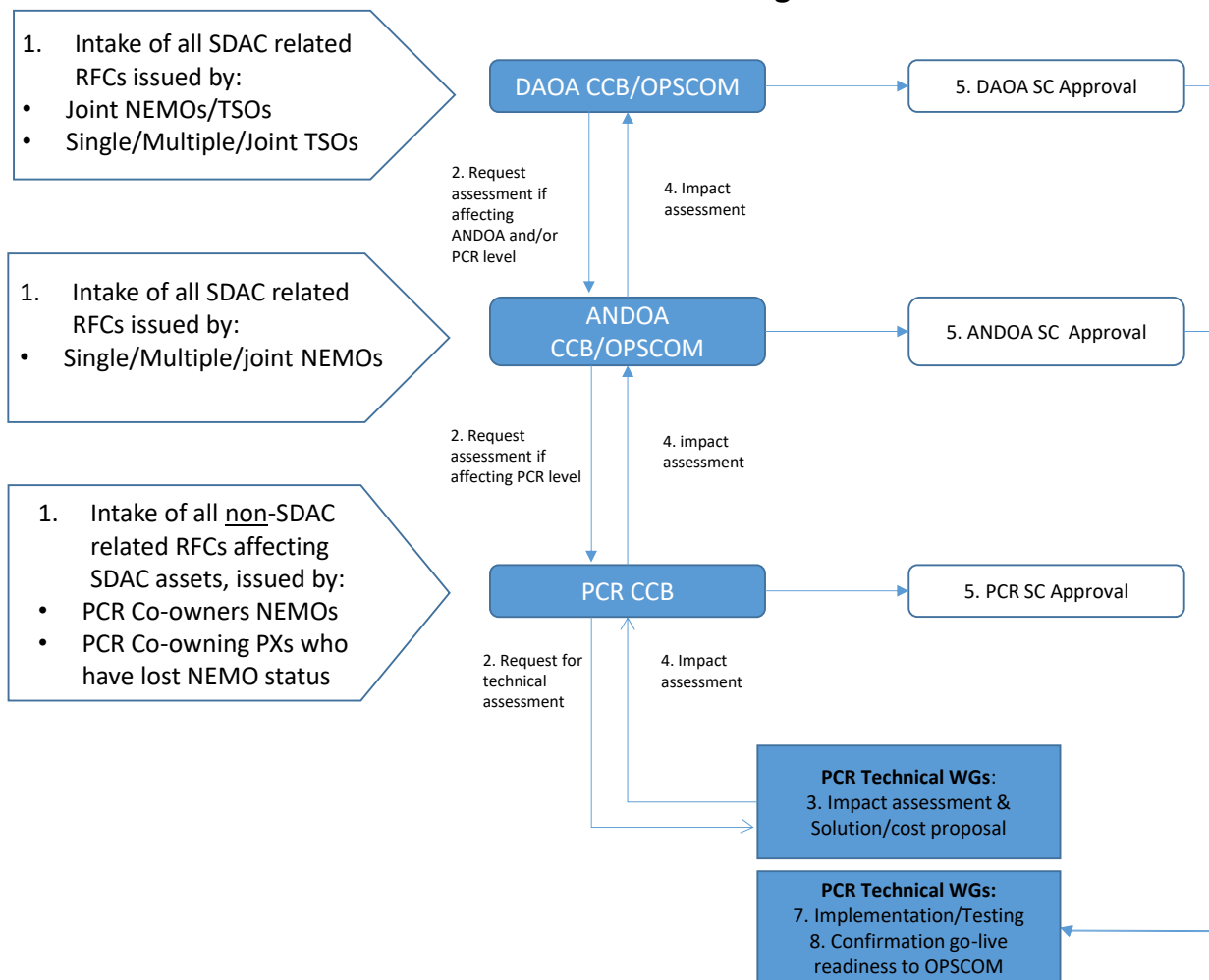
TSOs shall be informed of the approved RfCs under PCR Co-ownership Agreement or ANDOA, even if there is no cross over impact.

NEMOs shall be informed of the approved RfCs under PCR Co-ownership Agreement CCP, even if there is no cross over impact.

Following the approval of any RfC at the appropriate level, the implementation of such RfC will be done by DA MCO Function Asset Co-owners, and the other Parties of this Agreement as the case may be;

In the event the Technical Assessment shows a degradation of the performance of DA MCO Function Operations, the NEMO Committee or any other body delegated by the latter (as defined below) shall be entitled to approve – on the basis of unanimous decision - any necessary deviation from this CCP.

The SDAC RFC handling cascade



The implementation of this CCP must always be consistent with the relevant provisions set under the Algorithm Methodology.

1.1. Definitions

Unless otherwise defined herein, capitalized terms used in this Change Control Procedure shall have the meaning given to them in Art. 1 (Article Interpretation) of the main body of the Agreement (ANDOA).

The following terms and expressions shall have the following meanings for the purposes of this Change Control Procedure:

“Algorithm Methodology”: is the *“Methodology for the price coupling algorithm and the continuous trading matching algorithm”*, approved by the relevant ACER decision on 26th of July 2018 as further amended and supplemented.

“Algorithm Performance”: means the ability of the price coupling algorithm to (i) ensure reliability of the process to find solutions, (ii) maximize economic surplus, and (iii) ensure an adequate level of repeatability and scalability.

“Cascade Process”: means the process applicable to Changes to Requirements described in the picture scheme provided in section 1 of this CCP (Introduction)

“Central Change Administrator (CCA)”: is the person in charge to coordinate the Change Control Procedure at ANDOA level. Such person is selected on a yearly rotational basis among the members of the CCB. The detailed description of the role is provided under section 2.2 below.

“Change”: is the object of a Request for Change

“Change Control Board (CCB)”: is the OPSCOM or any other body in charge of the management of RfCs

“Change Control Procedure”: means this Annex IV to the ANDOA

“Component”: refers to either any element of the asset list (Annex I to this Agreement) used for the DA MCO Function exclusively referred to Algorithm and DA MCO Function System, or to Operational Procedures.

“Critical Adverse Impact”: impact which induces a detrimental effect on the Algorithm Performance in light of the criteria set under article 6 of the Algorithm Methodology, thus jeopardizing the SDAC operational security.

“DA MCO Function Assets”: means the systems, procedures, algorithm used for the DA MCO Function Operations described under art 7.2 letter a) of CACM Regulation and section 2 n. 13 of the MCO Plan

“Denial”: means the situation in which DA MCO Function Asset Co-owners – following the Technical Assessment – decide to not forward any proposal for implementation to the Originator(s) for one of the following reasons:

- a) the RfC is not developable, e.g. not technically feasible;
- b) the RfC has a Critical Adverse Impact on the performance of SDAC;

“Requirement”: means the description of any requested update, upgrade, modification of the DA MCO Function System.

“Implementation Manager/IM”: is the person appointed pursuant to the ANDOA and identified in the Implementation Plan responsible for coordinating and monitoring the timeline of all the activities related to the implementation and go-live of the Change as outlined in the Implementation Plan,.

“Implementation Plan”: is the form to be filled in that describes how a Change to the DA MCO Function System will be developed, tested, deployed, installed and transitioned into an operational system.

Modification: is a request for complex Changes, i) with a medium/high risk category, deriving from Requirements under the control of ANDOA which are under the responsibility of more than one Party or ii) changes only to local items with identified high impact on common items.

- “Urgent Modification”**: is a Modification with the addition that this change is in response to a high priority incident. The procedure for Modifications will be followed but with reduced timing to reflect the urgent nature of the Change.
- “Notification”**: is a request for i) changes, with a very low/low risk category, deriving from Requirements under the control of ANDOA which are under the responsibility of more than one Party, and ii) changes only to local items with no identified impact on common items.
- “Light Notification”**: is a request for change to procedures or documents that has no material effect on such procedure or document. This is intended for grammar or other small non-intrusive changes with no associated implementation activities besides issuing a new version of the procedure or document.
- “Originator”**: Party submitting an RfC.
- “DA Operations Committee (hereinafter OPSCOM)”**: the OPSCOM is the ANDOA DA operating committee representing the participants in SDAC according to the Annex V of ANDOA: Rules of Internal Order (RIO).
- “Request for Changes (RfC)”**: is the proposal containing the request for any Change subjected to the CCP. A Request for Change is submitted either as Notification or a Light Notification or a Modification.
- “Regional Initiatives (RI)”**: The Regional Initiatives (RIs) including in some cases sub-regional or supra-regional initiatives were set up either by the relevant NEMOs and TSOs via own joint initiative or by the energy national regulatory authorities (NRAs), and in both cases with the intent to speed up the integration of the national energy markets in Europe.
- “Risk”**: is the potential that a change will lead to a situation involving exposure to danger for the operational continuity of the SDAC.
- “Business/Working day”**: A measurement of time that refers to any day in which normal business is conducted. This is generally considered to be Monday through Friday and excludes weekends and public holidays. A day where a public holiday occurs in any of the participating countries shall **not** be considered a business day.
- “Go-live date”**: In the context of this Annex IV, Go-live date means the first trading day with Change implemented in production (Change implementation is usually planned one day before Go-Live date, after closure of the MCS(market coupling session));
- “Technical Assessment”**: means the evaluation of an RfC performed by the DA MCO Function Assets Co-owners, in terms of feasibility, timeline and costs for implementation, pursuant to the change control procedure established in the PCR Co-ownership Agreement.

1.2. Scope

Any Changes requested under this CCP shall be proposed through the Modification, Notification or Light Notification procedure.

This CCP shall cover Changes such as:

- Changes to the DA MCO Function Assets concerning any Requirement; a RfC issued at ANDOA level shall not impose development choices and shall be limited to describing the requested functioning principles.
- Changes to the DA MCO Function Operations, such as configurations/structural changes related to the Bids in SDAC:
 - New products
 - Applying existing products in new markets
 - Local parameter/configuration settings related to the form or frequency of order submission.
- Changes to the performance of the Algorithm;
- Changes affecting SDAC NEMOs—Only Common Costs;
- The Annex XII/Annex X of ANDOA: Operational Procedures;
- The Annex XI of ANDOA: Technical Readiness for the Coordinator, BackUp Coordinator and Operator.

In the event of uncertainty by a Party whether a Change falls under the scope of this CCP and/or regarding which CCP's procedure should apply, such Party shall request guidance from the OPSCOM or the Central Change Administrator (CCA). In case of disagreement, the OPSCOM/CCA will escalate the decision on the appropriate level of the Change to the NEMO Committee. The guidance provided by the NEMO Committee can be disputed by the Party according to the relevant provisions of this Agreement.

2. Bodies and roles involved

2.1 Change Control Board (CCB)

3. Introduction

The Change Control Board is a body comprising all Parties, which oversees the change process at the ANDOA level. The tasks of the CCB under the Change Control Procedure are defined in the present section.

4. Tasks of CCB

Under the Change Control Procedure, the CCB has the following tasks:

- 1) Performing the assessment on the impact, urgency and priority of any changes falling under the scope of this CCP;
- 2) Informing the Parties on the impact, urgency and priority of any changes falling under the scope of this CCP, based on the relevant assessment(s). The CCB will also be the forum for objections or comments from the representative(s) of the Parties and provide guidance on any changes (including Notifications) within the scope of this CCP. External experts, RIs or DA MCO Function Assets Co-owners or TSOs can be invited to participate in CCB's discussions;
- 3) Ratifying proposed scheduling of the implementation of Changes for which all Parties are competent to decide (in case several changes relate to the same Component or to different Components but in the same timeframe);
- 4) Appointing an Implementation Manager responsible for one or more RfCs.

- 5) Designating, among its members, a temporary substitute CCA for cases of unavailability of the CCA;
- 6) Controlling and monitoring the activities of the CCA;
- 7) Notifying the CCA of the contact details of the CCB members;
- 8) Reviewing the RfCs;
- 9) taking receipt of RfC from the CCA for solution analysis and impact assessment;
- 10) Assessing completeness of the RfC in light of the Change Control Procedure, requests for additional information, budgets and contracts;
- 11) Forwarding relevant RfCs related to Changes in the DA MCO Function Assets for Technical Assessment by the DA MCO Function Asset Co-owners;
- 12) Forwarding assessed RfC with impact on the DA MCO Function Assets to PCR CCB for evaluation;
- 13) notifying the NEMO Committee and any other relevant bodies, any RfCs with costs of implementation – as calculated by the DA MCO Function Assets Co-owners in the performance of the Technical Assessment – beyond the yearly agreed budget, together with possible mitigating measures;
- 14) Forwarding the RfCs with potential impact on all NEMOs/All TSOs to the relevant DAOA body for evaluation and decision;
- 15) Proposing approval or rejection of RfCs for which the NEMO Committee is entitled to decide on the final approval of RfCs;
- 16) Reviewing objections to Changes;
- 17) Assessing completeness of objections to Changes in the light of the Change Control Procedure and requests for additional information;
- 18) Accepting or rejecting objections to Changes for which it is entitled to decide on the approval;
- 19) Ratifying the fulfilment of the go-live criteria and the relative Go-live date for Changes and the timing of implementation in coordination with OPSCOM for RfCs which are under the control of the CCB;
- 20) Receiving monthly reports from the CCA;
- 21) Escalating issues for decision by the NEMO Committee as set forth in this Change Control Procedure;
- 22) Reviewing the appropriateness and efficiency of the Change Control Procedure at least once a year;
- 23) Proposing changes to the Change Control Procedure to the NEMO Committee;
- 24) Reviewing and acknowledging the cost estimation of RfCs as provided by the PCR CCB.**

The CCB shall perform the above tasks within the timeframes set under this Change Control Procedure.

