

Dated _____ / _____ / **2002**

ELECTRICITY SUPPLY BOARD

-and-

THE VIPP SUPPLIER

NON GREEN VIPP2 RE-AUCTION AGREEMENT

Confidential Document

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THIS AGREEMENT is made the _____ day of _____ 2002

BETWEEN:

- (1) **ELECTRICITY SUPPLY BOARD** having its principal offices at 27 Lower Fitzwilliam Street Dublin 2 (“ESB”); and
- (2) **THE PARTY NAMED IN SECTION 1 OF SCHEDULE 2** whose registered office is located at the address set out in Section 1 of Schedule 2 (“VIPP Supplier”).

RECITALS:

- (A) The Commission issued the Invitation to Bid and conducted the Non Green VIPP2 re-Auction for the option to purchase energy from ESB.
- (B) The VIPP Supplier submitted bids in response to the Invitation to Bid, which have been recommended by the Commission and accepted by ESB.
- (C) ESB has agreed to be the counter party to the VIPP Supplier Bilateral Contract Nominations and the VIPP Supplier has agreed to pay ESB the charges detailed in the Agreement subject to the terms and conditions of the Agreement.
- (D) The Commission has approved and implemented modifications to the Trading and Settlement Code incorporating a supplementary supply tariff, a limitation to Top Up as defined in the Trading and Settlement Code and a provision for a VIPP2 scheme.

THE PARTIES AGREE as follows:

1. Definitions and Interpretation

- 1.1 In the Agreement except where the context otherwise requires the following words and expressions shall have the meanings set opposite them:

“Act” means the Electricity Regulation Act, 1999;

“Active Option” means a Firm or Non-Firm Contracted Option that is used to meet the energy requirements of the VIPP Supplier in the Payment Period. This Contracted Option shall incur the full Option Fee. This Contracted Option must be nominated as an Active Option;

“Affiliate” means in relation to either Party, any holding company or subsidiary or any subsidiary of a holding company of the relevant Party, in each

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| | case within the meaning of the Companies Acts 1963 to 1999 inclusive; |
| “Agreement” | means this Non Green VIPP2 Re-Auction Agreement and its schedules; |
| “Approved Credit Rating” | means a credit rating for long term debt of at least A2 given by Moodys and/or A given by Standard & Poors and/or an equivalent rating given by another internationally recognised credit rating agency reasonably satisfactory to ESB; |
| “Assignee” | has the meaning given to it in Clause 17.2; |
| “Auction Clearing Price” | means the following. If the auction is under-subscribed then the Auction Clearing Price is the Auction Reserve Price. If the auction is over-subscribed, or fully subscribed, then the Auction Clearing Price is the price of the lowest winning bid as defined in The Invitation To Bid; |
| “Auction Reserve Price” | means the minimum price at which bids will be accepted as stated in “The Invitation to Bid in the Non Green VIPP2 Re-Auction” as issued by CER. |
| “Bid Form” | means the Bid Form submitted by the VIPP Supplier in response to the Invitation to Bid; |
| “Booking Fee” | means a fee of 25% of the Option Fee; |
| “Business Day” | means any day other than a Saturday, a Sunday or a Public Holiday in Ireland; |
| “Change in Circumstance” | has the meaning given to it in Clause 21.2; |
| “Commission” or “CER” | means the Commission for Energy Regulation established pursuant to Section 8 of the Act; |
| “Confidential Information” | has the meaning given to it in Clause 16; |
| “Competent Authority” | has the meaning given to it in the Trading and Settlement Code; |
| “Contracted Option Nomination” | means the nomination that the VIPP Supplier must submit to ESB detailing the number of Contracted Options that it wishes to hold as Active Options, Exercisable Options and |

Relinquished Options. The format of this nomination is detailed in Schedule 3;

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| “Contracted Options” | means the total of the Firm Contracted Options and the Non-Firm Contracted Options; |
| “Defaulting Party” | has the meaning given to it in Clause 8.3; |
| “Demand Forecast” | means the forecast of the VIPP Suppliers VIPP load for each hour of the Payment Period. The format of this forecast is detailed in Schedule 3; |
| “Distribution Use of System Agreement” | means the agreement of that name entered into pursuant to Section 34 of the Act; |
| “Dispute” | has the meaning given to it in Clause 11; |
| “Eligible Customer” | has the meaning given to the term “eligible customer” in Section 27 of the Act; |
| “Energy Charge” | means in respect of a Trading Period the charge calculated for that Trading Period in accordance with Section 3 of Schedule 1; |
| “ESB” | means Electricity Supply Board; |
| “Escrow Account” | has the meaning given to it in Clause 7.3.2; |
| “EURIBOR” | means in relation to any sum, the rate per annum for deposits in Euro for the Specified Period applicable thereto which appears on Dow Jones (formerly Telrate) (or any successor service) page 248 (or any relevant successor page). If no such quotation is available, EURIBOR will be the rate per annum for deposits in Euro determined to be equal to the arithmetic mean (rounded upwards to four decimal places) of the six month rates at which at least three banks who generally provided quotes on Dow Jones (formerly Telrate) page 248 when quotations were last available thereon was offering to prime banks in the European Interbank Market deposits in Euro and for the specified period at or about 11:00 am on the relevant rate fixing day. For the purposes of this definition “Specified Period” means the period in respect of which EURIBOR falls to be determined in relation to such sum; |

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| “Euro” or “€” | means the single currency of participating Member States of the European Union; |
| “Exercisable Option” | means a Firm or Non-Firm Contracted Option that a VIPP Supplier retains the right to use at a future date not later than six months from the start of the Non Green VIPP2 Re-Auction Agreement. This Contracted Options must be nominated as an Exercisable Option; |
| “Expiry Date” | means the 31 st October 2002; |
| “Firm Contracted Option” | means a Contracted Option that the VIPP supplier was awarded in the auction as a Firm Contracted Option; |
| “First Party” | has the meaning given to it in Clause 8.3; |
| “Force Majeure” | means any one of the events, conditions or happenings as set out in Clause 10; |
| “Framework Agreement” | has the meaning given to it in the Trading and Settlement Code; |
| “Good Industry Practice” | means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances; |
| “Grid Code” | means the “grid code” as defined in Section 2(1) of the Act; |
| “Invitation to Bid” | means the Invitation to Bid in the Non Green VIPP2 Re-Auction issued by the Commission with Close of Bids on 21st August 2002; |
| “Letter of Credit” | means an irrevocable standby letter of credit in such form as ESB may reasonably approve issued for the account of the VIPP Supplier in favour of ESB, allowing for partial drawings and providing for the payment to ESB forthwith on demand, by any bank which meets the following criteria: <ul style="list-style-type: none"> (a) banks with a long-term credit rating of at least AA (Standard and Poor) or AA2 (Moody’s) or equivalent. AA minus will not suffice, or |

- (b) holders of banking licences issued under Section 9 of the Central Bank Act 1971, with total balance sheet assets of not less than IR£1,000 (€1,269) million equivalent or whose parent bank, where such a holder is a branch or subsidiary, has total balance sheet assets of not less than IR£10,000 (€12,697) million equivalent and a rating not less than A/A2, or
- (c) subsidiaries of branches of international banks, operating in Ireland, provided that the parent bank meets the criteria at (a) or has total balance sheet assets of not less than IR£10,000 (€12,697) million or equivalent and a credit rating of at least A/A2;

“Material Breach”

means:

- (a) any breach of this Agreement which has a material adverse effect on the ability of a party to enjoy the rights conferred on it by this Agreement having regard to all the circumstances including, without limitation, the nature of the relationship between the parties, the interests of other parties under the Trading and Settlement Code, the obligations of ESB under its statutory and licence obligations, the nature of the breach (and in particular whether it is intentional, negligent or otherwise) and the consequences of the breach; and
- (b) any breach of this Agreement, which is not a Material Breach, that has occurred twice or more in any three (3) month period (calculated on a rolling basis); and
- (c) breach of any of the representations and warranties set out in Clause 2; and
- (d) failure on the part of the VIPP Supplier to hold security cover in accordance with Clause 7 of the Agreement; and

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| | (e) any breach of the Act, the Trading and Settlement Code, the Transmission Use of System Agreement, the Distribution Use of System Agreement or the Grid Code; |
| “Maximum Contracted Energy” | shall be calculated as the product of 0.5 and the Active Options for the relevant Payment Period with the result being expressed in units of MWh; |
| “Metering Code” | has the meaning given to it in the Trading and Settlement Code; |
| “Meter Registration System Operator” or “MRSO” | has the meaning given to it in the Trading and Settlement Code; |
| “Non-Firm Contracted Option” | means a Contracted Option that the VIPP Supplier has been awarded in the auction as a Non-Firm Contracted Option. If the VIPP Supplier nominates a Non-Firm Contracted Option as a Exercisable Option in September 2002 the VIPP Supplier will not be liable for a Booking Fee in relation to this Contracted Option for these months. From October 2002 if the VIPP Supplier nominates this Contracted Option as an Exercisable Option then a Booking Fee will be payable monthly; |
| “Non Green VIPP Re-Auction” | means the auction for options to purchase energy described in the ‘Invitation to Bid in the Non Green VIPP2 Re-Auction’ issued by CER; |
| “Non-Performing Party” | has the meaning given to it in Clause 10.1; |
| “Option Charge” | means in respect of a Payment Period, the charge for the Payment Period calculated in accordance with Section 2 of Schedule 1; |
| “Option Fee” | means the fee that a VIPP Supplier shall pay for each Active Option per Payment Period. This shall be equal to the Auction Clearing Price; |
| “Option Unit” | has the meaning given to it in the Invitation to Bid; |
| “Party” | means a party to the Agreement; |
| “Payment Period” | means a calendar month; |

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| “Public Holidays” | refers to the following days; 25 th December 2001 26 th December 2001 1 st January 2002 18 th March 2002 1 st April 2002 6 th May 2002 3 rd June 2002 5 th August 2002 28 th October 2002; |
| “Qualifying Guarantee” | shall have the meaning given to it in Clause 7.3.3; |
| “Relevant Supplier” | means a supplier licensed under section 14(1)(b) of the Act; |
| “Relinquished Option” | means a Firm or Non-Firm Contracted Option that a VIPP Supplier nominates as a Relinquished Option. The VIPP Supplier incurs no Fees for Relinquished Options but loses all rights to these Contracted Options. There is no refund of Booking Fees paid if an Exercisable Option is nominated as a Relinquished Option; |
| “Security Cover” | has the meaning given to it in Clause 7.3; |
| “Settlement Day” | has the meaning given to it in the Trading and Settlement Code; |
| “Settlement Period” | has the meaning given to it in the Trading and Settlement Code; |
| “Settlement System Administrator” or “SSA” | means the party authorised to perform the functions detailed in Clause 1.4.(B) of the Trading and Settlement Code; |
| “Supply Period” | means the period commencing at the time determined under Clause 3.2 and ending at the close of the last Settlement Period of the Expiry Date; |
| “Trading and Settlement Code” | has the meaning given to it in Statutory Instrument No. 49 of 2000 entitled Electricity Regulation Act, 1999 (Trading Arrangements in Electricity) Regulations 2000; |

