

MODIFICATION PROPOSAL FORM			
Proposer <i>(Company)</i>	Date of receipt <i>(assigned by System Operator)</i>	Type of Proposal <i>(delete as appropriate)</i>	Modification Proposal ID <i>(assigned by System Operator)</i>
Bord na Móna	4 May 2023		CMC_10_23
Contact Details for Modification Proposal Originator			
Name	Telephone number	Email address	
Justin Maguire	086 2378864	jmaguire@bnm.ie	
Modification Proposal Title			
Mitigation of Impact on Participants relating to 3rd Party Gas Connection delays			
Documents affected <i>(delete as appropriate)</i>	Section(s) Affected	Version number of CMC used in Drafting	
Capacity Market Code	J.5 , Glossary	Current Version	
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>Units awarded New Capacity contracts are required to submit an implementation plan that includes key milestone dates for delivery under Section J.2 of the CMC. A key milestone is the Substantial Completion milestone, which needs to be satisfied for a New Capacity Market Unit to be flagged as 'Actual' in the Capacity and Trade Register. Once the New Capacity Market Unit has been flagged as 'Actual' it receives capacity payments and is liable for RO obligations.</p> <p>To achieve Substantial Completion, participants must rely on third parties including the System Operators, planning authorities and other statutory bodies to exercise their functions in a timely manner. Decision paper SEM 23 001 is now in force and permits Third Party Extension Periods for eligible delays relating to Third Party Planning and to Judicial Review. The same decision paper has placed 'under further consideration' proposals around Mod 14_22 which relate to 3rd Party delays for Grid and Gas connection.</p> <p>This Mod presents a further development of Mod 14_22 in so far as it focusses exclusively on third party delays relating to Gas Connection which are not attributable to the participant, and temporarily leaving Grid connection delays to one side for now.</p> <p>It is our intention to revisit, at a later stage, delays in Substantial Completion brought about by 3rd Party Grid Connection delays.</p> <p>What differentiates this Mod from previous mods is that it picks up on the shortcomings identified in Decision paper SEM 23 001, and presents proposed solutions.</p> <ul style="list-style-type: none"> -it takes into account relevant contractual aspects of a typical gas connection contract which typically include Expert determinations -where there is not agreement between the Participant and the Gas connection party it provides a process for attribution of delay in relation to project delivery within relevant milestone timelines using mechanisms within the Gas Connection contract, thereby not burdening the Regulatory Authorities to have to act as arbiters, avoiding using their valuable resources. It does this within the Contract, by using any 'within contract' Expert/Independent Engineer determinations following due process. 			

-it addresses the trigger issue, as to what triggers the delay and how to factor eligible 3rd party gas connection delay

-the thrust of the solution is non jurisdictional

-the proposal highlights that contingency planning within the implementation plan is far from the answer, given the delay provisions permitted to the Gas Connection Provider within typical gas connection contracts, as well as short project delivery times even within a T-4 auction

This modification highlights shortcomings of the existing capacity market code which currently will prevent investment and project fruition, in particular circumstances, and replaces these shortcomings with a proposed solution mechanism.

Where there are delays in Gas Connections which are outside of the control of the Project then it is only reasonable for these to be taken into account, as proposed below. Such delays could occur due to many gas connection related processes which are outside the control of the Project, but which are clearly within the control of the Gas Connection party.

A delay in the delivery of one or any of these elements represents a significant risk to delivery of New Capacity which is beyond the control of the Participant. This affects the decisions made by Participants developing New Capacity projects, possibly resulting in the non-delivery of these projects.

Previous modifications have referred to the Security of Supply issue addressing the shortfall in delivery of system requirements; we refer to these again.

In this regard, we are conscious of the non-delivery/termination of a number of Gas units, which were successful over the last number of auctions; this highlights the urgent need for corrective and, more specifically enabling action.

Mindful of the energy supply shortfall, these non-delivery/terminations have occurred where there has been clear direction from the RAs to the SOs to make Grid Connection offers to participants successful at auction – and where CRU 21 115 makes very clear the RAs calling out the need for facilitating new Gas Capacity in its direction to GNI in Ireland.

“Security of Electricity Supply – Programme of Actions’ there is explicit reference to:

“1. Delivery of T-3 (24/25) and T-4 (25/26) and subsequent capacity auctions (at least 2000MW)

In order to meet growing demand, replace retiring generators and support additional penetration of renewables, it is necessary to procure and deliver at least 2000MW of additional flexible gas-fired generation capacity by 2030 at the latest”.

“the CRU has undertaken a number of actions in recent months, in cooperation with other stakeholders, to enhance delivery in the critical forthcoming capacity auctions. These actions include:

Policy signal: the CRU is providing clarity that additional gas-fired generation is vital for the successful delivery of Ireland’s 2030 renewable electricity and climate targets”.