2.2 Central Change Administrator (CCA)

The CCA is the person responsible for the central management and administration of changes under this Change Control Procedure. The role of the CCA is key to the successful operation of the Change Control Procedure. The CCA acts as the single point of contact for CCB with respect to RfCs and for any communication about RfCs with PCR CCB and the relevant DAOA body, circulating information and analysis requests. Furthermore, the CCA manages the central

repository for all the RfCs. The NEMO Committee appoints the CCA. The CCA shall rotate among the Parties on a yearly basis (according to the process and criteria agreed in the NEMO Committee).

The appointed CCA, for the period in which it has been empowered, acts as the secretary to the CCB.

5. Tasks of CCA

1. The tasks of the CCA (or the substitute CCA in cases of unavailability of the primary CCA) under this Change Control Procedure are:
 - 1) proposing a person who will temporary substitute the CCA in case the CCA cannot perform its tasks;
 - 2) keeping an updated version of the contact details of the CCB members and distributing it to the attention of the CCB;
 - 3) updating and maintaining a register of RfCs and of implemented Changes;
 - 4) supporting the review of RfCs and communications about RfCs;
 - 5) receiving Notifications from the CCB representatives of NEMOs, PCR CCA, or the relevant DAOA body, or external parties related with SDAC, like the bodies of the Regional Initiatives or from conveners of the working groups activated under the ANDOA and circulates these for information in accordance with the Change Control Procedure. The CCA shall redirect Notifications to the relevant CCAs of PCR Co-ownership Agreement or DAOA. The CCA shall ensure that the relevant body of ANDOA, DAOA, and PCR Co-ownership Agreement as the case may be, is also notified.
 - 6) acting as a single point of contact with the external parties related with SDAC, like the bodies of the Regional Initiatives, regarding changes requested by them and/or that require joint testing;
 - 7) assessing the completeness of RfCs, including the check of the (functional) Requirements;
 - 8) requesting additional information on RfCs;
 - 9) allocating unique CCB RfC numbers;
 - 10) coordinating the agenda of the CCB;
 - 11) requesting emergency meetings of the CCB to review urgent RfCs;
 - 12) providing relevant RfCs to the CCB and ensuring the follow up of the decisions of the CCB in this matter;
 - 13) supporting the review objections to changes;
 - 14) supporting the assessment of completeness of objections to Changes in the light of the Change Control Procedure;
 - 15) requesting additional information on objections to Changes;
 - 16) in case the objection to a Change remains unmotivated or motivated inadequately following a request for additional information, escalating the matter to the NEMO Committee;
 - 17) communicating to all OPSCOM representatives of NEMOs the confirmation by the CCB of implementation date and timing for the Changes;

- 18) communicating the go live criteria to the relevant representatives of NEMOs;
- 19) providing advice to any concerned Party (or subcontractor if any) on completing the forms under the Change Control Procedure as necessary.

2.3 CCB representative(s) of NEMOs

Each NEMO appoints a CCB member. CCB members perform a key role in the Change Control Procedure.

As a general matter CCB members are responsible for:

- 1) submitting RfCs and notifications;
- 2) coordinating the responses to solution analysis requests and impact assessments within their own organizations;
- 3) ensuring that agreed Changes are implemented by the respective Implementation Manager.

The CCB members shall perform all tasks assigned to them. The CCB members will perform their tasks during Business Days.

In the different steps of the processes, the CCB members will ensure that all received information is distributed inside their respective organization or working group and that the comments of such organization or working group, when existing, are brought in the CCB discussions.

6. Tasks of CCB members

Each CCB member shall have the following tasks:

- 1) designating a person who will substitute the initially designated CCB member in case the initially designated CCB member cannot perform its tasks;
- 2) providing the CCA with its contact details and those of its substitute and keep the CCA updated of any change of these;
- 3) sending complete RfC and notifications to the CCA in accordance with the Change Control Procedure and update without delay the RfC with all the relevant information as soon as they are available to ensure the smooth performing of the relevant impact assessment according to the Change Control Procedure;
- 4) informing all relevant persons within its company of RfCs as communicated by the CCA and follow up these internally;
- 5) receiving notice of the RfC from the CCA and ensure that the relevant departments within their organisation are informed about its content. The CCB members will ensure that the relevant persons within their organisation are informed of it with a view of assessing the RfC within the timeframes set out in the Change Control Procedure;
- 6) raising objections, if any, against received RfC. Objections shall always be motivated. Before raising an objection, the CCB member shall ensure that reasonable efforts have been made to resolve the objection between the relevant Parties (or subcontractors if any) informally;
- 7) collecting the results of the internal analysis/assessment and communicate a common position of their company to the CCB

- 8) ensuring that the date upon which a change will be implemented is reported to all the relevant persons within their company.

2.4. Implementation Manager

7. Introduction

The Implementation Manager is appointed by the CCB and (in the scope of this process) is responsible for presenting the Implementation Plan of the assigned Change to the CCB. If the DAOA level is affected, the Implementation Manager shall also present its plan to the relevant body of DAOA.

The Implementation Manager is responsible for coordinating the activities related to the execution of the assigned Change. The Implementation Manager should be either an internal employee of one Party or an external expert selected on a case-by-case basis by the NEMOs.

3. Procedure details

3.1. Outline of the Change Control Procedure

This procedure is based on the distinction between Notifications, Light Notifications, Modifications and Urgent Modifications. Notifications, Modifications and Urgent Modifications are recorded in a Request for Change (RfC). Light Notifications only need to be in the form of an email as specified below.

8. Notifications

Simple changes with a very low and low-risk solution affecting a small number of Individual Assets and with no identified impact on common items or performance will be handled as Notifications. This means that the other Parties are informed of the Change, but there is no collective acceptance of the Change. It is understood that a Change requested as Notification concerning a Trading Platform or IT system shall not have any further implication on any common asset or operation.

For Notifications, the Originator will record the requested Change in the Request for Change (RfC) form (see section 5). This will contain all the information required including the cause and goal of the Change, where applicable, the newly required functionality or text and the estimated impact. In this case no other forms will be required to be completed. If an automated workflow tool is used, the automated RfC input form will replace the paper-based form. Information regarding the maintenance of the DA MCO Function Assets will be handled via Notifications.

9. Light Notifications

Changes that involve the correction of a simple syntax or grammatical error, or an addition of text with no material effect on DA MCO Function Assets or procedural documentation can be conducted as a Light Notification. A Light Notification should be proposed by the CCB representative of the NEMO or the coordinator/leader representing the working group responsible for the document. A Light Notification will consist of an RfC to the CCA from the relevant CCB representative of the NEMO or the WG coordinator/leader outlining the changes and the new version of the document and its new location. For Light Notifications deemed acceptance by OPSCOM shall apply. In case

of a ratified objection, the Light Notification becomes a Modification and the process for Modifications is followed.

10. *Modifications*

All other changes (which are more complex, of a higher risk category, affecting multiple DA MCO Function Assets and/or Individual Assets or which are the responsibility of more than one NEMO or their subcontractors and for which CCB has administrative authority), are handled as Modifications. This means their explicit approval by the NEMO Committee is necessary. As further detailed in section 3.2., the process applicable to Modifications entitles:

- a) each NEMO to individually review the changes and provide feedback; and
- b) to request a further review by the CCB if objections by other NEMOs may occur or to better handle the complexity of the proposed change.

In case of Modifications (including complex changes), it may not be possible for the Originator to complete all of the sections of the RfC. In this case, contribution to some sections, such as e.g. solution analysis, impact assessment or additional information may be requested to the relevant bodies (e.g. to the OPSCOM or the DA MCO Function Assets Co-owners) using the relevant form(s). This will allow individual responses from several Parties which will together form one single RfC in case, for example, the solution affects several DA MCO Function Assets or Individual Assets. In case of Modifications to the Algorithm or the DA MCO Function Assets which implies a development, the CCB shall ask for a technical assessment, solution proposals and cost assessment to the DA MCO Function Assets Co-owners.

Note for RfC that may impact the Simulation Facility

RfCs impacting the Simulation Facility (“SF”) need to follow the CCP. After validation of the RfC, the FSFO (Functional Simulation Facility Operator) is alerted and sends the RfC to the SF hosting entity for implementation.

It’s important to keep in mind that the RfC should be implemented even if the modifications for SF aren’t ready, in other words the update of the SF cannot delay the implementation of a RfC in production environment (as a new Algorithm release, for instance).

Note for RfC that may impact the configuration of production:

If the RfC has impact on parameters of the configuration of the production environment, the CCB shall forward the RfC to PCR CCB where impact shall be assessed, and the relevant form shall be filled in.

Note for RfC that may impact the procedures:

If the RfC has impacts on the procedures, this impact would be listed by the relevant body in the same RfC. No additional dedicated RfC for a procedure change would be needed.

11. *Urgent Modifications*

Urgent Modifications are handled with an abbreviated process in timings and steps. This process is applied out of the Operational Procedures but as a consequence of a decision of the CCB/OPSCOM for the implementation of an urgent, non-blocking issue in a very short period of time. In such case the NEMO Committee must be notified and validates post factum.

12. *Regulatory Changes*

In cases where compliance with special or ordinary procedure or rules stipulated by a Competent Authority, locally/regionally within a given NEMO's Own Market, is urgently required and this Change involves a Modification, these changes shall automatically be deemed to be subject to the Urgent Modification process.

In addition, in case such RfC implies a Modification related to a Algorithm development, should the other NEMOs raise an objection to the RfC, the CCB should, where relevant, urgently consult PCR CCB for a Technical Assessment and a decision should be made, based on the urgent Technical Assessment, by the end of the next Business Day after the objection has been filed with the CCA. In the event the objection is upheld by CCB the NEMO having filed the Change shall have the right to (1) request withdrawal of the objection, based on validated arguments on why the objection is not justified, and (2) have the right to immediately share the objection filed by the other NEMOs to the above referred Competent Authority, and (3) escalate the case directly to the NEMO Committee. The same applies in case that such Modification creates costs to Parties.

13. *General Process considerations*

After Originator sends an RfC or an RfC is received from the relevant body of the DAOA or the PCR Co-ownership Agreement to the CCA, the latter assesses completeness and correctness of the submitted RfC. The CCA can contact the Originator and/or the involved parties with the purpose of requesting additional information on the request for change.

In case the RfC has an expected impact on DA MCO Function System, it shall be sent to the CCB of the PCR Co-ownership Agreement for the Technical Assessment according to the CCP under the PCR Co-ownership Agreement.

In case the RfC has an impact on joint NEMO-TSO or TSO only requirement or it affects the performance of the Algorithm, it shall be sent to the relevant body of DAOA for further assessment according to the CCP under DAOA.

The CCB under the PCR Co-ownership Agreement shall perform the Technical Assessment and provide the CCB with feedback on the results of the evaluation and a proposal for implementation to the CCB.

CCB shall, based on the Technical Assessment, and the related solution proposal provided by DA MCO Function Assets Co-owners, perform the RfC evaluation and provide the NEMO Committee with feedback on the results of the evaluation.

All challenges to the type of request (e.g. Notifications *versus* Modifications), priority and impact of a Change will be notified and resolved in the relevant CCB in accordance with the Cascade Process. If the issue cannot be resolved in the relevant CCB or if the RfC creates any costs it shall then be escalated to the NEMO Committee or to any other delegated/substituting body consistently with the relevant provisions of the Agreement. The RfCs shall be filled in with the

results of the assessment process. CCB will give positive or negative advice based on the results of the impact assessment process and the Technical Assessment from DA MCO Function Assets Co-owners, as the case may be. In the case of negative impact, the parties involved shall strive to review the RfCs to reduce the negative impact.

In case of escalation to the NEMO Committee, the escalation document shall include information regarding all RfCs included with their go-live dates planned/proposed, the short presentation of the tests performed, their results, as well as recommendations from the relevant bodies and the CCB.



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[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]

3.2. Process description tables

14. Introduction

The process description tables in this section describe the overall flow of the procedure in four specific cases as well as the generic case:

- Notifications
- Light Notification
- Modification
- Urgent Modification

15. Activity and Timing Information

The tables below provide details of the actions to be taken at each step of the procedure and the timeframe within which they should be carried out.

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Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

In all cases where there is activity to be carried out by a Party (or their subcontractors if any) the latter shall provide its best efforts to implement such Changes as soon as practically possible. In particular, the CCA will review the RfC and any supporting documentation within the timeframes set forth herein.