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| “Trading Day” | has the meaning given to it in the Trading and Settlement Code; |
| “Trading Period” | has the meaning given to it in the Trading and Settlement Code; |
| “Trading Supplier” | is a Relevant Supplier that is party to a Non Green VIPP2 Re-Auction Agreement when acting as a counter party to a VIPP2 Inter Trade with the VIPP Supplier; |
| “Transmission System” | has the meaning given to it in the Trading and Settlement Code; |
| “Transmission Use of System Agreement” | means the agreement of that name entered into pursuant to Section 34 of the Act; |
| “VIPP Bilateral Contract Report” | means the report of the same name issued pursuant to the Trading and Settlement Code by the Settlement System Administrator; |
| “VIPP Bilateral Contract Nomination” | means a Non Green Bilateral Contract Nomination generated by the Settlement System Administrator pursuant to the Trading and Settlement Code; |
| “VIPP Inter Trade” or “VIT” | shall have the meaning given to it in Clause 6.2; |
| “VIPP Demand Notification” | shall have the meaning given to it in Clause 4.3.2; |
| “VIPP Supplier” | means the party identified in Section 1 of Schedule 2; |
| “Winter Peak Management Programme” or “WPMP” | shall have the meaning given to it in Section 5 of Schedule 1. |

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

- 1.2.1 the singular shall include the plural and vice versa;
- 1.2.2 any gender reference shall be deemed to include references to the masculine, feminine and neuter genders;
- 1.2.3 the word “including” and its variations shall be construed without limitation;

- 1.2.4 any reference to “writing” or “written” shall include all methods of reproducing words in a legible and non-transitory form;
- 1.2.5 any words importing persons or parties shall include individuals, firms and corporations, joint ventures, trusts, unincorporated associations and organisations, partnerships and any other entity, in each case whether or not having a separate legal personality and any references to persons shall include their legal successors and permitted assignees;
- 1.2.6 any reference to legislation, regulations, directives, orders, instruments, codes or other enactments shall include any amendments, modifications, extensions, replacements or re-enactments thereof then in force;
- 1.2.7 unless otherwise specified:
- (a) any reference in the Agreement to a "Clause" is a reference to a Clause contained in the Agreement;
 - (b) any reference to a "Schedule" is a reference to a Schedule to the Agreement;
 - (c) any reference to a “Section” is a reference to a Section to a Schedule to the Agreement; and
 - (d) any reference to an “Appendix” is a reference to an Appendix to the Agreement.
- 1.2.8 any reference to another agreement or document, or any deed or other instrument (including the Grid Code, the Metering Code, or the Trading and Settlement Code) shall be construed as a reference to that other agreement, or document, deed or other instrument as the same may have been, or may from time to time be, amended, varied, supplemented, substituted or novated;
- 1.2.9 any terms which are defined in the Act, the Grid Code, the Metering Code or the Trading and Settlement Code and which are not otherwise defined in the Agreement shall have the meanings ascribed to them in the relevant code or the Act;
- 1.2.10 any terms not defined in either the Agreement, the Grid Code, the Metering Code or the Trading and Settlement Code shall have the meaning commonly used in electric utility practice or the English language, as appropriate;
- 1.2.11 any reference to a month or year shall be construed as reference to a calendar month or year, as the case may be;
- 1.2.12 where reference is made to an amount or sum, it is to an amount or sum denominated in Euro unless specified otherwise;

- 1.2.13 the table of contents and Clause headings are inserted for ease of reference only and shall be ignored for the purpose of the construction of the Agreement;
- 1.2.14 all terms which have been defined in the Agreement shall have their initial letters in capital typescript whenever and wherever they appear in the Agreement;
- 1.2.15 in the event of inconsistency between the provisions of the Agreement and the Grid Code, the Metering Code or the Trading and Settlement Code (as the case may be), the provisions of the Grid Code, the Metering Code or the Trading and Settlement Code (as the case may be) shall prevail to the extent of such inconsistency unless the contrary intention is explicit. In the event of inconsistency between the Agreement and any other agreement between the Parties relating to connection to the Transmission System, the Agreement shall prevail to the extent of such inconsistency unless the contrary intention is explicit;
- 1.2.16 any reference to time shall be construed as local time.

2. Representations and Warranties

- 2.1 The VIPP Supplier represents and warrants as follows;
- (a) that it has a licence to supply electricity pursuant to section 14(1)(b) of the Act;
 - (b) that it has signed the Framework Agreement and is a party to the Trading and Settlement Code; and
 - (c) it has signed a Transmission Use of System and a Distribution Use of System Agreement.

3. Commencement and Duration

- 3.1 This Agreement shall commence on the date it is executed by ESB and shall continue in full force and effect until the Expiry Date, unless it is terminated earlier in accordance with its terms.
- 3.2 The Supply Period shall start at the beginning of 1st September 2002.
- 3.3 The VIPP Supplier shall nominate its Contracted Options as set out in Schedule 1 Part 1.

4. Agreement to Trade

- 4.1 Subject to Clause 4.2, during the Supply Period ESB agrees to act as seller in respect of VIPP Bilateral Contract Nominations made by the SSA on behalf of

the VIPP Supplier in accordance with the Trading and Settlement Code and the VIPP Supplier agrees to pay ESB, for the following:

- 4.1.1 the Contracted Options at the Option Charge set out in Schedule 1; and
 - 4.1.2 in each Trading Period the Energy Charge as determined in Schedule 1.
- 4.2 Before supply can commence under Clause 4.1:
- 4.2.1 the VIPP Supplier must have complied with the requirements in the Trading and Settlement Code;
 - 4.2.2 the VIPP Supplier must be registered as a “VIPP Supplier” as defined in the Trading and Settlement Code;
 - 4.2.3 the VIPP Supplier agrees to provide ESB as and when required with any data it may require to determine payments under the Agreement.
- 4.3 The parties agree and acknowledge that:
- 4.3.1 the Settlement System Administrator shall generate a VIPP Bilateral Contract Nomination in respect of the VIPP Supplier’s purchase of energy under this Agreement. Such VIPP Bilateral Contract Nomination shall be made in accordance with the Trading and Settlement Code and identify the seller with the SSA assigned market participant ID for ESB as the Generator.
 - 4.3.2 the VIPP Demand Notification for each VIPP Supplier shall be set equal to the VIPP Bilateral Contract Nomination for each VIPP Supplier. For instances where VIPP Bilateral Contract Nomination data is unavailable for a Trading Period, the VIPP Demand Notification will be calculated as detailed in Clause 4.3.3.
 - 4.3.3 In the first instance, the VIPP Bilateral Contract Report issued by the Settlement System Administrator shall detail the VIPP Bilateral Contract Nomination for each VIPP Supplier. If a complete VIPP Bilateral Contract Report for each Settlement Day in a Payment Period has not been received by ESB within twenty one (21) Business Days of the end of the Payment Period then the relevant data collected by the Meter Registration System Operator adjusted to determine demand at the interface between the transmission and distribution grid shall be the data source used for each such Settlement Day to determine the VIPP Demand Notification. If data from the Meter Registration System Operator is either unavailable or unresolvable then ESB will calculate the Energy Charges as if the VIPP Bilateral Contract Report showed an aggregate Eligible Customer demand in each Trading Period equal to 80% of the VIPP Suppliers Maximum Contracted Energy. When the VIPP Bilateral Contract Report becomes available, revised energy

charges shall be calculated by ESB and an appropriate adjustment shall be made to the next Energy Charge invoice.

4.3.4 Eligible Customers supplied by a VIPP Supplier shall be separately registered by the VIPP Supplier with the MRSO as VIPP Customers. The minimum period that a VIPP Supplier may register an Eligible Customer for VIPP supply is one Payment Period.

4.4 Where the VIPP Demand Notification is in excess of the VIPP Supplier's Maximum Contracted Energy the Energy Charges for the excess shall be determined and recovered as an Over Notification Charge in accordance with Schedule 1.

4.5 The VIPP Supplier shall not be permitted to buy top up or sell spill in respect of energy purchased under the terms of this Agreement.

5. Payment

5.1 The VIPP Supplier shall pay to ESB the Option Charge for each Payment Period in the Supply Period, as calculated under Schedule 1 Section 2 and the Energy Charge for each Trading Period in the Supply Period, as calculated under Section 3 of Schedule 1.

5.2 ESB shall invoice the VIPP Supplier for Option Charges at the same time as the Energy Charge invoice is issued under 5.3.

5.3 ESB shall invoice the VIPP Supplier for the Energy Charges for all Trading Periods in each Payment Period, and shall do so no sooner than two (2) Business Days following the receipt of the VIPP Bilateral Contract Report from the Settlement System Administrator for the last Settlement Day of the relevant Payment Period. In the event of a VIPP Bilateral Contract Report from the Settlement System Administrator not being available or delayed, a substitute report as determined in Clause 4.3.3 shall be used for invoicing purposes.

5.4 The VIPP Supplier shall pay all sums due in respect of invoices under Clauses 5.2 and 5.3, free of any charge, set off or counterclaim, within ten (10) Business Days of their receipt by making payment by electronic transfer of funds to ESB's bank account notified to the VIPP Supplier by ESB for the purposes of the Agreement from time to time. Where the amount invoiced is less than €1,200.00 then payment may be made by cheque.

5.5 If any amount in an invoice is in Dispute, then the VIPP Supplier shall pay the total amount of the invoice. Any Dispute in relation to an invoice must be notified by the VIPP Supplier to ESB as soon as practicable but not later than five (5) Business Days after receipt of the invoice.

5.6 Interest will be charged on any overdue amounts (including any amounts the subject of a dispute and subsequently found to be payable) after as well as

before judgement on a daily basis at a default rate which is two percentage points per annum above EURIBOR from the date due for payment until the date paid.

- 5.7 Value Added Tax, at the rate and to the extent applicable at the time of supply, will be applied as an additional charge, where applicable, to all charges made under the Agreement.
- 5.8 Invoices issued under Clause 5.3 will identify the nett amounts of the Contracted Energy Charge, Over Notification Charge, Inter VIPP Trading Rebates, VAT and the total amount due separately.