The CRU has issued a **Direction to GNI facilitating advance investment in the gas network**, in order to avoid potential delays in delivering gas connections and associated reinforcements”.

This proposed modification would, on approval, result in the extension of the Long-stop date and the Capacity Quantity End Date of New Capacity (maintaining Maximum Duration of New Capacity) in instances where Substantial Completion has been delayed because of the delivery failure of a third-party – but only those instances which are clearly within the control of the Gas Connection parties.

Clearly this inclusion of an extension relating to such delays provides a more balanced approach to managing risk between the market participant and the third party.

We recognise that to ensure security of supply from the delivery of New Capacity, it is required that the timelines for gas pipeline connections are targeted to align with project delivery and are in time for the relevant Capacity Year – also being mindful of longstop dates. This looks to be a very difficult challenge to the Gas Connection party in some circumstances. Therefore, the Participant cannot be expected to accept the risks associated with the timing of third-party delivery which are outside of their control, even with contingency already being factored in.

We recognise that to ensure security of supply from the delivery of New Capacity, it is imperative that there are the necessary rules and structures in place to allow for an appropriate Third party extension period as is defined within this modification, for eligible 3rd Party delays in timelines for Gas Connections.

We also recognise that, without these modification provisions, where there is a fault in the fundamental market mechanisms, that ‘good and sound projects’ will be terminated – they will make room for new projects.

These new projects, by virtue of participating in a subsequent auction, will be targeting to bring capacity to the market later than the ‘good and sound projects’ would have. These subsequent projects will, in turn, be faced with the very same challenging issues, including termination risks for the same reasons. The cycle will repeat, but, significantly, with further delay.

Failure to address the risk created due to third-party delays not attributable to the Participant will have a detrimental impact on investment decisions relating to New Capacity resulting in the non-delivery of much needed projects.

This modification is required for Security of Supply.

Legal Drafting Change

*(Clearly show proposed code change using **tracked** changes, if proposer fails to identify changes, please indicate best estimate of potential changes)*

The Legal drafting change is based on the primary decision text within SEM 23 001. This proposes that the modification introduces a new Remedial Action as follows under Section J.5.5 of the Code.

J.5.5 Extension of Long Stop Date by Third Party Planning Appeal or Judicial Review or Eligible 3rd Party Gas Connection Delay

J.5.5.1 Subject to the requirements of paragraph J.5.5.2, a Participant or an Enforcing Party (on behalf of a Participant) may apply to the System Operators to extend the date of Substantial Financial Completion and Long Stop Date associated with a Capacity Market Unit by a period equal to the Third Party Extension Period where that Capacity Market Unit is subject to a Third Party Judicial Review or Third Party Planning Appeal **or Eligible 3rd Party Gas Connection Delay.**

J.5.5.2 The System Operators shall extend the date of Substantial Financial Completion and Long Stop Date under paragraph J.5.5.1 subject to the requirements of paragraph J.4.2.5 and the Participant submitting the following proofs to the System Operators:

a)....

b)....

(c) Documentary evidence showing:

i) the indicative dates for the Gas Connection within the Capacity Auction Qualification Implementation Plan as submitted to, and as accepted (by the capacity market team and the Regulatory Authorities at time of Qualification for the Auction), which are incorporated within the Substantial Financial Completion and Mechanical Completion milestones, together with any further relevant correspondence requested within the Qualification Review / Dispute Procedures within the Qualification process

ii) with respect to the Gas Connection provider, the date of the connection contract offer, complete with term of expiry of period within which the Offer must be executed

iii) the 'target completion date' (or equivalent meaning term) provided by the Gas Connection provider at the time of the execution of the contract, where this 'target completion date' (or equivalent meaning term) gives rise to a delay beyond that described within the termination provisions in J.6.1.2 b)

iv) evidence of any further updated delays to the 'target completion date' (or equivalent meaning term) provided by the Gas Connection provider up to completion of agreed works, including Mechanical Completion, within the Contract including any Expert determinations, within the process and terms of the Gas Connection Agreements of attribution of subsequent delays between the Connection provider and the Participant

v) Per iii) and iv) above, in case of doubt regarding the existence of a relevant delay in Gas connection, and the attribution of this between the Connection provider and the Participant (in the absence of agreement between the Participant and the Gas Connection party), this will be decided, within the terms of the Gas Connection Agreement, which can be used as evidence.

J.5.5.3 The System Operators may propose to the Regulatory Authorities the termination of the Awarded New Capacity for which an extension was granted under J.5.5.1 if:

(a)...

(b)...

(c) the Third Party Judicial Review or Third Party Planning Appeal has been finally decided in favour of the third party appellant.