Two sets of timings are identified for each process described in the Change. The column ‘normal timing’ of the below tables provides the timeframe for dealing with changes in normal circumstances, except for bug fixes and changes needed for continuity reasons which fall under the column ‘fast track timing’. The timings set forth in the “fast track timing” column of the below tables shall apply only under exceptional conditions. In all cases the processing of changes will be much faster when the RfC will be as complete and as detailed as possible from the beginning.

Communications will be ordinarily sent via email, and telephone back up devices. If an automated workflow tool shall be developed/implemented (which shall provide adequate identification of the user), such tool will become the default standard for communication. The communications with external entities involved or affected by the Change will be performed by the CCA.

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[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]

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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

4. Risk and Impact Allocation

4.1 Categories

The overall impact of implementing a Change will be defined through the nature of the Components affected and the risk associated with the particular change that is being carried out. The categories for each Component are defined defined below.

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

4.2 Component impact

For each Component affected by the proposed Change the category and risk are combined to provide an impact for the Component as defined in the table below.

The Originator(s) will provide, if possible, an initial assessment of the applicable category in the RFC. This will be reviewed by the OPSCOM.

5. Change Control Forms

5.1 Introduction

The Change Control Forms provide the basis of the information exchanges regarding changes between all interested Parties with respect to a particular change.

For complex Changes (i.e. Changes needing a thorough impact analysis, such as impacting several systems, a substantial change of a Component, etc.) the Impact Assessment Form and the Implementation Plan Form can be used to gather information from participants.

Objections are raised using the Objections Form and Changes to Component versions are sent on the Component Version Update Form.

This section provides details of how to complete the forms and the information that is required in each one. The provision of complete and correct information is important for the efficient operation of the overall process. Generally, as much information as possible should be provided at each stage to speed up the process.

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Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

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<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>

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[REDACTED]	[REDACTED]
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Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	
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Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

[REDACTED]

[REDACTED]		[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]
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[REDACTED] [REDACTED] [REDACTED] [REDACTED]		
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Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

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Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

[REDACTED]

[REDACTED]		[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]		
[REDACTED] [REDACTED]		
[REDACTED]	[REDACTED]	
[REDACTED]		

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Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

Attachment

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Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

ATTACHMENT 1

SECTION B

NEMO SIDC Change Control Procedure

Remarks

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

INDEX

All NEMO Intraday Operational Agreement (ANIDOA)**Chyba! Záložka není definována.**

1. INTRODUCTION	255
1.1. Scope	255
2. BODIES AND ROLES INVOLVED	256
2.1. NEMO OPSCOM.....	256
3. PROCEDURE DETAILS	257
3.1. Outline of the NEMO Change Control Procedure	257
3.2. Process description tables.....	257
4. RISK AND IMPACT ALLOCATION	267
4.1. Categories.....	267
4.2. Risks.....	267
4.3. Component impact.....	268
5. ASSURANCE GATHERING	268
5.1. Assurance activities	268
5.2. Scope of assurance gathering	269
6. CHANGE CONTROL FORMS	270
6.1. Introduction.....	270
6.2. Request for Change form	271
6.3. Impact assessment form	277
6.4. Objections form.....	279
APPENDIX 279	

1. Introduction

This document describes the process to be applied in case of Changes to Identical NEMO Components or Individual NEMO Components that are used as part of the SIDC operations and that affect all or some of the NEMOs and that, in accordance with Article 11.5.2.1 of the Agreement, fall outside the scope of the IDOA Change Control Procedure. It provides a controlled process so that Changes can be implemented efficiently within the minimum time (taking into account section II of Annex 6 (Technical requirements)) and with the least risk.

The Change may be initiated by any individual Party or working group.

The process aims at, tracking any Change, small or large, and aiding the decision-making process. Whilst the majority of Changes are likely to be straightforward operational Changes or small textual Changes, it is still important that the procedure is robust to the processing of more complex Changes.

The implementation of the timings and procedures of the NEMO Change Control Procedure must always be consistent with the relevant provisions set forth in respect of maintenance in the XBID-MSA. Should an inconsistency emerge, the NEMO Committee or any other body delegated by the latter (as defined below) shall be entitled to approve any deviation from the NEMO Change Control Procedure.

1.1. Scope

Changes which have to follow the NEMO Change Control Procedure

Any Changes related to Identical NEMO Components identified in Annex 2 (Identical NEMO Components) as falling under the NEMO Change Control Procedure must be proposed – via this NEMO Change Control Procedure – through the Modifications or Notifications process.

Changes which *might* have to follow the NEMO Change Control Procedure

In respect of Individual NEMO Components, pursuant to Article 11.5.2.3 of the Agreement, only the Changes that require changes of the Identical NEMO Components falling under the NEMO Change Control Procedure or that impact the functionalities or the operation of the Identical NEMO Components falling under the NEMO Change Control Procedure, are subject to this NEMO Change Control Procedure.

Thus, Changes to Individual NEMO Components might be subject to the NEMO Change Control Procedure (e.g. in case of a Change of a local system, procedure which might influence other NEMO's). The Party which implements the Change is responsible to make the assessment whether or not an RFC should be submitted to the NEMO OPSCOM.

In the event a Party is uncertain whether a Change falls under the scope of this NEMO Change Control Procedure and/or regarding which NEMO Change Control Procedure process should apply, such Party shall request guidance from the NEMO OPSCOM. In case of disagreement, the NEMO OPSCOM will escalate this to the NEMO Committee.

For the avoidance of doubt, all Changes to the XBID System developed by the XBID System Service Provider fall in the scope of the IDOA Change Control Procedure.

2. Bodies and roles involved

2.1. NEMO OPSCOM

i. Tasks of NEMO OPSCOM

Under the NEMO Change Control Procedure, the NEMO OPSCOM has the following tasks:

- 1) maintain and provide the overview of the impact, urgency and priority on any Changes to the Identical NEMO Components and Individual NEMO Components, where applicable;
- 2) discuss objections or comments received from the NEMOs and provide guidance on any Changes to the Identical NEMO Components and in respect of the Individual NEMO Components subject to this NEMO Change Control Procedure on the impact of such Change for Identical NEMO Components. External experts can be invited to participate in NEMO OPSCOM's discussions;
- 3) discuss/approve/reject proposed Changes;
Please note that rejections can be made when, e. g.:
 - i. Costs exceed benefits (then the Change is raised to the NEMO Committee and NEMO Committee makes the decision);
 - ii. Development is excessive (then the Change is raised to the NEMO Committee and NEMO Committee makes the decision);
 - iii. Implementation entails risks which cannot be sufficiently mitigated;
 - iv. The Change conflicts with other implementations or with Applicable Law;
or
 - v. There is a disagreement on the content of the Change.
- 4) approve/reject proposed order of the implementation of Changes (in case several Changes relate to the same Component or to different Components, but in the same timeframe);
- 5) assess completeness of the RFC in light of the NEMO Change Control Procedure, request for additional information, budgets and contracts;
- 6) review RFCs, so a decision can be made on the implementation, i.e. approval, rejection (with reasoning) or need for additional information, before a decision can be made;
- 7) review objections to RFCs;
- 8) assess completeness of objections to RFCs in the light of the NEMO Change Control Procedure and request for additional information if required;
- 9) accept or reject objections to RFCs;
- 10) escalate issues for decision of the NEMO Committee as set forth in the NEMO Change Control Procedure;
- 11) review the appropriateness and efficiency of the NEMO Change Control Procedure at least once a year;
- 12) review and ratify the cost estimation of RFCs; and
- 13) notify TSO steering committee in case of any Change.

3. Procedure details

3.1. Outline of the NEMO Change Control Procedure

This procedure is based on a distinction between:

- Notifications
- Modifications

Notifications and Modifications are submitted in the Request for Change form (RFC form, see Section 6.2) and registered in the Request for Change register (see Appendix 1).

3.1.1. Notifications

The Notification process will be used for simple Changes (with a very low and low-risk solution affecting, a small number of assets and only the originating NEMO).

3.1.2. Modifications

All Changes other than those only requiring a Notification (i.e. Changes that are more complex, of a higher risk category, affecting multiple Components or Components that are the responsibility of more than one Party or their subcontractors), are handled as Modifications. This means that explicit approval by the NEMO OPSCOM is necessary.

In case of complex Changes, it may not be possible for the originating NEMO to complete all of the sections of the RFC itself. In this case, contributions to some sections, such as e.g. solution analysis (section B of the RFC), impact assessment (section C of the RFC), and implementation plan (section D of the RFC), will be requested from the appropriate people/Parties that will provide their input using the relevant form(s). This will allow individual responses from several Parties which will together form one single RFC in the case, for example, the solution affects several Components.

Note for RFC that may impact the NEMO Operational Procedures:

When the RFC may impact the NEMO Operational Procedures, this impact will be reviewed by the NEMO OPSCOM and the assessment outcomes will be added in the impact analysis of in the RFC document.

3.2. Process description tables

i. Introduction

The process description tables in this section describe the overall flow of the procedure in the following cases:

- Notifications
- Modification

ii. Activity and timing information

The tables below provide details of the actions to be taken at each step of the procedure and the timeframe within which they should be carried out.

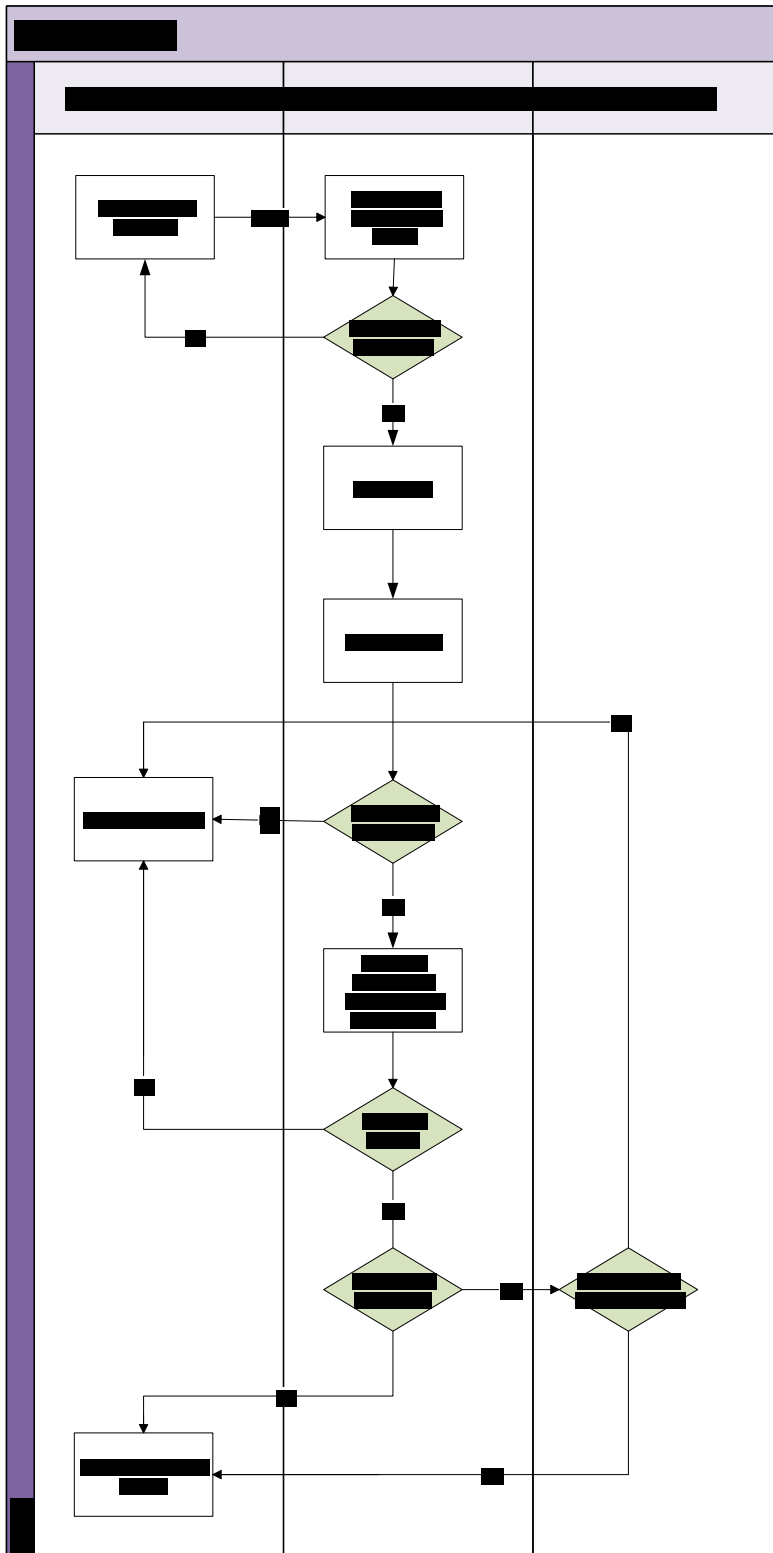
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Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

In all cases where there is activity to be carried out by a Party (or its subcontractors if any) the latter shall provide its Best Efforts to implement such activity as soon as practically possible and in line with the agreed timeline. In particular, the NEMO OPSCOM will review the RFC and any supporting documentation within the timeframes set forth herein. The timeframes can be changed, the changes of timeframes are subject to the NEMO Change Control Procedure and will be handled by the NEMO OPSCOM.