6. Inter VIPP Trading Rebate

- 6.1 For each Trading Period ESB will allow an Inter VIPP Trading Rebate (ITR) calculated on the nett result of valid VIPP Inter Trades in accordance with Section 3.6 of Schedule 1.
- 6.2 A VIPP Inter Trade (VIT) comprises a matched pair of valid VIT notifications to ESB, one from the VIPP Supplier and another from the Trading Supplier, detailing equal and opposite adjustments to the Maximum Contracted Energy allocations of the VIPP Supplier and the Trading Supplier for a single Trading Period with the sole purpose of facilitating the allowance by ESB of an Inter VIPP Trading Rebate.
- 6.3 The “Close Out Date” for the receipt of VIT notifications shall be the date falling ten (10) Business Days from the issue of the Energy Charge invoice which covers the Trading Period to which the VIT relates.
- 6.4 Each VIT notification, as referenced in Clause 6.2, will only be deemed valid if:
 - 6.4.1 it specifies in the standard format information detailed in Schedule 3, including all of the items (a), (b), (c), (d), (e) and (f) below:
 - (a) the Settlement System Administrator determined Settlement Date and Trading Period ID number to which the VIPP Inter Trade is to apply,
 - (b) the amount of the Maximum Contracted Energy adjustment,
 - (c) whether the adjustment is an “increase” or “decrease” action to the Maximum Contracted Energy of the party issuing the notification
 - (d) the identity of the Trading Supplier to whom the equal and opposite adjustment will be accounted,
 - (e) the appropriate VIT number,

- (f) the identity of the VIPP Supplier; and
- 6.4.2 it is received by ESB on a date prior to or falling on the “Close Out Date”.
- 6.5 A VIPP Inter Trade, as referenced in Clause 6.2, will only be deemed valid if:
 - 6.5.1 ESB is in receipt of both VIT notifications specified in Clause 6.2; and
 - 6.5.2 the notifications specified in Clause 6.5.1 are deemed valid in accordance with Clauses 6.4.1 and 6.4.2; and
 - 6.5.3 both notifications match on the date and time of the Trading Period specified, the amount of the adjustment required and the action (i.e. increase or decrease) to be accounted to each of the VIPP Supplier and the Trading Supplier; and
 - 6.5.4 the nett adjustments accounted to the VIPP Supplier would not result in its Maximum Contracted Energy being reduced to a value less than that of its VIPP Demand Notification; and
 - 6.5.5 the nett adjustments accounted to the Trading Supplier would not result in its Maximum Contracted Energy being reduced to a value less than that of its VIPP Demand Notification; and
 - 6.5.6 by the end of business on the date falling two (2) business days after the Close Out Date payment has been received on all invoices issued to the Trading Supplier by ESB under Clauses 5.2 and 5.3; and
 - 6.5.7 by the end of business on the date falling two (2) business days after the Close Out Date payment has been received on all invoices issued to the VIPP Supplier by ESB under Clauses 5.2 and 5.3; and
- 6.6 Following the end of business on the date falling two (2) business days after the Close Out Date ESB will identify all VIT notifications which cannot be deemed valid under Clause 6.4.1. ESB will advise the VIPP Supplier by the end of business on the date falling four (4) business days after the Close Out Date of all notifications issued by it which were not deemed valid under Clause 6.4.1.
- 6.7 ESB may also periodically advise the VIPP Supplier of:
 - 6.7.1 notifications received from the VIPP Supplier, and
 - 6.7.2 notifications received from the VIPP Supplier that ESB cannot deem valid under Clause 6.4.1, and
 - 6.7.3 notifications received from the VIPP Supplier that ESB cannot identify a matching VIT notification under Clause 6.5.3.

- 6.8 ESB will advise the VIPP Supplier by the end of business on the date falling four (4) business days after the Close Out Date of all valid notifications issued by it which could not be associated with a Trading Supplier valid VIT notification by reason of any of the Clauses 6.5.1 to 6.5.6.
- 6.9 Three (3) Business Days, from the date falling four (4) business days after the Close Out Date, will be available to allow the VIPP Supplier and the Trading Supplier to resolve trades notified under Clause 6.8 and notify ESB.
- 6.10 At the close of business on the seventh Business Day following the Close Out Date, all VITs relating to the VIPP Supplier that cannot be deemed valid under Clause 6.5 will be set at zero for the affected Trading Period. When a VIT is set at zero, it is set at zero for both the VIPP Supplier and the Trading Supplier.
- 6.11 Any VIPP Inter Trade entered into by the VIPP Supplier or the Trading Supplier whose validity under Clause 6.5.4 or 6.5.5 is contingent on a VIT which has been set at zero will also be set at zero for the affected Trading Period.
- 6.12 The Inter VIPP Trading Rebate will be calculated on a once off basis per Payment Period no sooner than the seventh Business Day following the Close Out Date and settled as a deduction in the Energy Charges invoice issued to the VIPP Supplier following the Close Out Date.
- 6.13 The Inter VIPP Trading Rebate will only be made to the VIPP Supplier if it has incurred an Over Notification Charge in the Trading Period;
- 6.14 Any consideration between the VIPP Supplier and the Trading Supplier as a result of a VIT is external to this Agreement.

7. Security

- 7.1 Unless the VIPP Supplier has an Approved Credit Rating, then it must within 10 Business Days of receipt of request for security cover provide to ESB the security cover referred to in Clause 7.3. If the VIPP Supplier does not comply with this Clause 7, ESB may in its discretion by notice to the VIPP Supplier terminate the Agreement with effect from the date specified in the notice. If the agreement is terminated arising from non-delivery of Security Cover under the terms of this Clause 7.1, the VIPP Supplier shall remain liable for 1 month's Option Charge.
- 7.2 If the VIPP Supplier has an Approved Credit Rating, it must immediately notify ESB if its credit rating changes, including giving details of its revised credit rating. If its credit rating ceases to be an Approved Credit Rating, then the VIPP Supplier must within 10 Business Days of it so ceasing provide the Security Cover referred to in Clause 7.3.

7.3 If this Clause 7.3 applies, the VIPP Supplier must deliver to ESB and subsequently maintain Security Cover in the form of:

7.3.1 a Letter of Credit; or

7.3.2 a cash deposit in an interest bearing deposit account at a bank that satisfies the criteria as outlined in the definition of Letter of Credit (an “Escrow Account”); or

a guarantee in such form as is reasonably acceptable to ESB issued by an entity with an Approved Credit Rating (a “Qualifying Guarantee”); as security for payment of all monies due to ESB under this Agreement. The amount of Security Cover shall be the amount calculated under Clause 7.4 and notified in writing by ESB to the VIPP Supplier from time to time.

Notwithstanding the foregoing provisions of this Clause, ESB, at its sole discretion, may accept an alternate form of Security Cover.

7.4 The minimum amount of the Security Cover is calculated as follows:

$$SC = 2*((FCO+NFCO)*ACP)+(1461*A*EPP_0)$$

Where:

SC is the amount of the Security Cover in €

FCO is the number of Firm Contracted Options that the VIPP Supplier was awarded in the auction as detailed in Section 3 of Schedule 2;

NFCO is the number of Non Firm Contracted Options that the VIPP Supplier was awarded in the auction as detailed in Section 3 of Schedule 2;

ACP is the Auction Clearing Price as detailed in Section 3 of Schedule 2;

A is the total number of Contracted Options; and

EPP₀ is the Initial Energy Purchase Price as defined in Section 3.4 of Schedule 1.

7.5 Substitute and replacement Security Cover:

7.5.1 If the bank issuing the VIPP Supplier’s Letter of Credit ceases to have the credit rating set out in the definition of Letter of Credit the VIPP Supplier shall forthwith procure an alternate Security Cover in compliance with Clause 7.3.

7.5.2 If the entity providing the VIPP Supplier’s Qualifying Guarantee ceases to have an Approved Credit Rating the VIPP Supplier shall forthwith procure an alternate Security Cover in compliance with Clause 7.3.

- 7.6 Where at the end of any month the then existing amount of Security Cover is less than the amount of Security Cover that would be required by ESB if the amount of Security Cover was recalculated under Clause 7.4, ESB shall notify the VIPP Supplier of the recalculated amount of Security Cover in writing, whereupon the VIPP Supplier shall forthwith procure that ESB receives the necessary additional Security Cover within 10 Business Days.
- 7.7 The Security Cover (and in the case of a cash deposit, any interest accrued in respect of the cash deposit, less any bank and similar charges and any taxes deducted by the bank) will be returned to the VIPP Supplier within ten (10) Business Days of termination of the Agreement only if the VIPP Supplier has paid all amounts owing by it in respect of the Agreement. Return of the Security Cover is without prejudice to the rights of ESB under the Agreement and does not relieve the VIPP Supplier of any of its obligations or any liabilities in respect of the Agreement.

8. Default and Termination

- 8.1 The VIPP Supplier or ESB may by notice in writing to the other Party to the Agreement terminate the Agreement with effect from the date specified in the notice if ESB ceases to hold any necessary regulatory licence and/or statutory authority to be a counter party to VIPP Bilateral Contract Nominations made by the SSA on behalf of the VIPP Supplier in accordance with the terms of the Agreement and the Trading and Settlement Code.
- 8.2 ESB may by notice in writing to the VIPP Supplier terminate this Agreement with effect from the date specified in the notice if the VIPP Supplier ceases to be a Relevant Supplier.
- 8.3 A party to the Agreement (“First Party”) may by notice in writing to the other party to the Agreement (“Defaulting Party”) terminate the Agreement with effect from the date specified in the notice if:
- 8.3.1 the Defaulting Party fails to pay any amount due for payment to the First Party under the Agreement and such default continues unremedied after the expiry of ten (10) Business Days after the date on which the First Party has notified the Defaulting Party of the default;
 - 8.3.2 the Defaulting Party is in Material Breach and (where the breach is capable of remedy) the First Party has given notice to the Defaulting Party of the breach but the breach has not been remedied within ten (10) Business Days of such notification and (where the breach is not capable of remedy) the First Party has given notice of the breach to the Defaulting Party requiring an undertaking to the reasonable satisfaction of the First Party that the breach will not be repeated and specifying the steps the Defaulting Party will take to ensure compliance with the undertaking and the undertaking has not been given or has been breached within ten (10) Business Days of the notice having been given; or

8.3.3 the Defaulting Party:

- (a) is unable to pay its debts within the meaning of section 214 of the Companies Act 1963 (and a Party shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by the Party concerned with recourse to all appropriate measures and procedures) or if it enters into any voluntary scheme, agreement or arrangement (other than for the purpose of solvent reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the First Party);
- (b) has a receiver (which expression shall include an examiner within the meaning of the Companies Act 1990) appointed over the whole or any material part of its assets or undertaking;
- (c) passes any resolution for winding-up;
- (d) becomes subject to an order by the High Court for winding-up;
- (e) ceases to be a Relevant Supplier; or
- (f) ceases to be a party to the Trading and Settlement Code, Transmission Use of System Agreement or Distribution Use of System Agreement.

8.3.4 anything analogous to, or having a substantially similar effect to, any of the events or any circumstances specified in Clause 8.3.3 occurs in any jurisdiction in relation to the Defaulting Party.