(d) the review of the 3rd Party Gas Connection Delay as submitted within the 3rd Party Exception Application Process is deemed invalid by the System Operators/Regulatory Authorities.

J.5.6 Extension of Capacity Quantity End Date and Time

J.5.6.3 A Third Party Exception Application shall:

(A) In the case where the extension being claimed under this section J.5.6 can be directly attributed to the Third Party Judicial Review or Third Party Planning Appeal that led to an extension being granted under J.5.5.1:

(a) contain the information required by the Regulatory Authorities;

(B) In the case where the extension being claimed under this section J.5.6 can be directly attributed to the the 3rd Party Gas Connection Delay as submitted within the 3rd Party Exception Application Process that led to an extension being granted under J.5.5.1:

(a) contain the information required by the Regulatory Authorities;

(b) contain a certificate addressed to the Regulatory Authorities from an independent Certified Engineer (the 2nd independent Certified Engineer) – see Glossary – operating externally to the contractual determinations provided by the 1st Independent Engineer or Expert, but nonetheless with experience and expertise in the construction and operation of the relevant type of equipment or technology, and approved by the Regulatory Authorities (such approval not to be unreasonably delayed or withheld) having been provided with relevant information from the 1st Independent Engineer or Expert, to be relayed to the Regulatory Authorities in support of the extension being claimed under this section J.5.6 being directly attributed to the eligible 3rd Party Gas Connection Delay that led to an extension being granted under J.5.5.1: Important to note that the role of the 2nd independent Certified Engineer is to be a party which is external to the contractual arrangements whose role is to simply provide relevant information received from those working within the contractual arrangements (the Participant and the Gas Connector Provider) to the Regulatory Authorities.

J.5.6.5 A certificate under this section J.5.6 shall be in the form published from time to time by the Regulatory Authorities.

J.5.6.6

In the case (A) where the extension being claimed under this section J.5.6 can be directly attributed to the Third Party Judicial Review or Third Party Planning Appeal that led to an extension being granted under J.5.5.1:

(a) In a certificate given under paragraph J.5.6.3 (A)(b), the Certified Engineer giving the certificate shall confirm that they are independent within the meaning of paragraph J.5.6.4 and shall certify each of the matters referred to in paragraph J.5.6.4.

In the case (B) where the extension being claimed under this section J.5.6 can be directly attributed to the the 3rd Party Gas Connection Delay as submitted within the 3rd Party Exception Application Process that led to an extension being granted under J.5.5.1:

(a) In a certificate given under paragraph J.5.6.3 (B)(b), the 2nd Independent Certified Engineer giving the certificate shall confirm that they are independent within the meaning of paragraph J.5.6.4 and shall certify each of the matters referred to in paragraph J.5.6.4.

Add the following definitions to the Glossary:

Eligible 3rd Party Gas Connection Delay means, In the first instance the delay period to the Substantial Financial Completion (SFC) milestone, as submitted by the Participant, caused by either an executable gas connection contract not being available within the SFC milestone or by a delay in the provision of an executable version of the contract beyond the timeframe permitted under the offer version of the contract, where such delay is demonstrably attributable to the Connection provider. This delay in SFC would contribute to the knock on delay of the Mechanical Completion milestone which involves linking of the AGI to the exit point by the Connection Provider, thereby pushing out the Mechanical Completion milestone to the 'target completion date' (or equivalent meaning) as stated within the executable contract. The participant can demonstrate non attribution of delays by having the generation equipment ready once the gas connection is provided to operate on gas and a deliverable plan for the generation unit to be connected to the AGI. There may be further eligible delays in the completion date of the connection attributable to the Gas Connection Provider beyond the 'target completion date' (or equivalent meaning). Where these series of related delays accumulate beyond the Substantial Completion date the Participant will submit such delays within the prescriptions herein in an application for Third party extension period.

As stated in J.5.5.2 (c), in case of doubt regarding the existence of a relevant delay in Gas connection, and the attribution of this between the Connection provider and the Participant, this will be decided, when required (in the absence of agreement between the Participant and the Gas Connection party), within the process and terms of the Gas Connection Agreement, which can be used as evidence.

Third Party Extension Period means, in respect of date of Substantial Financial Completion and Long Stop Date extension under paragraph J.5.5.1, the period from the date on which the relevant Participant has either

- i. in respect of Ireland, been served with an originating notice or, in respect of Northern Ireland, been served with an application for leave to apply for judicial review, in respect of the Third Party Judicial Review to the date on which the Third Party Judicial Review is concluded, either by order, direction or decision of the court (not appealed by the third party to the Third Party Judicial Review), or otherwise; or
- ii. received a copy of the Third Party Planning Appeal to the date of the determination by An Bord Pleanála in respect of the Third Party Planning Appeal.
- iii. a determination of **Eligible 3rd Party Gas Connection Delay**, following due process (using any appropriate determinations from an Expert or 'first independent engineer', within the process and terms of the Gas Connection Agreement of attribution of subsequent delays between the Gas Connection provider and the Participant or by agreement between the Participant and the Gas Connection party.