In all cases the processing of Changes will be much faster when the RFC will be as complete and as detailed as possible from the beginning.

Communications will be ordinarily sent via email, with telephone as back up. The communications with external entities involved or affected by the Change will be performed by the NEMO OPSCOM on behalf of the Parties.

iii.RFC procedure for Notifications



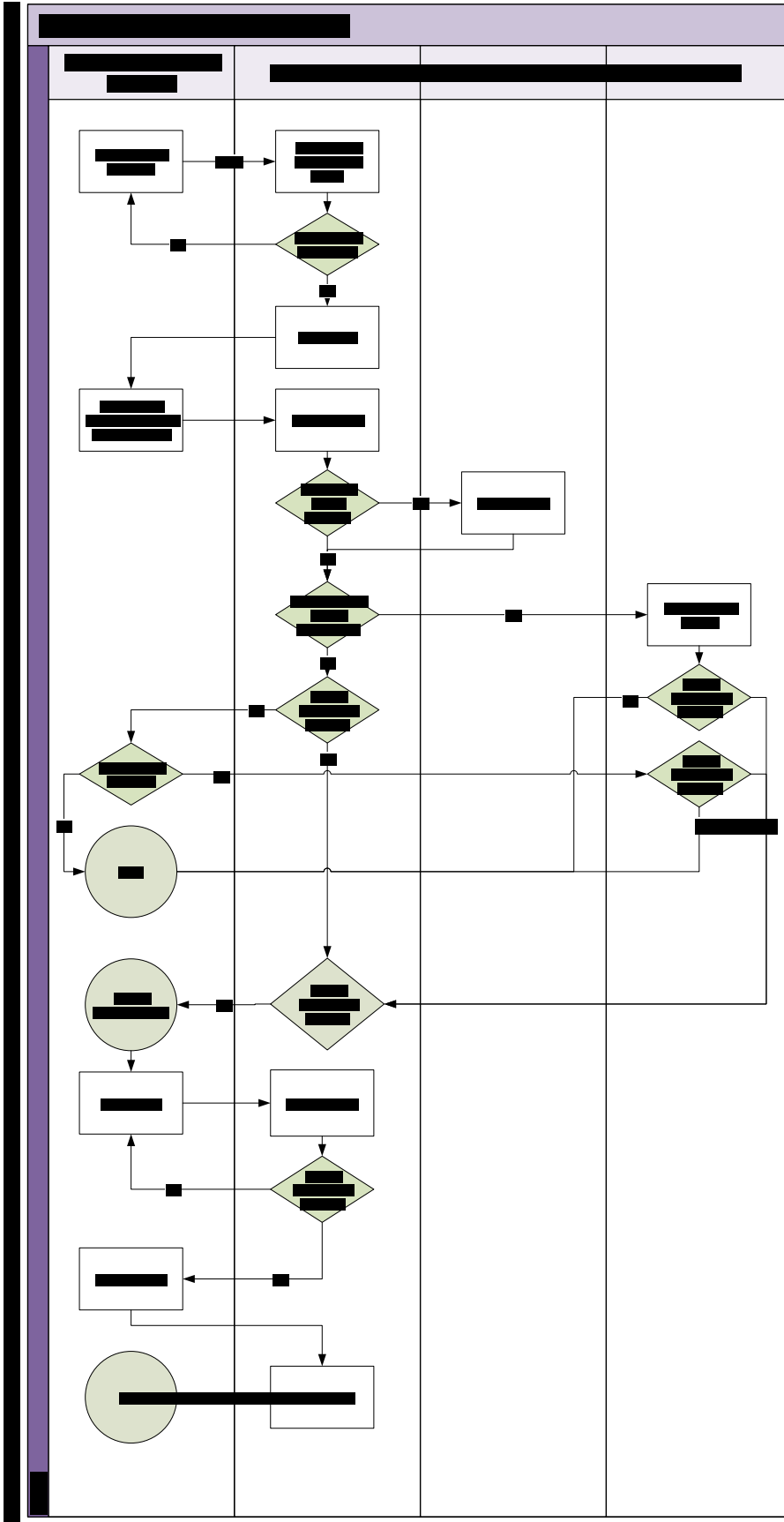
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iv.RFC Procedure for Modifications



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Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

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4.3. Component impact

For **each Component** affected by the proposed Change the category and risk are combined to provide an impact for the Component as defined in the table below.

The originating NEMO will provide, if possible, an initial assessment of the applicable category in the RFC. This will be reviewed by the NEMO OPSCOM.

5. Assurance gathering

As part of the NEMO Change Control Procedure it is necessary to provide assurance that the Changes that have been made are correct and suitable for live operation. This assurance gathering can take place using a range of activities as described below. The level of assurance gathering will depend on the nature and scope of the Change.

5.1. Assurance activities

The table below lists some of the assurance activities that might be adopted when Changes have been implemented in order to ensure that the SIDC market is not jeopardized following by such implementation.

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In all cases, some degree of regression testing will be carried out either across the whole market systems for CAT 1 and/or locally for CAT 2 Changes.

6. Change control forms

6.1. Introduction

The Change control forms provide the basis of the information exchanges regarding Changes between all interested Parties with respect to a particular Change.

For complex Changes (i.e. Changes needing a thorough impact analysis, such as impacting several systems, a substantial Change of a Component, etc.) the impact assessment form can be used to gather information from participants.

Objections are raised using the objections form and Changes to Component versions are sent on the Component version update form.

This section provides details of how to complete the forms and the information that is required in each one. The provision of complete and correct information is important for the efficient operation of the overall process. Generally, as much information as possible should be provided at each stage to speed up the process.

NB. The full set of Change control forms is attached to this procedure. However, since this NEMO Change Control Procedure has a limited scope, some of the Change control forms might not be applicable.

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 6 – Attachments concerning topics that are common to SDAC and SIDC

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Amendment provisions
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All NEMO Cooperation Agreement (ANCA) - Attachment 1
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Amendment provisions
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Objections form

Appendix

- Appendix 1: Request for Change register

See ProjectPlace here: 

SCHEDULE 7
Contact Details of the Parties

A. General contact details

BSP ENERGY EXCHANGE LLC

[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
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[Redacted]
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[Redacted]
CROATIAN POWER EXCHANGE Ltd.

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Gestore dei Mercati Energetici S.p.A. (GME)
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HUNGARIAN POWER EXCHANGE COMPANY LIMITED BY SHARES (HUPX)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

INDEPENDENT BULGARIAN ENERGY EXCHANGE EAD (IBEX)

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OKTE, A.S.

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OMI-POLO ESPAÑOL S.A

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OPERATORUL PIETEI DE ENERGIE ELECTRICA SI DE GAZE NATURALE SA (OPCOM)

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B. Invoicing contact details

BSP ENERGY EXCHANGE LLC

[Redacted]

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CROATIAN POWER EXCHANGE Ltd.

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EXAA ABWICKLUNGSSTELLE FÜR ENERGIEPRODUKTE AG

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Gestore dei Mercati Energetici S.p.A. (GME)

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HELLENIC ENERGY EXCHANGE S.A.
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HUNGARIAN POWER EXCHANGE COMPANY LIMITED BY SHARES (HUPX)
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OPERATORUL PIETEI DE ENERGIE ELECTRICA SI DE GAZE NATURALE SA (OPCOM)

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[REDACTED]

[REDACTED]

SONI

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

TGE

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 7 – Contact Details of the Parties

[Redacted]

[Redacted]

ETPA HOLDING B.V.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Bursa Romana de Marfuri SA

[Redacted]

[Redacted]

[Redacted]

SCHEDULE 8
Accession Declaration template

This Accession Declaration is made on [SAME DATE OF THE SIGNATURE] by:

1., a company incorporated and existing under the laws of, with enterprise number, address,, (the “**New Party**”)),

Towards and to the benefit of:

1. **BSP Energy Exchange LLC**, a company duly organised under the laws of the Republic of Slovenia, having its registered office in Ljubljana, Dunajska cesta 156, Slovenia, registered at the District Court of Ljubljana under the registration number 3327124000 and VAT n° SI37748661 (“**BSP**”);
2. **CROATIAN POWER EXCHANGE Ltd.**, a company incorporated and existing under the laws of the Republic of Croatia, with the enterprise number HR14645347149, address Slavonska avenija 6/A, HR-10000 Zagreb, Croatia (“**CROPEX**”);
3. **EirGrid plc**, a public limited company incorporated under the laws of the Republic of Ireland, with registered office at The Oval, 160 Shelbourne Road, Dublin 4, Ireland (“**EirGrid**”);
4. **EPEX SPOT SE**, a European Company (Societas Europae) incorporated under the laws of the French Republic, with its registered office at 5 boulevard Montmartre, 75002 Paris, France, and registered with the commercial register in Paris under the number 508 010 501 (“**EPEX**”);
5. **Nord Pool European Market Coupling Operator AS**, a company incorporated and existing under the laws of the Kingdom of Norway with company number 984 058 098, having its registered office at Lilleakerveien 2A, 0283 Oslo, Norway (“**Nord Pool EMCO**”);
6. **EXAA Abwicklungsstelle für Energieprodukte AG**, a stock corporation incorporated and existing under the laws of the Republic of Austria, having its registered offices at Alserbachstraße 14-16, 1090 Vienna, Austria, registered with the commercial register in Vienna under FN 210730y and VAT n° ATU52153208 (“**EXAA**”);
7. **Gestore dei Mercati Energetici S.p.A.**, a company duly organised and existing

under the laws of the Italian Republic, with registered office at Viale Maresciallo Pilsudski, 122-124, 00197, Rome, Italy, registered with the Companies Register of Rome under number RM 953866, Italian tax code and VAT 06208031002 (“**GME**”);

- 8. Hellenic Energy Exchange S.A.** a company duly organized and existing under the laws of Greece, with V.A.T. number 801001623, with registered office at 110, Athinon Avenue, 10442, Athens, Greece, registered in the commercial register at HLM Commercial Registry under number 146698601000, (“**HEEx**”);
- 9. HUPX Hungarian Power Exchange Company Limited by Shares**, a company duly organised and existing under the laws of Hungary, with registered office in 1134 Budapest, Devai u. 26-28, Hungary, and registered under the company registration number 01-10-045666, VAT n° HU13967808 (“**HUPX**”);
- 10. Independent Bulgarian Energy Exchange EAD**, a company incorporated and existing under the laws of the Republic of Bulgaria, with the enterprise number 202880940, address: 138 Vasil Levski Blvd., Sofia 1527, Bulgaria (“**IBEX**”);
- 11. OKTE, a.s.**, a company incorporated under the laws of the Slovak Republic, with V.A.T. number SK2023089728, having its registered office at Mlynské nivy 48, 821 09 Bratislava, Slovak Republic, registered in the Commercial Register at the Municipal Court Bratislava III, Section Sa, File No. 5087/B under the number 45 687 862 (“**OKTE**”);
- 12. OMI Polo Español S.A.**, a company incorporated and existing under the laws of the Kingdom Spain, having its registered office at C/ Fray Luis de León 13, 28012 Madrid, Spain, and with the commercial register in Madrid under Section 8, Sheet: 506799 (“**OMIE**”);
- 13. Operatorul Pieței de Energie Electrică și de Gaze Naturale “OPCOM” SA**, a company duly organised and existing under the laws of Romania, with registered office in Bucharest, 16-18 Hristo Botev Bld., 3rd District, Romania, registered with the Bucharest Trade Register Office under the number J40/7542/2000, VAT n° 13278352 (“**OPCOM**”);
- 14. OTE, a.s.**, a company organised and existing under the laws of the Czech Republic, having its registered office at Jihlavská 1558/21 140 00 Praha 4. Czech Republic, and registered with the Commercial Register at the Prague Municipal Court in section B, file 7260, under number 26463318 and VAT n° CZ26463318 (“**OTE**”), OTE’s contract number: [REDACTED];

15. SONI Limited, a company incorporated in Northern Ireland with registered number NI 38715 and registered office at Castlereagh House, 12 Manse Road, Belfast, BT6 9RT, United Kingdom (“**SONI**”),

16. Towarowa Giełda Energii S.A., a company duly organised and existing under the laws of the Republic of Poland, with registered office at ul. Książęca 4, 00-498 Warszawa, Poland, registered with 12th Commercial Department of the National Court Register in Warszawa under number 0000030144 and VAT no PL5272266714, with the share capital paid in full in an amount of 14.500.000,00 PLN (“**TGE**”);and

17. ETPA Holding B.V., a company incorporated and existing under the laws of the Netherlands, with enterprise number 63457431, address Arlandaweg 92, 1043 EX, Amsterdam (“**ETPA**”),

18. Bursa Romana de Marfuri SA, a company incorporated and existing under the laws of Romania, with enterprise number J40/19450/1992 CIF: RO1562694, address Str. Buzesti Nr. 82-94, Etaj 7, Bucuresti (“**BRM**”),

hereinafter individually referred to also as an “**Existing Party**” and collectively as the “**Existing Parties**”.