8.4 ESB may by notice in writing to the VIPP Supplier terminate the Agreement with effect from the date specified in the notice if in respect of any aspect of the Non Green VIPP Auction, including the conduct by the Commission of the auction or its implementation by ESB, any of the following events occur:

8.4.1 enforcement action is commenced or threatened by the European Commission under the EC Treaty;

8.4.2 any finding by a court of competent jurisdiction in reliance on the EC Treaty and/or the Competition Acts 1991-6 to the effect that ESB is in breach of its obligations under such provisions or which has the effect of rendering the Agreement less commercially advantageous to ESB.

8.5 Where termination occurs under Clause 8, ESB shall, within ten (10) Business Days of a request by the VIPP Supplier repay to the VIPP Supplier any advance payments of Option Charges relating to the period after termination takes effect, as calculated under this Clause, less any amount outstanding for unpaid Energy Charges relating to the period before termination. ESB shall not be liable to the VIPP Supplier for any other amounts in respect of

compensation, cost, claim, expense or liability of any kind whatsoever suffered, incurred or claimed by the VIPP Supplier. The amount of the refund is calculated as follows:

- 8.5.1 for the Payment Period in which the termination takes effect, an amount equal to the Option Charges for the Payment Period, divided by the total number of Trading Days in the Payment Period and multiplied by the number of whole Trading Days remaining in the Payment Period after termination takes effect; and
- 8.5.2 if the VIPP Supplier has paid the Option Charges for the Payment Period commencing after the Payment Period in which termination has taken effect, then that amount.

9. Liability

- 9.1 Subject to Clause 9.2 each party to the Agreement agrees and acknowledges that neither party (“Party Liable”) nor any of its officers, employees or agents is liable to the other party for loss arising from any breach of the Agreement other than for loss directly resulting from such breach and which at the date of the Agreement was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach in respect of:
 - 9.1.1 physical damage to the property of either party or their respective officers, employees or agents; and/or
 - 9.1.2 the liability of the other party to any other person for loss in respect of physical damage to the property of any person.
- 9.2 Nothing in the Agreement excludes or limits the liability of the Party Liable for death or personal injury resulting from the negligence of the Party Liable or any of its officers, employees or agents and the Party Liable shall indemnify and keep indemnified the other party, its officers, employees or agents from and against all such loss or liability which the other party may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the Party Liable or any of its officers, employees or agents.
- 9.3 Subject to Clause 9.2, neither the Party Liable nor any of its officers, employees or agents is in any circumstances whatsoever liable to the other party for:
 - 9.3.1 any loss of profit, loss of revenue, loss of use, loss of contract or loss of good will; or
 - 9.3.2 any indirect or consequential loss; or
 - 9.3.3 loss resulting from the liability of the other party to any other person howsoever and whensoever arising save as provided in Clause 9.1 and 9.2.

- 9.4 Each party acknowledges and agrees that the other party holds the benefits of Clause 9.1, 9.2 and 9.3 for itself and as trustee and agent for its officers, employees and agents.
- 9.5 Each of Clause 9.1, 9.2, 9.3, 9.4, and this Clause 9.5 shall survive termination of the Agreement.
- 9.6 Nothing in Clauses 9.1 to 9.5 inclusive shall prevent or restrict either Party enforcing any obligations (including suing for a debt) owed to it under or pursuant to the Agreement.
- 9.7 The rights and remedies provided by the Agreement to the parties are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies express or implied and provided by common law or statute in respect of the subject matter of the Agreement including without limitation any rights either party may possess in tort which shall include actions brought in negligence and/or nuisance. Accordingly, each party waives to the fullest extent possible all such rights and remedies provided by common law or statute, and releases the other party, its officers, employees and agents to the same extent from all duties, liabilities, responsibilities or obligations provided by common law or statute in respect of the matters dealt with the Agreement and undertakes not to enforce any of them except to the extent provided for in the Agreement.
- 9.8 Each party acknowledges and agrees that Clause 9.1 to 9.7 inclusive are fair and reasonable having regard to the circumstances as at the date of execution of the Agreement.

10. Force Majeure

- 10.1 Force Majeure means in relation to any event or circumstance or number of events or circumstances or combination thereof which is beyond the reasonable control of such Party (the “Non-Performing Party”) and which could not have been avoided through the use of Good Industry Practice and which results in or causes the failure of that Party to perform any of its obligations under the Agreement, including:
- 10.1.1 acts of terrorism;
- 10.1.2 war (whether declared or undeclared), threat of war, act of public enemy, blockade, revolution, riot, insurrection, public demonstration, civil commotion, invasion or armed conflict;
- 10.1.3 sabotage or acts of vandalism, criminal damage or the threat of such acts;
- 10.1.4 extreme weather or environmental conditions including lightening, earthquake, flood, wind, drought, storm, fire, landslip, accumulation of snow or ice, natural disasters and phenomena including meteorites, the occurrence of pressure waves caused by aircraft or other aerial devices

travelling at supersonic speeds, impact by aircraft, volcanic eruption, explosion including nuclear explosion, radioactive or chemical contamination or ionising radiation;

- 10.1.5 any change of legislation, governmental order, restraint or directive having the effect of shutting down or reducing the supply of electricity to the Eligible Customer or which prohibits (by rendering unlawful) the operation of the Eligible Customer and such operation cannot be made lawful by a modification to the Eligible Customer's installation or a change in operating practice;
- 10.1.6 a strike, walkout, lock-out or any other form of industrial action by persons employed by the Non-Performing Party or by an Affiliate of the Non-Performing Party or by any contractor, subcontractor or agent of the affected Party or any such Affiliate;
- 10.1.7 any strike which is part of a labour dispute of a national character occurring in Ireland or which is part of a national electrical industry strike within Ireland;
- 10.1.8 the inability at any time or from time to time of the Transmission or Distribution System to be capable of lawfully and safely supplying electricity to the Eligible Customer;
- 10.1.9 the act or omission of any contractor or supplier of either Party but only if due to an event which, but for the contractor or supplier not being a party to this Agreement, would have been Force Majeure;
- 10.1.10 an electricity generation capacity shortfall whereby ESB does not have sufficient generation capacity to fulfil its obligations under the Agreement.

Provided that Force Majeure shall not include:

- (a) lack of funds and/or the inability of a Party to pay;
 - (b) mechanical or electrical breakdown or failure of machinery or plant owned or operated by either Party other than as a result of the circumstances identified in Clauses 10.1.1 to 10.1.10 above;
 - (c) any of the events referred to in Clause 14 resulting in modifications in the Agreement; or
- 10.2 Except as otherwise provided in the Agreement, where a Non-Performing Party is rendered wholly or partially unable to perform all or any of its obligations under the Agreement by reason of Force Majeure, except for an obligation to make payment of money, the Agreement shall remain in effect but the Non-Performing Party's relevant obligations and the corresponding obligations of the other Party owed to the Non-Performing Party under the Agreement which are obligations affected by Force Majeure shall be

suspended provided that such suspension shall be of no greater scope and no longer duration than is required by the Force Majeure. Further:

- 10.2.1 as soon as reasonably practicable, the Non-Performing Party shall notify the other Party of the circumstances of Force Majeure, identifying the nature of the event, its expected duration, and the particular obligations thereby affected and furnish reports at such intervals as the other Party may reasonably request, with respect thereto during the period of Force Majeure;
 - 10.2.2 the Non-Performing Party shall use all reasonable efforts to remedy this inability to perform and to resume full performance of its obligations under the Agreement;
 - 10.2.3 no obligations of either Party that arose before the Force Majeure and which can reasonably be expected to be performed are excused as a result of Force Majeure;
 - 10.2.4 forthwith after the occurrence of the Force Majeure, each Party shall use all reasonable endeavours to consult with the other as to how best to give effect to their obligations under the Agreement so far as is reasonably practicable during the period of Force Majeure; and
 - 10.2.5 the Non-Performing Party on being able to resume full performance of its obligations under the Agreement, shall provide the other Party with written notice to that effect, without delay.
 - 10.2.6 insofar as possible the Non-Performing Party shall seek to mitigate the consequences of the Force Majeure.
- 10.3 Clause 10.2 shall not require the settlement of any strike, walkout, lock-out or other labour dispute on terms which, in the sole judgement of the Party involved in the dispute, are contrary to its interests. It is understood and agreed that the settlement of strikes, walkouts, lock-outs or other labour disputes shall be entirely within the discretion of the Non-Performing Party.

11. Disputes

- 11.1 A "Dispute" means any dispute or difference of whatever nature between ESB and the VIPP Supplier arising from the Agreement.
- 11.2 Either Party may notify the other Party following the occurrence or discovery of any item or event which the notifying Party acting in good faith considers to be a Dispute under the Agreement.
- 11.3 If considered appropriate the relevant Party may, by notice to the other Party and within fifteen (15) Business Days of a notification under Clause 11.2, appoint a senior company official with expertise or experience in the area in which the Dispute arises and who has no prior direct involvement with the subject matter of the particular Dispute, to represent them and meet with the representative of the other Party within fifteen (15) Business Days of the last date on which a Party receives notification of the Dispute, to attempt in good faith to satisfactorily resolve the Dispute. Such representatives may be accompanied by such other persons which the representatives consider have appropriate expertise to assist in resolving the Dispute.
- 11.4 In the event that the Dispute is not resolved within ten (10) Business Days from the date of the meeting referred to in Clause 11.3 then the Dispute unless it is a Dispute arising under Clause 5 of the Agreement shall be referred to the Commission for determination in such manner as the Commission considers reasonable.
- 11.5 A Dispute arising under Clause 5 of the Agreement which has not been resolved within ten (10) Business Days from the date of the meeting referred to in Clause 11.3 may be referred by either Party to the Commission for determination in such manner as the Commission considers reasonable.
- 11.6 Both Parties shall have the right to bring Court proceedings for any Dispute arising under Clause 5 of the Agreement and any referral under Clause 11.5 shall be without prejudice to this right.
- 11.7 Unless they agree otherwise, the Parties shall bear their own costs and expenses of any referral to the Commission under Clauses 11.4 or 11.5.
- 11.8 Disputes related to the VIPP Bilateral Contract Report amounts will be directed to the Settlement System Administrator by complainant. Any determination by the Settlement System Administrator will be adjusted for in a subsequent invoice.

12. Entire Agreement

- 12.1 This Agreement contains and expressly refers to the entire agreement between the parties with respect to its subject matter and expressly excludes any warranty, condition or other undertaking implied at law or by custom or howsoever otherwise and supersedes all previous agreements and understandings between the Parties (other than as provided for in the Agreement) with respect to its subject matter and each of the Parties acknowledges and confirms that it does not enter into the Agreement in

reliance on any representation, warranty or other undertaking by the other party not fully reflected in the Agreement.