WHEREAS:

- A. On [*insert date of ANCA*], BSP, CROPEX, EirGrid, EPEX SPOT SE, EXAA, GME, HUPX, IBEX, HEnEx, EMCO, OKTE, OMIE, OPCOM, OTE, SONI, TGE, ETPA and BRM have entered into the All NEMO Cooperation Agreement, hereby enclosed as Attachment 2 (the “**Agreement**”).
- B. On, the New Party has expressed to the Existing Parties its wish to adhere to the Agreement.
- C. On....., the New Party has been provided with a copy of the Agreement by the Secretary of the All NEMO Committee.
- D. According to Clause 16 of the Agreement, all Existing Parties accept the adherence to the Agreement of the New Party provided that it has duly executed this Accession Declaration which is substantially similar to the template provided under Schedule 8 of the Agreement.

NOW THEREFORE THE NEW PARTY AGREES AND COMMITS TOWARDS THE EXISTING PARTIES AS FOLLOWS:

1. Accession to the All NEMO Cooperation Agreement

1.1 The New Party, by accepting all the terms and conditions with no exclusion whatsoever, agrees to accede to:

- i) the Agreement, and
- ii) all the other contracts entered into under the cooperation set by the Agreement, namely the Power of Attorney Agreement between NEMOs for the appointment of the Contracting Party of the Project Manager Office of the NEMOs and the Power of Attorney between the NEMOs with respect to the contract with a Third-Party Service Provider.

1.2 The Existing Parties agree that the accession of the New Party shall be effective immediately upon the execution of this Accession Declaration.

2. Acknowledgement by the New Party

Upon signature of this Accession Declaration, the New Party declares to be fully aware of, all obligations of the Agreement having received by the Parties full and complete access to the relevant documentation.

3. Entry into force and termination

3.1 This Accession Declaration shall enter into force with effect from the date on which all the Existing Parties have duly received the signed Accession Declaration by electronic mail at the relevant e-mail addresses listed in Attachment 1. An original hard copy of this Accession Declaration duly signed by the New Party shall be sent to each of the Existing Parties for record purposes.

3.2 This Accession Declaration is entered into for the duration of the Agreement as set forth under Clause 19 of the Agreement. For the avoidance of doubt, should the Agreement be terminated earlier, this Accession Declaration shall be terminated accordingly.

4. Miscellaneous

4.1 No provision of this Accession Declaration shall be interpreted adversely against any Existing Party solely because such Existing Party was responsible for drafting that particular provision.

- 4.2** Any change to this Accession Declaration can only be validly agreed upon in writing, duly signed by the legal representative of the New Party and of all the Existing Parties.
- 4.3** If one or more of the provisions of this Accession Declaration is declared to be invalid, illegal or unenforceable in any respect under any Applicable Law or public policy, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected and these provisions shall remain in full force and effect as long as the economic or legal substance of this Accession Declaration is not affected in any material manner adverse to any Party. In such event, the Parties shall immediately and in good faith negotiate a legally valid replacement provision with the same economic effect.
- 4.4** The Parties agree that the working language for all notifications and for all matters relating to this Accession Declaration shall be English, to the extent compatible with the applicable provisions of mandatory law, if any. Any term used in this Accession Declaration with capital letter and not otherwise defined herein, shall have the same meaning described to it in the Agreement.
- 4.5** The Attachments and the recitals to this Accession Declaration form an integral part thereof and any reference to this Accession Declaration shall include a reference to the Attachments and vice versa.
- 4.6** In case of contradiction or discrepancy between this Accession Declaration and the Agreement and/or any of its respective Schedules, the precedence shall be as follows:
1. Main text of the Agreement;
 2. Schedules to the Agreement;
 3. Main body of this Accession Declaration;
- 4.7** The New Party may not assign or transfer this Accession Declaration, partially or as a whole.
- 4.8** This Accession Declaration is governed by and construed in accordance with Belgian laws without regard to the conflict of laws principles of it.
- 4.9** Any dispute arising out of or in connection with this Agreement shall be settled in accordance with Clause 27 of the Agreement.

Date and Place (same as the one indicated in the heading)

COMPANY NAME

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 8 – Accession Declaration template

Signature(s)

Name(s)

Title(s)

ATTACHMENT 1
Contact Details of Existing Parties

1. For BSP
2. For CROPEX
3. For EirGrid
4. For EPEX SPOT SE
5. For Nord Pool EMCO
6. For EXAA
7. For GME
8. For HEnEx
9. For HUPX
10. For IBEX
11. For OKTE
12. For OMIE
13. For OPCOM
14. For OTE
15. For SONI
16. For TGE
17. For ETPA
18. For BRM

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 8 – Accession Declaration template

ATTACHMENT 2
Current in-force Version of All NEMO Cooperation Agreement

SCHEDULE 9 CONFIDENTIALITY DECLARATION TEMPLATE

This confidentiality declaration (“Confidentiality Declaration”) is made on [*insert date*]
between:

1. **BSP Energy Exchange LLC**, a company duly organised under the laws of the Republic of Slovenia, having its registered office in Ljubljana, Dunajska cesta 156, Slovenia, registered at the District Court of Ljubljana under the registration number 3327124000 and VAT n° SI37748661 (“**BSP**”);
2. **CROATIAN POWER EXCHANGE Ltd.**, a company incorporated and existing under the laws of the Republic of Croatia, with the enterprise number HR14645347149, address Slavonska avenija 6/A, HR-10000 Zagreb, Croatia (“**CROPEX**”);
3. **EirGrid plc**, a public limited company incorporated under the laws of the Republic of Ireland, with registered office at The Oval, 160 Shelbourne Road, Dublin 4, Ireland (“**EirGrid**”);
4. **EPEX SPOT SE**, a European Company (Societas Europae) incorporated under the laws of the French Republic, with its registered office at 5 boulevard Montmartre, 75002 Paris, France, and registered with the commercial register in Paris under the number 508 010 501 (“**EPEX**”);
5. **Nord Pool European Market Coupling Operator AS**, a company incorporated and existing under the laws of the Kingdom of Norway with company number 984 058 098, having its registered office at Lilleakerveien 2A, 0283 Oslo, Norway (“**Nord Pool EMCO**”);
6. **EXAA Abwicklungsstelle für Energieprodukte AG**, a stock corporation incorporated and existing under the laws of the Republic of Austria, having its registered offices at Alserbachstraße 14-16, 1090 Vienna, Austria, registered with the commercial register in Vienna under FN 210730y and VAT n° ATU52153208 (“**EXAA**”);
7. **Gestore dei Mercati Energetici S.p.A.**, a company duly organised and existing under the laws of the Italian Republic, with registered office at Viale Maresciallo Pilsudski, 122-124, 00197, Rome, Italy, registered with the Companies Register of Rome under number RM 953866, Italian tax code and VAT 06208031002 (“**GME**”);
8. **Hellenic Energy Exchange S.A.** a company duly organized and existing under the laws of Greece, with V.A.T. number 801001623, with registered office at 110, Athinon Avenue, 10442, Athens, Greece, registered in the commercial register at HLM Commercial Registry under number 146698601000, (“**HEnEx**”);
9. **HUPX Hungarian Power Exchange Company Limited by Shares**, a company duly organised and existing under the laws of Hungary, with registered office in 1134

Budapest, Devai u. 26-28, Hungary, and registered under the company registration number 01-10-045666, VAT n° HU13967808 (“**HUPX**”);

10. **Independent Bulgarian Energy Exchange EAD**, a company incorporated and existing under the laws of the Republic of Bulgaria, with the enterprise number 202880940, address: 138 Vasil Levski Blvd., Sofia 1527, Bulgaria (“**IBEX**”);
11. **OKTE, a.s.**, a company incorporated under the laws of the Slovak Republic, with V.A.T. number SK2023089728, having its registered office at Mlynské nivy 48, 821 09 Bratislava, Slovak Republic, registered in the Commercial Register at the Municipal Court Bratislava III, Section Sa, File No. 5087/B under the number 45 687 862 (“**OKTE**”);
12. **OMI Polo Español S.A.**, a company incorporated and existing under the laws of the Kingdom Spain, having its registered office at C/ Fray Luis de León 13, 28012 Madrid, Spain, and with the commercial register in Madrid under Section 8, Sheet: 506799 (“**OMIE**”);
13. **Operatorul Pieței de Energie Electrică și de Gaze Naturale “OPCOM” SA**, a company duly organised and existing under the laws of Romania, with registered office in Bucharest, 16-18 Hristo Botev Bld., 3rd District, Romania, registered with the Bucharest Trade Register Office under the number J40/7542/2000, VAT n° 13278352 (“**OPCOM**”);
14. **OTE, a.s.**, a company organised and existing under the laws of the Czech Republic, having its registered office at Jihlavská 1558/21 140 00 Praha 4. Czech Republic, and registered with the Commercial Register at the Prague Municipal Court in section B, file 7260, under number 26463318 and VAT n° CZ26463318 (“**OTE**”), OTE’s contract number: ██████████;
15. **SONI Limited**, a company incorporated in Northern Ireland with registered number NI 38715 and registered office at Castlereagh House, 12 Manse Road, Belfast, BT6 9RT, United Kingdom (“**SONI**”),
16. **Towarowa Giełda Energii S.A.**, a company duly organised and existing under the laws of the Republic of Poland, with registered office at ul. Książęca 4, 00-498 Warszawa, Poland, registered with 12th Commercial Department of the National Court Register in Warszawa under number 0000030144 and VAT no PL5272266714, with the share capital paid in full in an amount of 14.500.000,00 PLN (“**TGE**”);and
17. **ETPA Holding B.V.**, a company incorporated and existing under the laws of the Netherlands, with enterprise number 63457431, address Arlandaweg 92, 1043 EX, Amsterdam (“**ETPA**”),
18. **Bursa Romana de Marfuri SA**, a company incorporated and existing under the laws of Romania, with enterprise number J40/19450/1992 CIF: RO1562694, address Str. Buzesti Nr. 82-94, Etaj 7, Bucuresti (“**BRM**”),

(each an “**Existing Party**” and together the “**Existing Parties**”); and

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 9 – Confidentiality Declaration Template

19, a company incorporated and existing under the laws of....., with enterprise number, address,(the “**Adhering Party**”).

WHEREAS:

- A. Pursuant to an agreement made between the Existing Parties dated [*insert date of ANCA*] (the “**All NEMO Cooperation Agreement**” or “**ANCA**”) the terms have been agreed on which the Existing Parties shall cooperate with each other in the performance of certain tasks required of them in their capacity as NEMOs in accordance with the terms of Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (the “**CACM Regulation**”).
- B. On the....., the Adhering Party has expressed to the Existing Parties its wish to adhere to the All NEMO Cooperation Agreement.
- C. Bearing in mind that the NEMO documentation contains confidential business information, the Existing Parties are willing to provide access to a part of these documents provided that confidentiality is sufficiently guaranteed.
- D. According to clause 16.2 of the ANCA, the Parties may accept the application of the Adhering Party provided that it has duly executed a confidentiality declaration which is substantially similar to the template attached as Schedule 9 to the ANCA (the “**Confidentiality Declaration**”).

NOW THEREFORE THE ADHERING PARTY AGREES AND COMMITS TOWARDS THE EXISTING PARTIES AS FOLLOWS:

1. CONFIDENTIAL INFORMATION

- 1.1** The term “Confidential Information” as used in this Confidentiality Declaration means all information whether or not marked as confidential, directly or indirectly related to the NEMO Cooperation, which any Existing Party provide, verbally or in writing or give(s) access to through the Projectplace, to the Adhering Party for the purpose of the examination and/or deeper understanding of the documentation in light of the possible adherence to the ANCA (the “**Permitted Purpose**”). The information (to be strictly interpreted) defined in Article 3 of this Confidentiality Declaration (referred to as the “**Available Information**”) is not to be considered as Confidential Information.
- 1.2** Confidential Information may only be published after formal approval of all the Existing Parties or in the case of mandatory disclosure for regulatory reasons as set out in Article 3. The published part of the Confidential Information shall therefore be regarded as Available Information from that moment as defined under Article 3, provided the conditions required under this Article 1.2 are met.

2. NON DISCLOSURE OF CONFIDENTIAL INFORMATION

2.1 The Adhering Party hereby expressly undertakes towards the Existing Parties that it shall:

- a) not disclose, convey or transfer to any person Confidential Information in any form whatsoever without the express, prior written consent (including email) of the relevant Existing Party;
- b) not use the Confidential Information in any way or for any purpose other than the Permitted Purpose unless such other use is previously and specifically authorised in writing (including email) by the relevant Existing Party;
- c) not incorporate Confidential Information into data, documents, databases, or any other support other than as is necessary in connection with the Permitted Purpose unless the relevant Existing Party has given its prior written explicit consent (including e-mail) to such incorporation; should such material necessary for the NEMO Cooperation be meant for publication or disclosure, such publication or disclosure shall not be made without the fulfilment of the requirements assessed in Article 1.2;
- d) not copy or reproduce Confidential Information in any form whatsoever except as may be strictly necessary for the Permitted Purpose;
- e) not share nor disclose in any manner whatsoever any Confidential Information with any person or entity (even if such person or entity is an affiliate, holding company or subsidiary of the Adhering Party), other than the Existing Parties.

2.2 The Adhering Party furthermore expressly undertakes towards the Existing Parties that it shall:

- a) immediately notify the relevant Existing Party in writing (including email) in the event of any unauthorised use or disclosure of Confidential Information and take all reasonable steps to mitigate any harmful effects such Existing Party may sustain or incur as a result of such a breach of this Confidentiality Declaration;
- b) immediately (and in any event within three days) return or destroy all Confidential Information in any tangible form whatsoever at the first written request of the relevant Existing Party;
- c) indemnify the relevant Existing Party in accordance with this Confidentiality Declaration (see Article 4.3 and Article 4.4. below).

3. AVAILABLE INFORMATION

3.1 Notwithstanding Article 2, the Adhering Party may disclose Confidential Information it has received:

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 9 – Confidentiality Declaration Template

- a) If it can document by written evidence that the information was known to it prior to the disclosure, through no breach of a confidentiality obligation towards the disclosing Existing Party;
- b) If it can document by written evidence that the Confidential Information has come into the public domain through no fault or negligence of the Adhering Party;
- c) If, in the event of disclosure by the Adhering Party to its directors, members of management, officers, employees or to the directors, members of management, officers, employees of any of its Affiliates (referred to as “**Internal Representative**”) or to any subcontractors, agents, professional advisors, external consultants and insurers and attorneys-at-law (referred to as “**External Representative**”), the following conditions are met:
 - i) the Internal Representative or External Representative has a definite need to know such information for the execution of its assignment which must be related to the Permitted Purpose; and
 - ii) the Internal Representative or an External Representative is informed by the Adhering Party of the confidential nature of the Confidential Information;
 - iii) the Internal Representative or an External Representative is bound to respect the confidential nature of the Confidential Information and undertakes not to use such Confidential Information for any purpose other than the Permitted Purpose under terms at least equivalent to the terms of this Confidentiality Declaration;
 - iv) For the avoidance of doubt, the Existing Parties confirm that the disclosure of Confidential Information in the circumstances foreseen under paragraph (iii) of this Article does not affect the confidential character of the Confidential Information so exchanged;
 - v) The Adhering Party undertakes to have sufficient procedures and protections in place in order to enforce and maintain confidentiality and prevent any unauthorised use and/or disclosure of such Confidential Information by its Internal Representatives and External Representatives to whom Confidential Information is disclosed;
 - vi) The Adhering Party remains at all times fully liable pursuant to this Article 3 for any breach of this Confidentiality Declaration by its Internal Representative or External Representative.
- d) If the Adhering Party is requested to disclose all or any part of the Confidential Information pursuant to an applicable law or regulation or pursuant to a valid and effective order issued by a competent court or by a competent regulatory, administrative or other governmental body or if the Adhering Party considers itself

to be under a legal obligation to disclose all or part of the Confidential Information, in which case the Adhering Party undertakes to:

- i) immediately and in any case prior to making any disclosure (and to the extent lawful), notify the disclosing Existing Party of the existence, terms and circumstances surrounding such request or legal obligation; and
- ii) if consistent with the terms assigned by law or public authority to disclose the Confidential Information, consult with the disclosing Existing Party on the advisability of taking available legal steps to resist or narrow such request or legal obligation and/or permit the disclosing Existing Party to take such legal steps itself, and to agree on the content and form of the Confidential Information to be disclosed; and
- iii) if disclosure of such Confidential Information is required, exercise its best efforts to obtain an order or other reliable assurance, if such order or reliable assurance can be obtained, that confidential treatment shall be accorded to such portion of the Confidential Information to be disclosed. Best efforts shall mean performing its obligation with the degree of diligence, prudence and foresight reasonably and ordinarily exercised by an experienced person engaged in the same line of business under the same circumstances and conditions, without guaranteeing the achievement of a specific result (“middelenverbintenis” / “obligation de moyen”).

4. RESPONSIBILITY

4.1 [Redacted]

4.2 [Redacted]

4.3 [Redacted]

4.4 [Redacted]

4.5 [Redacted]

5. INTELLECTUAL PROPERTY RIGHTS (IPR)

5.1 All rights, title and interest in and to the Confidential Information shall be retained by the Disclosing Party/ies.

5.2 This Confidentiality Declaration shall not be construed as granting the Adhering Party any license right or any other right related to the Confidential Information and its future use, except to the extent as set out in this Confidentiality Declaration or unless such is agreed upon in a separate, written, specific and signed agreement.

6. ENTRY INTO FORCE, TERM AND TERMINATION

6.1 This Confidentiality Declaration enters into force as of the date of its signature by the Adhering Party. With respect to any adhering party to the NEMO Agreements, this Confidentiality Declaration shall enter into force as of the date on which such new party informs in writing (including e-mail) the Adhering Party of the completion of its adherence to the NEMO Agreements.

6.2 This Confidentiality Declaration shall remain in effect towards the Existing Parties for the duration of its adherence process, subject to a maximum period of two (2) years. The Adhering Party may terminate its adherence process by giving the Existing Parties 14 (fourteen) days’ prior written notice. The Existing Parties may terminate the Adhering Party’s adherence process by giving the Adhering Party 14 (fourteen) days’ prior written notice. In the event of expiration or termination by the Adhering Party of its adherence process, the obligations of confidentiality and restriction of use of the Confidential Information shall survive for the period commencing on the date of such expiration or termination plus ten (10) years.

6.3 Upon termination of this Confidentiality Declaration, the Adhering Party undertakes within eight (8) days following termination of this Confidentiality Declaration:

- a) to return to the Disclosing Party all documents (including copies) and other material (whether in written or other form e.g. computer disks) in its possession, custody or control that bear or incorporate any part of the Confidential Information; or
- b) to destroy all documents and other material in its possession, custody or control which bear or incorporate any part of the Confidential Information or which are produced by using any part of the Confidential Information (except that a copy may be kept if necessary, for recordkeeping purposes) and to certify to the Disclosing Party that this has been done.

7. ADHERING PARTY STATUS AND ADHERENCE TO THE NEMO COOPERATION

7.1 For the avoidance of doubt, the Adhering Party agrees that the granting of Adhering Party status does not constitute adherence to the NEMO Cooperation. The adherence to the NEMO Cooperation by the Adhering Party shall require its explicit written consent with its content to be formalised in writing by adherence to the All NEMO Cooperation Agreement and any other agreement the Existing Parties may have concluded in respect of the NEMO Cooperation. Nothing in this Confidentiality Declaration, nor the exchange of Confidential Information with or use of the Confidential Information by the Adhering Party shall be deemed to constitute an expression of the adherence to the NEMO Cooperation. The Adhering Party shall agree beforehand with the Existing Parties on any external communication related to such adherence. The Adhering Party agrees and accepts that it has no decision rights in respect of the NEMO Cooperation as long as it has not adhered to the NEMO Cooperation.

7.2 Without prejudice to Article 7.1 by signing this Confidentiality Declaration, the Adhering Party commits to support the NEMO Cooperation.

8. MISCELLANEOUS

8.1 Severability. If any term of this Confidentiality Declaration is held by a court of competent jurisdiction to be invalid, unenforceable or otherwise ineffective by operation of law, then this Confidentiality Declaration, including all of the remaining terms, will remain in full force and the Adhering Party and the Existing Parties shall negotiate in good faith to replace such invalid or unenforceable provision with a provision that corresponds as closely as possible to their intentions.

8.2 Beneficiaries. For the avoidance of doubt the Adhering Party acknowledges that the commitments hereunder are its binding commitments towards each of the Existing Parties individually and agrees and accepts that the Existing Parties may, individually or collectively, claim performance by the Adhering Party in compliance with this Confidentiality Declaration.

8.3 Assignment. This Confidentiality Declaration shall protect the Existing Parties and their permitted assignees and successors in interest. An Existing Party may assign its rights hereunder to another third party, provided the Adhering Party is informed thereof by written notification.

9. DISPUTE PROCEDURE

9.1 In case of a dispute between the Adhering Party and one or more of the Existing Parties (together the “**Disputing Parties**”), arising out of or in relation with this Confidentiality Declaration, the Adhering Party undertakes to meet in good faith with the Existing Parties at their first written request to resolve such dispute without recourse to legal proceedings and to achieve a reasonable and fair amicable settlement amongst each other within fourteen (14) days, or within any other timeframe agreed between the Disputing Parties. Should an amicable settlement not be reached within within fourteen (14) days (or within such other timeframe as agreed between the Disputing Parties), the dispute will be submitted for settlement to the respective Chief Executive Officers of the Disputing Parties or such other person as they may appoint for this purpose.

9.2 If no amicable settlement can be reached by the Chief Executive Officers of the Disputing Parties (or any such other person as they may appoint for this purpose) within fourteen (14) days (or within such other timeframe as agreed between the Disputing Parties) any one or more of the Disputing Parties may refer the dispute to arbitration under the International Chamber of Commerce (hereafter the "ICC") rules, provided that for the purposes of such arbitration it is agreed that: a) the arbitral tribunal shall have three arbitrators, regardless of the number of the parties involved; b) the place of arbitration shall be Paris and all procedures shall be in English; c) the award of the arbitration will be final and binding upon the Disputing Parties.

9.3 Nothing in this Article shall preclude the Disputing Parties from applying for injunctive relief in summary proceedings before any competent court.

9.4 This Confidentiality Declaration is governed and shall be construed in accordance with Belgian law.

IN WITNESS WHEREOF the Adhering Party has caused its duly authorised representative to execute this Confidentiality Declaration in (...) original copies on the date first mentioned above.

[Company name of Adhering Party] _____ [Name] [Title]

All NEMO Cooperation Agreement (ANCA) - Attachment 1
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions
Schedule 10 – Procedures for appointing the Members of the Expert Panel

SCHEDULE 10
PROCEDURES FOR APPOINTING THE MEMBERS OF THE EXPERT PANEL

SCHEDULE 11

Controllers’ Information (personal data protection)

Section 1. Purpose of this Annex

Pursuant to Clause 29 (of the main body) this Annex contains individual Party information concerning the processing of Personal Data by such Party

Section 2. Information clause of TGE for persons authorised to represent the entity and persons indicated as business contacts

Information concerning the processing of personal data by **Towarowa Giełda Energii S.A.** in connection with the requirements of Articles 13 and 14 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)(hereinafter “GDPR”).

The controller of the data of the persons authorized to represent the entity and the persons indicated as business contacts is Towarowa Giełda Energii S.A. (TGE), ul. Książęca 4, 00-498 Warszawa, phone: +48 22 341 99 12, tge@tge.pl.

The controller has appointed a personal data protection officer, who can be contacted at: daneosobowe@tge.pl.

The scope of personal data to be processed by TGE includes the name and surname, business e-mail address, business telephone number and position, and in case of persons authorized to represent the entity – the name, surname, position and data contained in the current excerpt from the relevant register, or the data contained in the power of attorney.

The personal data of persons authorised to represent the entity and the data of persons indicated as business contacts will be processed by TGE according to Article 6(1)(f) GDPR, i.e. on the basis of a legitimate interest of the controller which is to verify the correct representation of the entity in connection with a declaration of will being made, exchanging

communication in connection with the conclusion or performance of a contract, maintaining and developing business relations, or asserting, pursuing or defend oneself against possible claims. The recipients of the data may include entities engaged in the processing of personal data on behalf of TGE in connection with the services provided to TGE, e.g. consulting and IT services.

Every person has the right to request access to, rectification, erasure, restriction of processing and the transfer of his or her personal data. Every person has the right to object to the processing of personal data to the extent that the processing of personal takes place on the basis of a legitimate interest of the Controller. Every person has the right to lodge a complaint against the processing of his/her data with the President of the Personal Data Protection Office.

The indication of persons authorised to represent the entity is required as a condition to the execution of the contract. The provision of the data of persons indicated as business contacts is voluntary but a failure to provide such data will impede communication and contact with the counterparty in connection with the contract.

Any inquiries or requests related to the processing of personal data by TGE should be sent to the following e-mail address: daneosobowe@tge.pl.

SCHEDULE 12
GDPR – EU STANDARD CONTRACTUAL CLAUSES¹

SECTION I

Clause 1

Purpose and scope

- (a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)² for the transfer of personal data to a third country.
- (b) The Parties:
- (i) the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter “entity/ies”) transferring the personal data, as listed in Annex I.A. (hereinafter each “data exporter”); and
 - (ii) the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each “data importer”),
- have agreed to these standard contractual clauses (hereinafter: “Clauses”).
- (c) These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.
- (d) The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

¹ This document is a copy of annex 1 to the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council as applicable in January 2025. In case the annex 1 to this decision is amended the version as attached to the amended decision shall be applicable.