13. Waiver

- 13.1 No delay, omission or forbearance by either party in exercising any right, power, privilege or remedy under the Agreement shall operate to impair or be construed as a waiver of such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any further exercise thereof or other right, power, privilege or remedy.

14. Variation

- 14.1 No variation to this Agreement shall be of any effect unless it is expressly contemplated by this Agreement or is agreed in writing, signed by or on behalf of each party.

15. Notices

- 15.1 All notices and other communications to be given under or in connection with the Agreement shall (except where expressly provided otherwise) be in writing and shall either be delivered by hand or sent by ordinary pre-paid post or by facsimile transmission. Delivery by courier is regarded as delivery by hand.
- 15.2 All communications must be sent to the address of the relevant party, the facsimile number set out below, or to such other address or facsimile number of a party as may be notified by that party from time to time. Each communication must be marked for the attention of the relevant person.

ESB

(Excepting Settlement Data, VIPP Notifications, Invoices and related queries which are to be directed as per Schedule 3)

Facsimile: (01) -7027285

Telephone: (01)-7026838

For the attention of:

Mr. Ken McKervey, Manager Regulation,
Power Generation, ESB Generation

VIPP Supplier:

As set out in Section 1 of Schedule 2.

- 15.3 Subject to Clause 15.4, a communication is deemed to have been received:

15.3.1 if delivered by hand, at the time of delivery;

15.3.2 if sent by ordinary pre-paid post, at the expiration of two (2) Business days after the time of posting; and

15.3.3 if sent by facsimile, at the time of completion of transmission by the sender.

15.3.4 if a communication would otherwise be deemed to have been received outside of normal business hours (being 9.30a.m. to 5.30 p.m. on a Business Day) under this Clause 15, it is deemed to have been received at commencement of normal business hours on the next Business Day.

15.4 A notice of termination under the Agreement other than when delivered by hand will be deemed to have been delivered at the time of receipt by the Defaulting Party.

16. Confidentiality

16.1 Each Party shall treat any and all information and data disclosed to it by the other Party in connection with the Agreement in any form whatsoever, and the Agreement itself, (the “Confidential Information”) as confidential and proprietary, shall preserve the secrecy of the Confidential Information and shall not use the Confidential Information for any purpose other than solely in connection with the Agreement.

16.2 For the purposes of this Clause 16, the term Confidential Information shall not include information which:

16.2.1 at the time of disclosure or at any time thereafter is in, or becomes part of, the public domain other than through a breach of the provisions of this Clause 16; or

16.2.2 the Party receiving the information can prove that the information was already known to it or was independently acquired or developed by it without being in breach of its obligations under this Clause 16; or

16.2.3 became available to the Party receiving the information from another source in a non-confidential manner otherwise than in breach of an obligation of confidentiality; or

16.2.4 is published by or the publication of which is required by a Competent Authority.

16.3 Notwithstanding the provisions of Clause 16.1, Confidential Information may be disclosed by a party:

16.3.1 to those of the shareholders, owners, directors, officers, employees, agents, consultants, contractors, advisers, investors, insurers or lenders of such party or its Affiliates who need to know the Confidential Information for the Agreement for the purpose of carrying out the Agreement (and for no other purpose) provided that:

- (a) the recipient agrees to keep the Confidential Information confidential on terms no less onerous than contained in this Clause 16; and
- (b) the disclosing party shall be responsible for ensuring that the recipient observes and complies with such obligation to keep the Confidential Information confidential and shall accordingly be responsible for any failure of the recipient to do so;

16.3.2 as may be ordered or required by any applicable law or a Competent Authority;

16.3.3 as may be required by the regulations of any recognised stock exchange upon which the share capital of the party (or any parent undertaking of the party) is or is proposed to be from time to time listed or dealt in, and the party making the disclosure shall, if reasonably practicable prior to making the disclosure, and in any event as soon as reasonably practicable thereafter, supply the other party with a copy of such disclosure or statement and details of the persons to whom the Confidential Information is to be, or has been, disclosed. Where a copy of such disclosure or statement has been supplied prior to making the disclosure, the other party may give comments on that disclosure or statement to the party proposing to make it. The party proposing to make the disclosure shall, if reasonably practicable in the time available, consult with the other party as to any such comments and consider whether the disclosure is to be amended to take into account the comments;

16.3.4 as may be required to comply with the requirements of the Grid Code, Metering Code, Trading and Settlement Code or the Agreement;

16.3.5 by either party as may be necessary to comply with any obligation under any licence granted to it under the Act;

16.3.6 by ESB as may be necessary to enable ESB to operate the Transmission or Distribution System or arising from any planning, connection or related information requirements.

16.3.7 by ESB as may be necessary in relation to an application by any person for a connection to ESB Transmission System;

16.3.8 as may be required by a Court, arbitrator or administrative tribunal or an expert in the course of proceedings before it to which the disclosing party is a party; or

16.3.9 as may be agreed in writing by the parties prior to disclosure by the party disclosing such Confidential Information.

16.4 All information supplied by or on behalf of a Party to the Agreement shall remain the sole and exclusive property of such Party and the Agreement shall

not operate to transfer ownership or any interest whatsoever therein, and the other Party to the Agreement shall, if requested by the Party disclosing the information following termination of the Agreement, promptly return to such Party all documents and any copies, extracts, notes or similar materials containing or based in whole on such information.

- 16.5 The provisions of this Clause 16 shall survive the termination of the Agreement for a period of five (5) years.
- 16.6 The parties to the Agreement shall, insofar as is reasonably practicable, ensure that any copies of the Confidential Information, whether in hard copy or computerised form, will clearly identify the Confidential Information as confidential.
- 16.7 Subject to Clause 16.3, no public announcement or statement regarding the signature, performance or termination of, or otherwise in relation to, the Agreement shall be issued or made by a party to the Agreement unless the other party to the Agreement shall have first been furnished with a written copy of the proposed announcement or statement and shall have approved it (such approval not to be unreasonably withheld or delayed).

17. Assignment

- 17.1 ESB may assign the benefit of the Agreement to its legal successors in title or to an ESB wholly owned subsidiary company.
- 17.2 With the prior written consent of ESB (such consent not to be unreasonably withheld or delayed), the VIPP Supplier may assign whole Option Units to any Relevant Supplier who is also a party to the Trading and Settlement Code, Transmission Use of System Agreement and Distribution Use of System Agreement at the time the assignment takes effect (“Assignee”). ESB’s consent under the Clause may be conditional on any of the following:-
 - 17.2.1 the VIPP Supplier notifying ESB of the number of Option Units being assigned, the corresponding prices under the Agreement of each of the Option Units being assigned, as specified in Schedule 2, the identity of the Assignee and any other information reasonably requested by ESB;
 - 17.2.2 the VIPP Supplier notifying the Commission of any information relating to the assignment requested by the Commission;
 - 17.2.3 at the request of ESB, the VIPP Supplier entering into a variation to the Agreement with ESB to reflect the assignment of the Option Units;
 - 17.2.4 the Assignee entering into an agreement with ESB in substantially the same form as the Agreement in respect of the Option Units assigned to it;
 - 17.2.5 the Assignee satisfying ESB that it has an Approved Credit Rating or providing Security Cover in respect of the Option Units; and

17.2.6 the consent of the Commission.

17.3 Unless ESB agrees otherwise, any assignment under Clause 17.2 will only take effect from the beginning of the Settlement Day starting on the first day of the month after all relevant consents and documents relating to the assignment have been completed to ESB's satisfaction

18. Severance

18.1 Each of the provisions of this Agreement is severable. If any provision of the Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or enforceability in that jurisdiction of the remaining provisions of this Agreement shall remain in full force and effect and shall continue to bind the parties.

19. Survival

19.1 The expiry or termination of the Agreement does not affect any rights or obligations which may have accrued prior to such expiry or termination and does not affect continuing obligations of each of the parties under this Agreement which are expressed to continue after such expiry or termination.

20. Governing law and Jurisdiction

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

21. Change in Circumstances

21.1 If there is a Change in Circumstance which changes the operation or effect of this Agreement as originally intended by the Parties, then either Party may notify the other that it wishes to review the Agreement and the Parties shall meet and discuss in good faith the amendments that should be made to the Agreement in order to reflect the original intent of the Parties.

21.2 For the purposes of Clause 21.1, a "Change in Circumstance" occurs if after the date of the Agreement any law is passed, made, brought into force, issued, amended or revoked or ceases to have effect that affects this Agreement, or the terms of any of the Trading and Settlement Code, Grid Code, or any licence or document issued pursuant to a condition of any licence are modified.

EXECUTED as an agreement this _____ day of _____ in the year 2002.

SIGNED by (name) _____, for and on behalf of the

Electricity Supply Board in the presence of (witness) _____,

Signatory:

Witness:

Signature _____

Signature _____

Position _____

Position _____

SIGNED by (name) _____, for and on behalf of the VIPP
Supplier

(VIPP Supplier name) _____ in the presence of (witness)

_____,

Signatory:

Witness:

Signature _____

Signature _____

Position _____

Position _____

Schedule 1

1. **Nomination of Contracted Options.**

- 1.1 The VIPP Supplier shall nominate their Contracted Options as Active Options, Exercisable Options or Relinquished Options.
 - 1.1.1 The Contracted Option Nomination must be received by ESB 10 days prior to the start of each month, except September 2002. Subject to Section 1.1.6, if in any month a valid Contract Option Nomination is not received, then the last valid Contract Option Nomination shall be deemed to be the Contract Option Nomination for that month.
 - 1.1.2 The Contracted Option Nomination for September 2002 must be received by 10th September 2002.
 - 1.1.3 Firm Contracted Options and Non-Firm Contracted Options shall be nominated separately and shall sum to the Contracted Options.
 - .
 - 1.1.4 A Contracted Option that has been nominated as an Active Option may not be nominated as an Exercisable Option in future months.
 - 1.1.5 All Exercisable Options must be nominated as Relinquished Options before any Active Options can be nominated as Relinquished Options.
 - 1.1.6 Once a Contracted Option has been nominated as a Relinquished Option the VIPP Supplier loses all rights to that Contracted Option and may not nominate it as either an Active Option or an Exercisable Option in future months
 - 1.1.7 From 1st October 2002 all Contracted Options shall either be Active Options or Relinquished Options. Contracted Options that are not nominated as Active Options shall be deemed to be Relinquished Options.
- 1.2 In order to allow ESB to nominate plant, VIPP suppliers shall supply ESB with a Demand Forecast at the same time as their Contracted Option Nomination.