² Where the data exporter is a processor subject to Regulation (EU) 2016/679 acting on behalf of a Union institution or body as controller, reliance on these Clauses when engaging another processor (sub-processing) not subject to Regulation (EU) 2016/679 also ensures compliance with Article 29(4) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295 of 21.11.2018, p. 39), to the extent these Clauses and the data protection obligations as set out in the contract or other legal act between the controller and the processor pursuant to Article 29(3) of Regulation (EU) 2018/1725 are aligned. This will in particular be the case where the controller and processor rely on the standard contractual clauses included in Decision [...].

Clause 2

Effect and invariability of the Clauses

- (a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46 (2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.
- (b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

Clause 3

Third-party beneficiaries

- (a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:
 - (i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;
 - (ii) Clause 8 - Module One: Clause 8.5 (e) and Clause 8.9(b); Module Two: Clause 8.1(b), 8.9(a), (c), (d) and (e); Module Three: Clause 8.1(a), (c) and (d) and Clause 8.9(a), (c), (d), (e), (f) and (g); Module Four: Clause 8.1 (b) and Clause 8.3(b);
 - (iii) Clause 9 - Module Two: Clause 9(a), (c), (d) and (e); Module Three: Clause 9(a), (c), (d) and (e);
 - (iv) Clause 12 - Module One: Clause 12(a) and (d); Modules Two and Three: Clause 12(a), (d) and (f);
 - (v) Clause 13;
 - (vi) Clause 15.1(c), (d) and (e);
 - (vii) Clause 16(e);
 - (viii) Clause 18 - Modules One, Two and Three: Clause 18(a) and (b); Module Four: Clause 18.
- (b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

Clause 4

Interpretation

- (a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.

All NEMO Cooperation Agreement (ANCA) - Attachment 2
Consolidated version of the All NEMO Cooperation Agreement with the Fourth ANCA
Amendment provisions - Mark up

- (b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
- (c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

Clause 5

Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 6

Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

Clause 7 - Optional

Docking clause

- (a) An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
- (b) Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
- (c) The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

SECTION II – OBLIGATIONS OF THE PARTIES

Clause 8

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

MODULE ONE: Transfer controller to controller

8.1 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B. It may only process the personal data for another purpose:

- (i) where it has obtained the data subject's prior consent;
- (ii) where necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or

- (iii) where necessary in order to protect the vital interests of the data subject or of another natural person.

8.2 Transparency

- (a) In order to enable data subjects to effectively exercise their rights pursuant to Clause 10, the data importer shall inform them, either directly or through the data exporter:
 - (i) of its identity and contact details;
 - (ii) of the categories of personal data processed;
 - (iii) of the right to obtain a copy of these Clauses;
 - (iv) where it intends to onward transfer the personal data to any third party/ies, of the recipient or categories of recipients (as appropriate with a view to providing meaningful information), the purpose of such onward transfer and the ground therefore pursuant to Clause 8.7.
- (b) Paragraph (a) shall not apply where the data subject already has the information, including when such information has already been provided by the data exporter, or providing the information proves impossible or would involve a disproportionate effort for the data importer. In the latter case, the data importer shall, to the extent possible, make the information publicly available.
- (c) On request, the Parties shall make a copy of these Clauses, including the Appendix as completed by them, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including personal data, the Parties may redact part of the text of the Appendix prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.
- (d) Paragraphs (a) to (c) are without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.3 Accuracy and data minimisation

- (a) Each Party shall ensure that the personal data is accurate and, where necessary, kept up to date. The data importer shall take every reasonable step to ensure that personal data that is inaccurate, having regard to the purpose(s) of processing, is erased or rectified without delay.
- (b) If one of the Parties becomes aware that the personal data it has transferred or received is inaccurate, or has become outdated, it shall inform the other Party without undue delay.
- (c) The data importer shall ensure that the personal data is adequate, relevant and limited to what is necessary in relation to the purpose(s) of processing.

8.4 Storage limitation

The data importer shall retain the personal data for no longer than necessary for the purpose(s) for which it is processed. It shall put in place appropriate technical or organisational measures to ensure compliance with this obligation, including erasure or anonymisation³ of the data and all back-ups at the end of the retention period.

8.5 Security of processing

- (a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the personal data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter “personal data breach”). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.
- (b) The Parties have agreed on the technical and organisational measures set out in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
- (c) The data importer shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- (d) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the personal data breach, including measures to mitigate its possible adverse effects.
- (e) In case of a personal data breach that is likely to result in a risk to the rights and freedoms of natural persons, the data importer shall without undue delay notify both the data exporter and the competent supervisory authority pursuant to Clause 13. Such notification shall contain i) a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), ii) its likely consequences, iii) the measures taken or proposed to address the breach, and iv) the details of a contact point from whom more information can be obtained. To the extent it is not possible for the data importer to provide all the information at the same time, it may do so in phases without undue further delay.
- (f) In case of a personal data breach that is likely to result in a high risk to the rights and freedoms of natural persons, the data importer shall also notify without undue delay the data subjects concerned of the personal data breach and its nature, if necessary

³ This requires rendering the data anonymous in such a way that the individual is no longer identifiable by anyone, in line with recital 26 of Regulation (EU) 2016/679, and that this process is irreversible.

in cooperation with the data exporter, together with the information referred to in paragraph (e), points ii) to iv), unless the data importer has implemented measures to significantly reduce the risk to the rights or freedoms of natural persons, or notification would involve disproportionate efforts. In the latter case, the data importer shall instead issue a public communication or take a similar measure to inform the public of the personal data breach.

- (g) The data importer shall document all relevant facts relating to the personal data breach, including its effects and any remedial action taken, and keep a record thereof.

8.6 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions or offences (hereinafter "sensitive data"), the data importer shall apply specific restrictions and/or additional safeguards adapted to the specific nature of the data and the risks involved. This may include restricting the personnel permitted to access the personal data, additional security measures (such as pseudonymisation) and/or additional restrictions with respect to further disclosure.

8.7 Onward transfers

The data importer shall not disclose the personal data to a third party located outside the European Union⁴ (in the same country as the data importer or in another third country, hereinafter "onward transfer") unless the third party is or agrees to be bound by these Clauses, under the appropriate Module. Otherwise, an onward transfer by the data importer may only take place if:

- (i) it is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
- (ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 of Regulation (EU) 2016/679 with respect to the processing in question;
- (iii) the third party enters into a binding instrument with the data importer ensuring the same level of data protection as under these Clauses, and the data importer provides a copy of these safeguards to the data exporter;
- (iv) it is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings;

⁴ The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

- (v) it is necessary in order to protect the vital interests of the data subject or of another natural person; or
- (vi) where none of the other conditions apply, the data importer has obtained the explicit consent of the data subject for an onward transfer in a specific situation, after having informed him/her of its purpose(s), the identity of the recipient and the possible risks of such transfer to him/her due to the lack of appropriate data protection safeguards. In this case, the data importer shall inform the data exporter and, at the request of the latter, shall transmit to it a copy of the information provided to the data subject.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.8 Processing under the authority of the data importer

The data importer shall ensure that any person acting under its authority, including a processor, processes the data only on its instructions.

8.9 Documentation and compliance

- (a) Each Party shall be able to demonstrate compliance with its obligations under these Clauses. In particular, the data importer shall keep appropriate documentation of the processing activities carried out under its responsibility.
- (b) The data importer shall make such documentation available to the competent supervisory authority on request.

MODULE TWO: Transfer controller to processor

8.1 Instructions

- (a) The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give such instructions throughout the duration of the contract.
- (b) The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B, unless on further instructions from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including the measures

described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand the its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to erase or rectify the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the data exporter and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

- (a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter “personal data breach”). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified

in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

- (b) The data importer shall grant access to the personal data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- (c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify the data exporter without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
- (d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter "sensitive data"), the data importer shall apply the specific restrictions and/or additional safeguards described in Annex I.B.

8.8 Onward transfers

The data importer shall only disclose the personal data to a third party on documented instructions from the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union⁵ (in the same country as the data importer or in another

⁵ The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

third country, hereinafter “onward transfer”) if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

- (i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
- (ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;
- (iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
- (iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.9 Documentation and compliance

- (a) The data importer shall promptly and adequately deal with enquiries from the data exporter that relate to the processing under these Clauses.
- (b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the data exporter.
- (c) The data importer shall make available to the data exporter all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the data exporter's request, allow for and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or audit, the data exporter may take into account relevant certifications held by the data importer.
- (d) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.
- (e) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

MODULE THREE: Transfer processor to processor

8.1 Instructions

- (a) The data exporter has informed the data importer that it acts as processor under the instructions of its controller(s), which the data exporter shall make available to the data importer prior to processing.
- (b) The data importer shall process the personal data only on documented instructions from the controller, as communicated to the data importer by the data exporter, and any additional documented instructions from the data exporter. Such additional instructions shall not conflict with the instructions from the controller. The controller or data exporter may give further documented instructions regarding the data processing throughout the duration of the contract.
- (c) The data importer shall immediately inform the data exporter if it is unable to follow those instructions. Where the data importer is unable to follow the instructions from the controller, the data exporter shall immediately notify the controller.
- (d) The data exporter warrants that it has imposed the same data protection obligations on the data importer as set out in the contract or other legal act under Union or Member State law between the controller and the data exporter⁶.

⁶ See Article 28(4) of Regulation (EU) 2016/679 and, where the controller is an EU institution or body, Article 29(4) of Regulation (EU) 2018/1725.

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B., unless on further instructions from the controller, as communicated to the data importer by the data exporter, or from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including personal data, the data exporter may redact part of the text of the Appendix prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to rectify or erase the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the controller and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

- (a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter "personal data breach"). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the

nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subject. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter or the controller. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.

- (b) The data importer shall grant access to the data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- (c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify, without undue delay, the data exporter and, where appropriate and feasible, the controller after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the data breach, including measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
- (d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify its controller so that the latter may in turn notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter "sensitive data"), the data importer shall apply the specific restrictions and/or additional safeguards set out in Annex I.B.

8.8 Onward transfers

The data importer shall only disclose the personal data to a third party on documented instructions from the controller, as communicated to the data importer by the data exporter. In addition, the data may only be disclosed to a third party located outside the European Union⁷ (in the same country as the data importer or in another third country, hereinafter “onward transfer”) if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

- (i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
- (ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 of Regulation (EU) 2016/679;
- (iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
- (iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.9 Documentation and compliance

- (a) The data importer shall promptly and adequately deal with enquiries from the data exporter or the controller that relate to the processing under these Clauses.
- (b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the controller.
- (c) The data importer shall make all information necessary to demonstrate compliance with the obligations set out in these Clauses available to the data exporter, which shall provide it to the controller.
- (d) The data importer shall allow for and contribute to audits by the data exporter of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. The same shall apply where the data exporter requests an audit on instructions of the controller. In deciding on an audit, the data exporter may take into account relevant certifications held by the data importer.

⁷ The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purposes of these Clauses.

- (e) Where the audit is carried out on the instructions of the controller, the data exporter shall make the results available to the controller.
- (f) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.
- (g) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

MODULE FOUR: Transfer processor to controller

8.1 Instructions

- (a) The data exporter shall process the personal data only on documented instructions from the data importer acting as its controller.
- (b) The data exporter shall immediately inform the data importer if it is unable to follow those instructions, including if such instructions infringe Regulation (EU) 2016/679 or other Union or Member State data protection law.
- (c) The data importer shall refrain from any action that would prevent the data exporter from fulfilling its obligations under Regulation (EU) 2016/679, including in the context of sub-processing or as regards cooperation with competent supervisory authorities.
- (d) After the end of the provision of the processing services, the data exporter shall, at the choice of the data importer, delete all personal data processed on behalf of the data importer and certify to the data importer that it has done so, or return to the data importer all personal data processed on its behalf and delete existing copies.

8.2 Security of processing

- (a) The Parties shall implement appropriate technical and organisational measures to ensure the security of the data, including during transmission, and protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access (hereinafter “personal data breach”). In assessing the appropriate level of security, they shall take due account of the state of the art, the costs of implementation, the nature of the personal data⁸, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects, and in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner.

⁸ This includes whether the transfer and further processing involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person’s sex life or sexual orientation, or data relating to criminal convictions or offences.

- (b) The data exporter shall assist the data importer in ensuring appropriate security of the data in accordance with paragraph (a). In case of a personal data breach concerning the personal data processed by the data exporter under these Clauses, the data exporter shall notify the data importer without undue delay after becoming aware of it and assist the data importer in addressing the breach.
- (c) The data exporter shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

8.3 Documentation and compliance

- (a) The Parties shall be able to demonstrate compliance with these Clauses.
- (b) The data exporter shall make available to the data importer all information necessary to demonstrate compliance with its obligations under these Clauses and allow for and contribute to audits.

Clause 9

Use of sub-processors

MODULE TWO: Transfer controller to processor

- (a) **OPTION 1: SPECIFIC PRIOR AUTHORISATION** The data importer shall not sub-contract any of its processing activities performed on behalf of the data exporter under these Clauses to a sub-processor without the data exporter's prior specific written authorisation. The data importer shall submit the request for specific authorisation at least [*Specify time period*] prior to the engagement of the sub-processor, together with the information necessary to enable the data exporter to decide on the authorisation. The list of sub-processors already authorised by the data exporter can be found in Annex III. The Parties shall keep Annex III up to date.