2. Option Charge.

- 2.1 The Option Fee shall be the Auction Clearing Price as determined in Section 3 of Schedule 2.
- 2.2 The Option Charge for each Payment Period in the Supply Period is the total of all charges below.
 - 2.2.1 The sum of the Contracted Options nominated as Active Options multiplied by the Option Fee.
 - 2.2.2 For Payment Period September 2002 inclusive the sum of the Firm Contracted Options nominated as Exercisable Options, less the number of Contracted Options the VIPP Supplier still holds from VIPP1, multiplied by the Booking Fee.
 - 2.2.3 For Payment Period September 2002 inclusive the sum of the Non-Firm Contracted Options nominated as Exercisable Options multiplied by the Booking Fee. (For the September 2002 Payment Periods no charge shall be made for Non-Firm Contracted Options nominated as Exercisable Options).
 - 2.2.4 Any rebate due under the Winter Peak Management Programme.
 - 2.2.5 Any rebate of Booking Fees paid for Exercisable Options that have been nominated as Active Options as determined in Section 2.4 of this Schedule
- 2.3 Contracted Options nominated as Relinquished Options shall incur no fees and the VIPP Supplier loses all rights to these Contracted Options
- 2.4 For each Contracted Option, which had previously been nominated as an Exercisable Option, nominated for the Payment Period as an Active Option a rebate will be made of all Booking Fees paid to date. The maximum rebate in any one month will not exceed the Option Fee.

3. Energy Charge.

- 3.1 The Energy Charge for a Trading Period is calculated as follows:

$$EC = CEC + ONC$$

Where

EC is the Energy Charge for the Trading Period

CEC is the Contracted Energy Charge

ONC is the Over Notification Charge

3.2 The Contracted Energy Charge for a Trading Period is calculated as follows:

For all Trading Periods

$$CEC = \text{Min}(\text{VDN}, \text{MCE}) * \text{EPP}_t$$

Where:

VDN is the VIPP Supplier's VIPP Demand Notification for that Trading Period (in MWh) determined in accordance with Clause 4.3.2;

MCE is the Maximum Contracted Energy;

EPP_t is the Energy Purchase Price for that Trading Period calculated under Section 3.4 below.

3.3 The Energy Purchase Price for a Trading Period is calculated as follows:

$$\text{EPP}_t = \text{EPP}_0 + \text{MFI}_t$$

Where

EPP₀ has the value €30 /MWh,

EPP_t is the Energy Purchase Price in €/MWh applying in Payment Period t.

MFI_t is the Monthly Fuel Indexation adjustment, calculated subject to Section 6 of this Schedule.

3.4 The Over Notification Charge (ONC) for a Trading Period is calculated as follows:

$$\text{ONC} = (\text{Max}(\text{VDN} - \text{MCE}, 0) * \text{SST})$$

Where

MCE is the Maximum Contracted Energy

VDN is the VIPP Supplier's VIPP Demand Notification for that Trading Period (in MWh);

SST is the relevant VIPP Supplementary Supply Tariff appropriate to the relevant Trading Period, as defined in Section 4 below.

3.5 The Inter VIPP Trading rebate for a Trading Period is calculated as follows:

For all Trading Periods

$$\text{ITR} = \text{VIT}_n * \text{Max}((\text{SST} - \text{EPP}_t), 0)$$

Where

ITR is the Inter VIPP Trading rebate calculated for the Trading Period.

VIT_n is the net of the valid VIPP Inter Trade advised for the Trading period. The maximum allowable value of VIT_n for any trading period is equal to the difference between the VDN and the MCE for that trading period, i.e. VIT_n cannot be greater than VDN – MCE for any trading period.

SST is the VIPP Supplementary Supply Tariff as appropriate to the relevant Trading Period, as defined in Section 4 below.

4. The VIPP Supplementary Supply Tariff (SST)

| | Winter weekdays (excl. public holidays) € | Winter weekends and public holidays € | Spring/ Autumn weekdays (excl. public holidays) € | Spring/ Autumn weekends and public holidays € | Summer weekdays (excl. public holidays) € | Summer weekends and public holidays € |
|-------|---|--|--|---|---|--|
| 0:00 | 45.61 | 46.04 | 40.39 | 42.10 | 37.66 | 37.76 |
| 1:00 | 43.04 | 39.45 | 37.93 | 38.63 | 37.15 | 35.63 |
| 2:00 | 42.04 | 38.87 | 37.19 | 35.96 | 35.19 | 35.58 |
| 3:00 | 39.99 | 37.85 | 36.31 | 35.24 | 34.27 | 35.28 |
| 4:00 | 38.35 | 37.08 | 35.36 | 33.79 | 33.97 | 34.54 |
| 5:00 | 38.47 | 35.22 | 35.54 | 33.02 | 33.90 | 33.26 |
| 6:00 | 40.92 | 35.14 | 37.36 | 34.09 | 35.63 | 33.46 |
| 7:00 | 45.98 | 36.20 | 42.59 | 36.00 | 39.17 | 36.17 |
| 8:00 | 81.78 | 37.20 | 81.78 | 37.20 | 81.78 | 37.20 |
| 9:00 | 89.60 | 40.75 | 84.38 | 40.75 | 85.33 | 40.75 |
| 10:00 | 92.48 | 43.55 | 84.65 | 43.55 | 85.29 | 43.55 |
| 11:00 | 93.75 | 44.14 | 84.94 | 44.14 | 85.30 | 43.03 |
| 12:00 | 95.34 | 46.77 | 85.20 | 45.21 | 85.88 | 43.62 |
| 13:00 | 89.32 | 46.28 | 84.02 | 44.56 | 84.58 | 43.47 |
| 14:00 | 92.09 | 43.78 | 84.25 | 42.75 | 84.92 | 43.28 |
| 15:00 | 93.77 | 42.48 | 84.53 | 40.90 | 85.54 | 41.31 |
| 16:00 | 95.69 | 44.52 | 85.96 | 39.83 | 86.00 | 40.62 |
| 17:00 | 258.74 | 48.45 | 86.56 | 41.82 | 86.15 | 42.51 |
| 18:00 | 247.07 | 49.36 | 87.87 | 43.49 | 85.66 | 42.49 |
| 19:00 | 94.69 | 47.53 | 83.87 | 44.00 | 80.54 | 42.63 |
| 20:00 | 93.79 | 47.07 | 82.65 | 44.55 | 75.50 | 41.22 |
| 21:00 | 88.46 | 46.25 | 81.63 | 44.89 | 76.36 | 40.75 |
| 22:00 | 74.08 | 42.92 | 74.08 | 42.47 | 74.08 | 41.26 |
| 23:00 | 80.36 | 47.09 | 67.06 | 39.29 | 64.59 | 38.03 |

5. Winter Peak Management Programme

- 5.1 The WPMP will run for November and December 2001 and for January and February 2002;
- 5.2 The WPMP Peak Hours are from 17:00 to 19:00 inclusive on Business Days;
- 5.3 The WPMP Day Hours are from 08:00 to 22:00 inclusive on Business Days excluding WPMP Peak Hours and Powersave events;
- 5.4 The VIPP Suppliers will receive a rebate that is equal to the reduction in customer load as defined in Clause 5.8 below multiplied by the Rebate Rate defined in Clause 5.9 below;

- 5.5 The WPMP rebate will be rebated on a monthly basis a month in arrears. The rebate will appear on the Option charge invoice as issued under Clause 5.2 of this Agreement.
- 5.6 The WPMP Day Load is equal to the average VIPP Supplier's customer load during the WPMP Day Hours in the Payment Period.
- 5.7 The WPMP Peak Load is equal to the average VIPP Supplier's customer load during the WPMP Peak Hours in the Payment Period.
- 5.8 The VIPP Supplier will be rebated based on its average VIPP customer load during the WPMP Day Hours less its average VIPP customer load during WPMP Peak Hours.
- 5.9 The Rebate Rate will be €7.65 /kW/Month.
- 5.10 This scheme is for customers reducing load and VIPP Suppliers will not be paid for customers exporting load.
- 5.11 If during November and December 2001 the VIPP Supplier holds VIPP1 Contracted Options then the VIPP customer loads will be corrected as follows:
 - 5.11.1 The WPMP Day Load will be decreased by the VIPP1 MCE
 - 5.11.2 The WPMP Peak Load will be decreased by the VIPP1 MCE scaled by the ratio of the WPMP Peak Load to the WPMP Day Load.

6. Monthly Fuel Indexation

- 6.1 The Monthly Fuel Indexation adjustment (MFI_t) is calculated for every Payment Period during the term of the contract. The MFI_t is calculated on the basis of the difference in Base Energy Price for the relevant Payment period (BEP_t) and the Base Energy Price for November 2001 (BEP_0).

$$MFI_t = (BEP_t - BEP_0)$$

Where

MFI_t is the Monthly Fuel Indexation adjustment

BEP_t is the Base Energy Price for Payment Period (t), calculated subject to Section 6.4 of this Schedule.

BEP_0 is the Base Energy Price for November 2001 calculated subject to Section 6.4 of this Schedule.

- 6.2 The Base Energy Price for each Payment Period shall be calculated before the start of the Payment Period and a revised value of the Energy Purchase Price derived. ESB will notify the VIPP Supplier of the revised Energy Purchase

Price at least two Business Days before the commencement of the Payment Period.

6.3 For the duration of the Agreement, a portion, approximating to 50%, of the commodity element of the Energy Charge is fixed.

6.4 The Base Energy Price is calculated as follows:

$$\text{BEP} = (b_{cv} * F_{cv}) + (b_{oilv} * F_{oilv}) + (b_{gv} * F_{gv}) + (b_{cf} * F_{cf}) + (b_{oilf} * F_{oilf}) + (b_{gf} * F_{gf})$$

Where

b_{cv} is a constant factor reflecting ESB's exposure to coal, the efficiency of its conversion and the percentage of the commodity that is variable;

b_{oilv} is a constant factor reflecting ESB's exposure to a mixture of oils, the efficiency of their conversion and the percentage that is variable;

b_{gv} is a constant factor reflecting ESB's exposure to gas, the efficiency of its conversion and the percentage that is variable;

b_{cf} is a constant factor reflecting ESB's exposure to the currency component of coal purchases for which the commodity price has been fixed;

b_{oilf} is a constant factor reflecting ESB's exposure to the currency component of oil purchases for which the commodity price has been fixed;

b_{gf} is a constant factor reflecting ESB's exposure to the currency component of gas purchases for which the commodity price has been fixed;

F_{cv} is the realised energy price of coal, in €/MWh (NCV), calculated subject to Section 6.5 of this Schedule;

F_{oilv} is the realised energy price of oil, in €/MWh (NCV), calculated subject to Section 6.6 of this Schedule;

F_{gv} is the realised energy price of gas, in €/MWh (NCV), calculated subject to Section 6.7 of this Schedule;

F_{cf} is the realised energy price of coal, in €/MWh (NCV), pertaining to the first month of the VIPP2 Agreement, adjusted for currency fluctuation for the relevant month, calculated subject to Section 6.8 of this Schedule;

F_{oilf} is the realised energy price of oil, in €/MWh (NCV), pertaining to the first month of the VIPP2 Agreement, adjusted for currency fluctuation

for the relevant month, calculated subject to Section 6.9 of this Schedule;

F_{gf} is the realised energy price of gas, in €/MWh (NCV), pertaining to the first month of the VIPP2 Agreement, adjusted for currency fluctuation for the relevant month, calculated subject to Section 6.10 of this Schedule.

Constant factor, b values:

| | | |
|------|------------|------|
| Coal | b_{cv} | 0.45 |
| | b_{cf} | 0.45 |
| Oil | b_{oilv} | 0.41 |
| | b_{oilf} | 0.00 |
| Gas | b_{gv} | 0.34 |
| | b_{gf} | 0.60 |

6.5 The realised energy price of coal (F_{cv}) is calculated as follows:

$$F_{cv} = P_c * k_1 / CV_c$$

$$P_c = API2 / X_d + D_c$$

Where

$API2$ = is the average in US\$/tonne, rounded to the nearest cent, of internationally traded spot steam coal index price CiF ARA as published by Traditional Financial Services, London. The price for any month M is the average of the monthly averages for the three months M-4, M-3, and M-2. The monthly average for any month is the arithmetic average of the weekly prices published within that month;

X_d = The average of the monthly exchange rate for US\$/€ for the period M-4, M-3 and M-2, as published by the Central Bank of Ireland;

D_c = Excise duty or other tax on coal in €/tonne applying to deliveries or consumption of coal in month M;

CV_c = Constant representing the calorific value of coal;

k_1 = Constant conversion factor.

6.6 The realised energy price of oil (F_{oilv}) is calculated as follows:

$$F_{oilv} = P_{oil} * k_1 / CV_{oil}$$

$$P_{oil} = [V_{HS} * P_{HS} + V_{LS} * P_{LS}] / X_d + D_{oil}$$

where

P_{HS} = the average for the 3 month period (M-4, M-3, M-2) of the monthly average price of 3.5% Sulphur Fuel Oil cargoes CiF NWE (Basis ARA) of the high quotations for all Traded Days in the period, expressed in US dollars per metric tonne, rounded to the nearest cent, as shown in Platt's Oilgram Price Report as published by McGraw-Hill Inc. The monthly average price is the arithmetic average of all the one (1) day quotes issued within the month.

P_{LS} = the average for the 3 month period (M-4, M-3, M-2) of the monthly average price of 1% Sulphur Fuel Oil cargoes CiF NWE (Basis ARA) of the high quotations for all Traded Days in the period, expressed in US dollars per metric tonne, rounded to the nearest cent, as shown in Platt's Oilgram Price Report as published by McGraw-Hill Inc. The monthly average price is the arithmetic average of all the one (1) day quotes issued within the month.

D_{oil} = the excise duty of HFO and any other applicable taxes in €/t, applying in month M.

V_{HS} , V_{LS} = proportions of high and low sulphur fuel oil in ESB's budgeted fuel mix. This ratio is fixed for the year and $V_{HS} + V_{LS} = 1$.

CV_{oil} = NCV in GJ/tonne of HFO basis the HFO on which the indexed price is sourced.

X_d = The average of the monthly exchange rate for US\$/€ for the period M-4, M-3 and M-2, as published by the Central Bank of Ireland.

6.7 The realised energy price of gas (F_{gv}) is calculated as follows:

$$F_{gv} = P_g * k_1 * k_2$$

$$P_g = G * X_s + T_x UK * X_s + T_x IRL + D_g$$

$$G = G_{uk} * S_g$$

Where

G_{uk} = in respect of each month M, is the IPE Index for month M-1. Where the IPE Index is the "IPE Natural Gas Index for the current month" as published by PH Energy Analysis in the publication "European Spot Gas Markets".

- S_g = a “swing premium” of 1.12 to reflect the lower load factor of deliveries to ESB compared with the flat (100% take and pay) values expressed in the index.
- T_{xUK} = transport charge from UK NBP to Moffat plus Moffat Exit charge (as published by Transco) plus the Moffat Agency cost (as contained in the Moffat Agency Agreement), applying in month M. All these costs in UKp/therm rounded to the second place of decimals.
- T_{xIRL} = capacity plus throughput charges for gas deliveries from Moffat (to ESB Exit Points), as per Draft Ministerial Directive to BGE of March 1998, or as revised, concerning standard service pricing, applying in Month M in €/therm.
- D_g = tax/duty on gas in €/therm, applying in Month M
- X_s = the forward rate as at day 1 of M less ten (10) Business Days for EURO/Sterling for the period 2 months forward. This 2 month forward rate will be the arithmetic average of the one month and three month forward rates as published in the Financial Times, table “Pound Spot Forward against the Pound” (or any relevant successor table).
- If there is no published rates for this date the last previously published rates shall be used.
- k_1 = constant conversion factor
- k_2 = constant reflecting the calorific value of gas.

- 6.8 F_{cf} is determined as F_{cv} , as per Section 6.5 of this schedule, with the fuel index API2 fixed for the duration of the contract at the value pertaining to Month 1.
- 6.9 F_{oilf} is determined as F_{oilv} , as per Section 6.6 of this schedule, with the fuel indices P_{HS} and L_{HS} fixed for the duration of the contract at the value pertaining to Month 1.
- 6.10 F_{gf} is determined as F_{gv} , as per Section 6.7 of this schedule, with the Fuel Index G_{uk} fixed for the duration of the contract at the value pertaining to Month 1.
- 6.11 The resolution of variables used in the calculations in Section 6 of this schedule, will be to the level defined for each variable, or if not defined, to the level published for published variables. Any other variables and all intermediate and final calculations will be rounded to four places of decimals.

Schedule 2

This schedule is the Annexure to the Bid Form of the VIPP Supplier, as signed by
ESB

Schedule 3

VIPP INTER TRADE NOTIFICATION

Description

This Schedule specifies the format and content of VIPP Inter Trade notifications to be sent to ESB

Data Flow

Sender of File: VIPP Supplier notification of a VIPP Inter Trade
Receiver of File: ESB (Settlement Energy Management Centre)

Address for all VIPP Inter Trader Notifications

All VIPP Inter Trade notification communications should be sent to the following e-mail address : VIPP_SETTLEMENT@mail.esb.ie

The “Subject” line must contain the reference : VIPP Inter Trade Notification

Frequency

A separate file should be sent for each Settlement Day in which inter trades have occurred. Only those trading periods where trading has occurred should be included.

File Format

The data format for the notification will be as a comma separated value (CSV) file contained as an attachment within an e-mail.

CSV File Name

The CSV file name should consist of the SSA assigned VIPP Supplier Market Participant Id , the date and file version number as follows:

AAAA_YYYYMMDD_NN.csv

where

AAAA represents the place holder for the SSA assigned VIPP Supplier Market Participant ID.

YYYYMMDD represents the Settlement Day for which the Inter Trade data contained in the file refers to.

NN is the version number of the file, where 01 represents the first file sent for the Settlement Day in question. For subsequent versions of the file the version number must be assigned sequentially. It is important to note the file with the highest version number will over write all data received previously for that Settlement Day.

Failure of E-mail Systems

In the event of the loss of communication via e-mail facilities for the transfer of VIPP Inter Trade Notifications, the delivery of the standard format CSV file by floppy disk / compact disk will be accepted in exceptional circumstances subject to the normal time table as set out in this Non Green VIPP2 Agreement.

VIPP Inter Trade notifications by facsimile or on paper based media will not be accepted.

Contact Numbers

The Contact for Queries relating to VIPP Settlement is :

Manager EMC Settlement
ESB
Lower Fitzwilliam St.,
Dublin 2,
Ireland.

Fax 01 - 6384757
Telephone 01 - 7026700

VIPP queries may also be directed by e-mail to VIPP.QUERY@mail.esb.ie

VIPP Supplier Inter Trade Notification Details

| |
|--|
| VIPP Supplier – VIPP Inter Trade Notification |
|--|

The Inter Trade Notification will consist of a header record, detail record(s) and a trailer record.

Header Record:

| Field Name | Field Type / Length | Description |
|--|-----------------------|---|
| Header | 1 character in length | Always 'H' |
| VIPP Supplier Market Participant Id | 4 characters | The unique SSA assigned Market Participant ID of the VIPP Supplier who is the common party to all the inter trades identified in the Settlement Day and who was assigned the VIPP Supplier PIN contained in this header record. |
| Settlement Date | DATE | The settlement date to which the Inter Trade Notifications in the file relate. Format is 'YYYYMMDD' |
| VIPP Supplier PIN | 6 digit number | Unique number assigned to each VIPP Supplier for settlement confidentiality purposes. The number used is that of the VIPP Supplier identified in this header record. (See Notes 7.) |
| Inter Trade Notification CSV File Version Number | 2 digit number | 2 digit number corresponding to the CSV file version number in which this header record is contained. |

Detail Record:

| Field Name | Field Length / Type | Description |
|--|--|--|
| Settlement Period No | 2 digits - format nn | Use is made of SSA Settlement Period Id as a reference number for the settlement period within a settlement day. Period Id's are assigned sequentially to each period. |
| Non-Green Bilateral Contract Nomination Inter Trade Quantity | 7 digit number with 3 decimal places. Format - nnnn.nnn | The Non-Green Bilateral Contract Nomination for the period of the settlement day expressed in MWh |
| VIPP Inter Trade Action | 1 Character - 'I' or 'D' | Designate the inter trade as an INCREASE or DECREASE |

| Field Name | Field Length / Type | Description |
|---|----------------------------|---|
| VIPP Supplier Market Participant Id | 4 Characters | The unique SSA assigned Market Participant ID of the VIPP Supplier who in this case is the other party to the inter trade. |
| VIPP Inter Trade Notification settlement period transaction counter | 3 digit number. Format nnn | Number between 001 and 999 applicable where there are one or more inter trades between 2 particular VIPP Suppliers for a single trading period. |
| | | |

Trailer Record

| Field Name | Field Type / Length | Description |
|---------------|---|--|
| Trailer | 1 Character | Always 'T' |
| Control Count | Numeric | The number of records in the file excluding the header and trailer records. |
| Control Check | Numeric (with up to three places of decimals) | The sum of the values of the Non-Green Bilateral Contract Nomination Inter Trade Quantity in the detail records. |

Notes

1. The VIPP Supplier will notify EMC Settlement Manager in writing of the source e-mail address from which the VIPP Inter Trade Notifications will be sent from.
2. The VIPP Inter Trade Notification will be SSA Settlement Day based and covers the time period 00:00–23:59, where 59 is taken to mean up to and including the 59th minute of that hour.
3. Use is made of SSA Settlement Period Id as a reference number for the settlement period within a settlement day. Period Id's are assigned sequentially to each period. Period 1 identifies the first half-hour period which covers the period 00:00-00:29, where 29 is taken to mean up to and including the 29th minute of that hour.
4. A contact person must be nominated for the VIPP Supplier, responsible for the VIPP Inter Trade Notification transfer process.
5. VIPP Suppliers will adhere to the VIPP2 Agreement settlement timetable when sending files.
6. The VIPP Inter Trade settlement period transaction counter tracks inter trades between the same two suppliers within a given trading period. It is reset to 001 at the start of a new trading period. The first trade between two particular VIPP Suppliers in a particular trading period will always be 001. The second trade between the same two suppliers in the same period will be 002 etc.
7. The VIPP Supplier PIN will be assigned to each VIPP Supplier on entering into a Non- Green VIPP2 Agreement. The PIN will be known only to the VIPP Supplier and EMC Settlement processes.
8. Uppercase characters are to be used throughout for file naming and record details.