OPTION 2: GENERAL WRITTEN AUTHORISATION The data importer has the data exporter's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the data exporter in writing of any intended changes to that list through the addition or replacement of sub-processors at least [*Specify time period*] in advance, thereby giving the data exporter sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the data exporter with the information necessary to enable the data exporter to exercise its right to object.
- (b) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the data exporter), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary

rights for data subjects.⁹ The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.

- (c) The data importer shall provide, at the data exporter's request, a copy of such a sub-processor agreement and any subsequent amendments to the data exporter. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.
- (d) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.
- (e) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby - in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent - the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

MODULE THREE: Transfer processor to processor

- (a) **OPTION 1: SPECIFIC PRIOR AUTHORISATION** The data importer shall not sub-contract any of its processing activities performed on behalf of the data exporter under these Clauses to a sub-processor without the prior specific written authorisation of the controller. The data importer shall submit the request for specific authorisation at least [*Specify time period*] prior to the engagement of the sub-processor, together with the information necessary to enable the controller to decide on the authorisation. It shall inform the data exporter of such engagement. The list of sub-processors already authorised by the controller can be found in Annex III. The Parties shall keep Annex III up to date.

OPTION 2: GENERAL WRITTEN AUTHORISATION The data importer has the controller's general authorisation for the engagement of sub-processor(s) from an agreed list. The data importer shall specifically inform the controller in writing of any intended changes to that list through the addition or replacement of sub-processors at least [*Specify time period*] in advance, thereby giving the controller sufficient time to be able to object to such changes prior to the engagement of the sub-processor(s). The data importer shall provide the controller with the information necessary to enable the controller to exercise its right to object. The data importer shall inform the data exporter of the engagement of the sub-processor(s).

- (b) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the controller), it shall do so by way of a written contract that

⁹ This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects.¹⁰ The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.

- (c) The data importer shall provide, at the data exporter's or controller's request, a copy of such a sub-processor agreement and any subsequent amendments. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.
- (d) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.
- (e) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby - in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent - the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

Clause 10

Data subject rights

MODULE ONE: Transfer controller to controller

- (a) The data importer, where relevant with the assistance of the data exporter, shall deal with any enquiries and requests it receives from a data subject relating to the processing of his/her personal data and the exercise of his/her rights under these Clauses without undue delay and at the latest within one month of the receipt of the enquiry or request.¹¹ The data importer shall take appropriate measures to facilitate such enquiries, requests and the exercise of data subject rights. Any information provided to the data subject shall be in an intelligible and easily accessible form, using clear and plain language.
- (b) In particular, upon request by the data subject the data importer shall, free of charge
:

¹⁰ This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

¹¹ That period may be extended by a maximum of two more months, to the extent necessary taking into account the complexity and number of requests. The data importer shall duly and promptly inform the data subject of any such extension.

- (i) provide confirmation to the data subject as to whether personal data concerning him/her is being processed and, where this is the case, a copy of the data relating to him/her and the information in Annex I; if personal data has been or will be onward transferred, provide information on recipients or categories of recipients (as appropriate with a view to providing meaningful information) to which the personal data has been or will be onward transferred, the purpose of such onward transfers and their ground pursuant to Clause 8.7; and provide information on the right to lodge a complaint with a supervisory authority in accordance with Clause 12(c)(i);
 - (ii) rectify inaccurate or incomplete data concerning the data subject;
 - (iii) erase personal data concerning the data subject if such data is being or has been processed in violation of any of these Clauses ensuring third-party beneficiary rights, or if the data subject withdraws the consent on which the processing is based.
- (c) Where the data importer processes the personal data for direct marketing purposes, it shall cease processing for such purposes if the data subject objects to it.
- (d) The data importer shall not make a decision based solely on the automated processing of the personal data transferred (hereinafter “automated decision”), which would produce legal effects concerning the data subject or similarly significantly affect him / her, unless with the explicit consent of the data subject or if authorised to do so under the laws of the country of destination, provided that such laws lays down suitable measures to safeguard the data subject’s rights and legitimate interests. In this case, the data importer shall, where necessary in cooperation with the data exporter:
 - (i) inform the data subject about the envisaged automated decision, the envisaged consequences and the logic involved; and
 - (ii) implement suitable safeguards, at least by enabling the data subject to contest the decision, express his/her point of view and obtain review by a human being.
- (e) Where requests from a data subject are excessive, in particular because of their repetitive character, the data importer may either charge a reasonable fee taking into account the administrative costs of granting the request or refuse to act on the request.
- (f) The data importer may refuse a data subject’s request if such refusal is allowed under the laws of the country of destination and is necessary and proportionate in a democratic society to protect one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679.
- (g) If the data importer intends to refuse a data subject’s request, it shall inform the data subject of the reasons for the refusal and the possibility of lodging a complaint with the competent supervisory authority and/or seeking judicial redress.

MODULE TWO: Transfer controller to processor

- (a) The data importer shall promptly notify the data exporter of any request it has received from a data subject. It shall not respond to that request itself unless it has been authorised to do so by the data exporter.
- (b) The data importer shall assist the data exporter in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.
- (c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the data exporter.

MODULE THREE: Transfer processor to processor

- (a) The data importer shall promptly notify the data exporter and, where appropriate, the controller of any request it has received from a data subject, without responding to that request unless it has been authorised to do so by the controller.
- (b) The data importer shall assist, where appropriate in cooperation with the data exporter, the controller in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.
- (c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the controller, as communicated by the data exporter.

MODULE FOUR: Transfer processor to controller

The Parties shall assist each other in responding to enquiries and requests made by data subjects under the local law applicable to the data importer or, for data processing by the data exporter in the EU, under Regulation (EU) 2016/679.

Clause 11

Redress

- (a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.

[OPTION: The data importer agrees that data subjects may also lodge a complaint with an independent dispute resolution body¹² at no cost to the data subject. It shall inform the data subjects, in the manner set out in paragraph (a), of such redress mechanism and that they are not required to use it, or follow a particular sequence in seeking redress.]

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

- (b) In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.
- (c) Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:
 - (i) lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;
 - (ii) refer the dispute to the competent courts within the meaning of Clause 18.
- (d) The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.
- (e) The data importer shall abide by a decision that is binding under the applicable EU or Member State law.
- (f) The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

Clause 12

Liability

MODULE ONE: Transfer controller to controller

MODULE FOUR: Transfer processor to controller

- (a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.

¹² The data importer may offer independent dispute resolution through an arbitration body only if it is established in a country that has ratified the New York Convention on Enforcement of Arbitration Awards.

- (b) Each Party shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages that the Party causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter under Regulation (EU) 2016/679.
- (c) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- (d) The Parties agree that if one Party is held liable under paragraph (c), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.
- (e) The data importer may not invoke the conduct of a processor or sub-processor to avoid its own liability.

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

- (a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.
- (b) The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights under these Clauses.
- (c) Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.
- (d) The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.
- (e) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.

- (f) The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.
- (g) The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

Clause 13

Supervision

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

- (a) [Where the data exporter is established in an EU Member State:] The supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) and has appointed a representative pursuant to Article 27(1) of Regulation (EU) 2016/679:] The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, as indicated in Annex I.C, shall act as competent supervisory authority.

[Where the data exporter is not established in an EU Member State, but falls within the territorial scope of application of Regulation (EU) 2016/679 in accordance with its Article 3(2) without however having to appoint a representative pursuant to Article 27(2) of Regulation (EU) 2016/679:] The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.

- (b) The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

Clause 14

Local laws and practices affecting compliance with the Clauses

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

MODULE FOUR: Transfer processor to controller (*where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU*)

- (a) The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.
- (b) The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
- (i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;
 - (ii) the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards¹³;
 - (iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied

¹³ As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

during transmission and to the processing of the personal data in the country of destination.

- (c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- (d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- (e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a). [For Module Three: The data exporter shall forward the notification to the controller.]
- (f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation [for Module Three: , if appropriate in consultation with the controller]. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by [for Module Three: the controller or] the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

Clause 15

Obligations of the data importer in case of access by public authorities

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

MODULE FOUR: Transfer processor to controller (*where the EU processor combines the personal data received from the third country-controller with personal data collected by the processor in the EU*)

15.1 Notification

- (a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:
 - (i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or
 - (ii) becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.

[For Module Three: The data exporter shall forward the notification to the controller.]

- (b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.
- (c) Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.). [For Module Three: The data exporter shall forward the information to the controller.]
- (d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.
- (e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

- (a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not

disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).

- (b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request. [For Module Three: The data exporter shall make the assessment available to the controller.]
- (c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS

Clause 16

Non-compliance with the Clauses and termination

- (a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.
- (b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).
- (c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:
 - (i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
 - (ii) the data importer is in substantial or persistent breach of these Clauses; or
 - (iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority [for Module Three: and the controller] of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

- (d) [For Modules One, Two and Three: Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data.] [For Module Four: Personal data collected by the data exporter in the EU that has been transferred prior to the

termination of the contract pursuant to paragraph (c) shall immediately be deleted in its entirety, including any copy thereof.] The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.

- (e) Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

Clause 17

Governing law

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

[OPTION 1: These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify Member State*).]

[OPTION 2 (for Modules Two and Three): These Clauses shall be governed by the law of the EU Member State in which the data exporter is established. Where such law does not allow for third-party beneficiary rights, they shall be governed by the law of another EU Member State that does allow for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify Member State*).]

MODULE FOUR: Transfer processor to controller

These Clauses shall be governed by the law of a country allowing for third-party beneficiary rights. The Parties agree that this shall be the law of _____ (*specify country*).

Clause 18

Choice of forum and jurisdiction

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

- (a) Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.

- (b) The Parties agree that those shall be the courts of _____ (*specify Member State*).
- (c) A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.
- (d) The Parties agree to submit themselves to the jurisdiction of such courts.

MODULE FOUR: Transfer processor to controller

Any dispute arising from these Clauses shall be resolved by the courts of _____ (*specify country*).

APPENDIX

EXPLANATORY NOTE:

It must be possible to clearly distinguish the information applicable to each transfer or category of transfers and, in this regard, to determine the respective role(s) of the Parties as data exporter(s) and/or data importer(s). This does not necessarily require completing and signing separate appendices for each transfer/category of transfers and/or contractual relationship, where this transparency can be achieved through one appendix. However, where necessary to ensure sufficient clarity, separate appendices should be used.

ANNEX I

A. LIST OF PARTIES

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

MODULE FOUR: Transfer processor to controller

Data exporter(s): *[Identity and contact details of the data exporter(s) and, where applicable, of its/their data protection officer and/or representative in the European Union]*

1. Name: ...

Address: ...

Contact person's name, position and contact details: ...

Activities relevant to the data transferred under these Clauses: ...

Signature and date: ...

Role (controller/processor): ...

2. ...

Data importer(s): *[Identity and contact details of the data importer(s), including any contact person with responsibility for data protection]*

1. Name: ...

Address: ...

Contact person's name, position and contact details: ...

Activities relevant to the data transferred under these Clauses: ...

Signature and date: ...

Role (controller/processor): ...

2. ...

B. DESCRIPTION OF TRANSFER

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

MODULE FOUR: Transfer processor to controller

Categories of data subjects whose personal data is transferred

.....

Categories of personal data transferred

.....

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

.....

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

.....

Nature of the processing

.....

Purpose(s) of the data transfer and further processing

.....

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

.....

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

.....

C. COMPETENT SUPERVISORY AUTHORITY

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

Identify the competent supervisory authority/ies in accordance with Clause 13

.....

ANNEX II - TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

MODULE ONE: Transfer controller to controller

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

EXPLANATORY NOTE:

The technical and organisational measures must be described in specific (and not generic) terms. See also the general comment on the first page of the Appendix, in particular on the need to clearly indicate which measures apply to each transfer/set of transfers.

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

[Examples of possible measures:

Measures of pseudonymisation and encryption of personal data

Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services

Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident

Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing

Measures for user identification and authorisation

Measures for the protection of data during transmission

Measures for the protection of data during storage

Measures for ensuring physical security of locations at which personal data are processed

Measures for ensuring events logging

Measures for ensuring system configuration, including default configuration

Measures for internal IT and IT security governance and management

Measures for certification/assurance of processes and products

Measures for ensuring data minimisation

Measures for ensuring data quality

Measures for ensuring limited data retention

Measures for ensuring accountability

Measures for allowing data portability and ensuring erasure]

For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter

ANNEX III – LIST OF SUB-PROCESSORS

MODULE TWO: Transfer controller to processor

MODULE THREE: Transfer processor to processor

EXPLANATORY NOTE:

This Annex must be completed for Modules Two and Three, in case of the specific authorisation of sub-processors (Clause 9(a), Option 1).

The controller has authorised the use of the following sub-processors:

1. Name: ...

Address: ...

Contact person's name, position and contact details: ...

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised): ...

2. ...