VIPP Options Notification Details

Description

This Schedule specifies the format and content of VIPP Options notifications to be sent to ESB

Data Flow

Sender of File: VIPP Supplier
Receiver of File: ESB (Settlement Energy Management Centre)

Address for all VIPP Options Notifications

All VIPP Options Notification communications should be sent to the following e-mail address : VIPP_SETTLEMENT@mail.esb.ie

The “Subject” line must contain the reference : VIPP Options Notification

Frequency

A separate file should be sent for each Payment Period to arrive at such a time as detailed in Schedule 1 of this agreement.

File Format

The data format for the notification will be as a comma separated value (CSV) file contained as an attachment within an e-mail.

CSV File Name

The CSV file name should consist of the SSA assigned VIPP Supplier Market Participant Id , file ID, the date and file version number as follows:

AAAA_ON_YYYYMMDD_NN.csv

where

AAAA represents the place holder for the SSA assigned VIPP Supplier Market Participant ID.

ON is the file ID.

YYYYMMDD represents the first Settlement Day for which Option Notification contained in the file refers to.

NN is the version number of the file, where 01 represents the first file sent for the Payment Period in question. For subsequent versions of the file the version number must be assigned sequentially. It is important to note the file with the highest version number will over write all data received previously for that Payment Period.

Failure of E-mail Systems

In the event of the loss of communication via e-mail facilities for the transfer of VIPP Option Notifications, the delivery of the standard format CSV file by floppy disk / compact disk will be accepted in exceptional circumstances subject to the normal time table as set out in this Non Green VIPP2 Agreement.

VIPP Option Notifications by facsimile or on paper based media will not be accepted.

| |
|--|
| VIPP Supplier – VIPP Options Notification |
|--|

The Options Notification will consist of a header record, detail record(s) and a trailer record.

Header Record:

| Field Name | Field Type / Length | Description |
|--|-------------------------------------|---|
| Header | 1 character in length | Always 'H' |
| VIPP Supplier Market Participant Id | 4 characters | The unique SSA assigned Market Participant ID of the VIPP Supplier who is the common party to all the inter trades identified in the Settlement Day and who was assigned the VIPP Supplier PIN contained in this header record. |
| Nomination Month | Month e.g. Jan, Feb, Mar, Apr etc., | The Month to which the Forecast Options nominations in the file relate. Format is 'MMM' |
| VIPP Supplier PIN | 6 digit number | Unique number assigned to each VIPP Supplier for settlement confidentiality purposes. The number used is that of the VIPP Supplier identified in this header record. (See Notes 7.) |
| Forecast Demand Notification CSV File Version Number | 2 digit number | 2 digit number corresponding to the CSV file version number in which this header record is contained. |

Detail Record:

| Field Name | Field Length / Type | Description |
|-------------------------------|--------------------------------|--|
| Firm Active Options | 3 digit number Format - nnn | Firm Contracted Option that is used to meet the energy requirements of the VIPP supplier in the Payment Period |
| Firm Exercisable Options | 3 digit number Format - nnn | Firm Contracted option that the VIPP Supplier does not nominate as an Active Option, but retains the right to use at a future date, not later than six months from the start of the Non green VIPP2 Agreement. |
| Firm Relinquished Options | 3 digit number Format - nnn | Firm Contracted Option that a supplier no longer wishes to hold. |
| Non Firm Active Options | 3 digit number Format - nnn | Non Firm Contracted Option that is used to meet the energy requirements of the VIPP supplier in the Payment Period |
| Non Firm Exercisable Options | 3 digit number Format - nnn | Non Firm Contracted option that the VIPP Supplier does not nominate as an Active Option, but retains the right to use at a future date, not later than six months from the start of the Non green VIPP2 Agreement. |
| Non Firm Relinquished Options | 3 digit number Format - nnn | Non Firm Contracted Option that a supplier no longer wishes to hold. |

Trailer Record

| Field Name | Field Type / Length | Description |
|---------------|---------------------|--|
| Trailer | 1 Character | Always 'T' |
| Control Check | Numeric | The sum of the values of the contracted options in the detail records. |

Notes

1. The VIPP Supplier will notify EMC Settlement Manager in writing of the source e-mail address from which the VIPP Options Notifications will be sent from.
2. The VIPP Options Notification will be SSA Settlement Day based and covers the time period 00:00–23:59, where 59 is taken to mean up to and including the 59th minute of that hour for each Settlement Day of the Payment Period.
3. Use is made of SSA Settlement Period Id as a reference number for the settlement period within a settlement day. Period Id's are assigned sequentially to each period. Period 1 identifies the first half-hour period which covers the period 00:00-00:29, where 29 is taken to mean up to and including the 29th minute of that hour.
4. A contact person must be nominated for the VIPP Supplier , responsible for the VIPP Options Notification transfer process.
5. VIPP Suppliers will adhere to the VIPP2 Agreement settlement timetable when sending files.
6. The VIPP Supplier PIN will be assigned to each VIPP Supplier on entering into a Non- Green VIPP2 Agreement. The PIN will be known only to the VIPP Supplier and EMC Settlement processes.
7. Uppercase characters are to be used throughout for file naming and record details.

VIPP Supplier Demand Forecast Notification Details

Description

This Schedule specifies the format and content of VIPP Supplier Demand Forecast notifications to be sent to ESB

Data Flow

Sender of File: VIPP Supplier

Receiver of File: ESB (Settlement Energy Management Centre)

Address for all VIPP Supplier Demand Forecast Notifications

All VIPP Supplier Demand Forecast Notification communications should be sent to the following

e-mail address : VIPP_SETTLEMENT@mail.esb.ie

The “Subject” line must contain the reference : VIPP Supplier Demand Forecast Notification

Frequency

A separate file should be sent for each Payment Period at such a time as detailed in Schedule 1 of this Agreement.

File Format

The data format for the notification will be as a comma separated value (CSV) file contained as an attachment within an e-mail.

CSV File Name

The CSV file name should consist of the SSA assigned VIPP Supplier Market Participant Id , file ID, the date and file version number as follows:

AAAA_DF_YYYYMMDD_NN.csv

where

AAAA represents the place holder for the SSA assigned VIPP Supplier Market Participant ID.

DF is the File ID.

YYYYMMDD represents the first Settlement Day for which the Demand Forecast data contained in the file refers to.

NN is the version number of the file, where 01 represents the first file sent for the Payment Period in question. For subsequent versions of the file the version number must be assigned sequentially. It is important to note the file with the highest version number will over write all data received previously for that Payment Period.

Failure of E-mail Systems

In the event of the loss of communication via e-mail facilities for the transfer of VIPP Supplier Demand Forecast Notifications, the delivery of the standard format CSV file by floppy disk / compact disk will be accepted in exceptional circumstances subject to the normal time table as set out in this Non Green VIPP2 Agreement.

VIPP Supplier Demand Notifications by facsimile or on paper based media will not be accepted.

VIPP Supplier – VIPP Demand Forecast Notification

The Demand Forecast Notification will consist of a header record, detail record(s) and a trailer record.

Header Record:

| Field Name | Field Type / Length | Description |
|--|-------------------------------------|---|
| Header | 1 character in length | Always 'H' |
| VIPP Supplier Market Participant Id | 4 characters | The unique SSA assigned Market Participant ID of the VIPP Supplier who is the common party to all the inter trades identified in the Settlement Day and who was assigned the VIPP Supplier PIN contained in this header record. |
| Forecast Month | Month e.g. Jan, Feb, Mar, Apr etc., | The month to which the Forecast Demand figures in the file relate. Format is 'MMM' |
| VIPP Supplier PIN | 6 digit number | Unique number assigned to each VIPP Supplier for settlement confidentiality purposes. The number used is that of the VIPP Supplier identified in this header record. (See Notes 7.) |
| Forecast Demand Notification CSV File Version Number | 2 digit number | 2 digit number corresponding to the CSV file version number in which this header record is contained. |

Detail Record:

| Field Name | Field Length / Type | Description |
|--------------------------------------|--|--|
| Settlement Date | DATE | The settlement date to which the Forecast Demand figures in the file relate. Format is 'YYYYMMDD' |
| Settlement Period No | 2 digits - format nn | Use is made of SSA Settlement Period Id as a reference number for the settlement period within a settlement day. Period Id's are assigned sequentially to each period. |
| Forecast Demand Quantity Quantity | 7 digit number with 3 decimal places. Format - nnnn.nnn | The forecasted demand quantity for the period of the settlement day expressed in MWh |

Trailer Record:

| Field Name | Field Type / Length | Description |
|---------------|---|--|
| Trailer | 1 Character | Always 'T' |
| Control Count | Numeric | The number of records in the file excluding the header and trailer records. |
| Control Check | Numeric (with up to three places of decimals) | The sum of the values of the forecasted demand quantity in the detail records. |

Notes

1. The VIPP Supplier will notify EMC Settlement Manager in writing of the source e-mail address from which the VIPP Supplier Demand Forecast Notifications will be sent from.
2. The VIPP Supplier Demand Forecast Notification will be SSA Settlement Day based and covers the time period 00:00–23:59, where 59 is taken to mean up to and including the 59th minute of that hour for each Settlement Day of the Payment Period.
3. Use is made of SSA Settlement Period Id as a reference number for the settlement period within a settlement day. Period Id's are assigned sequentially to each period. Period 1 identifies the first half-hour period which covers the period 00:00-00:29, where 29 is taken to mean up to and including the 29th minute of that hour.
4. A contact person must be nominated for the VIPP Supplier , responsible for the VIPP Supplier Demand Forecast Notification transfer process.
5. VIPP Suppliers will adhere to the VIPP2 Agreement settlement timetable when sending files.
6. The VIPP Supplier PIN will be assigned to each VIPP Supplier on entering into a Non- Green VIPP Agreement. The PIN will be known only to the VIPP Supplier and EMC Settlement processes.
7. Uppercase characters are to be used throughout for file naming and record details.