The 'First Independent Engineer' and the 'Second Independent Engineer'

To avoid confusion, two independent engineers may be utilised – the 'first independent' engineer may be the Expert, makes determinations within the process and terms of the Gas Connection Agreement. The unrelated 'second independent' engineer, unlike the 'first independent' engineer is entirely external to the Gas Connection

Agreement. This second engineer simply takes determinations from the appropriate expert or first independent engineer and ensures that they are submitted appropriately in accordance with J.5.6.3.

Modification Proposal Justification
(Clearly state the reason for the Modification)

Existing provisions within the CRM do not match what is needed for delivery of projects which require gas connection. There is a conflict between the requirements of the CRM within the Code, requirements to deliver capacity for security of supply, and the typical structure of gas connection contracts.

In the CRM, notwithstanding recent decision paper SEM 23 001, participants receive revenue from the date that they achieve minimum Substantial Completion.

The conflict between the CRM and gas connection contracts arises because timelines within gas connection contract structures allow the gas connection party to move out delivery timelines without recourse to the Participant. Delivery timelines are framed as 'target completion dates' and these are not known with clarity until the gas connection contract is executed, and these dates, likewise can be moved out without recourse to the Participant. This occurs despite engagement with the Gas connection party at the Qualification stage, as well as over the period where Gas connection Contract Offer takes place. Further reference to this below.

In parallel, not knowing the target and the actual completion dates the participant is required to take on very considerable financial risk very early in typical gas connection contract structures. There are no penalties imposed on these undertakers (most of which are statutory undertakings) for late delivery of their obligations and instead if they fail to deliver it is the participant who ends up being penalised. Market participants have effectively no way of managing such risks and should not be penalised for late delivery of these items.

The modifications to date have not presented adequately the level of uncertainty and the consequences of 'failure to deliver' to the Participant of the Substantial Completion milestone relating to Gas Connection delays.

Firstly, there is a requirement to put in place a significant performance security before there is even a connection offer in place. Secondly after the connection offer is made there is no indication of when an executed connection agreement will exist. It is common for the connection offer to have a validity period of several months, expiring if not brought to execution, bringing further delay, and potential increase in Connection cost if not executed in time. The participant should not be held accountable for this delay where this delay is attributable to the Gas Connection provider.

Again, before having an executed connection agreement, to expedite matters, an honest broker may further commit themselves financially by entering an advanced works agreement with the Gas Connector.

After securing the executed connection agreement – the participant receives a 'target completion date' or equivalent term. It is at this point that the participant may have to pay a significant proportion of the contract value, which could be tens of millions of Euro. As already referred to, within typical contract terms it is typical for the Participant to be exposed to risk of this 'target completion date' being moved, without penalty accruing to the Gas Connector. This leaves the participant totally exposed to an imbalanced risk without recourse should the project exceed Substantial Completion – in the absence of this modification.

In addition, within the CRM, the participant is currently exposed to termination charges at worst and loss of RO payments over the delay period at best.

If a participant fails to achieve minimum Substantial completion by the start of the Capacity Year, they will not be remunerated for the period of the delay which is effectively a penalty imposed on the participant. While this may be regarded as pragmatic in instances where a participant has failed to deliver New Capacity in line with their implementation plan, it is not appropriate in instances where the participant has no ability to manage delivery of some key project elements.

It needs to be recognised that there is not absolute clarity of implementation timelines at the time of Qualification. It can take a considerable period of time post capacity auction results to get clarity, and, as noted, these can subsequently be moved even post Contract execution with no recourse to the Participant. The participant can only make reasonable endeavour and make representation to their System Operator in their Qualification submissions, having taken reasonable process to secure reasonable timeline estimates.

The implementation plan submitted by New Capacity generators is assessed by the System Operators and engagement occurs with GNI (where gas connection is required) before a project can qualify to participate in the auction. At this stage it is fair and proper that the System Operators, as they currently do, make a judgement call on overall demonstration of project delivery and commitment on the part of the participant. Plans considered undeliverable result in projects not qualifying (E.7.2 of the CMC), those that are considered deliverable qualify for the auction.

Linking the extension of project milestones to the delivery of new elements required to deliver it i.e. eligible gas connection delays (within the scope of this Modification Proposal) would better balance the risk between investors and third parties.

Failure to address this risk will impact investment decisions made by New Capacity developers, as a result of prohibitive risk and significantly lower project returns in the event of third party delay, probably to the extent that projects are terminated, should the Capacity Quantity End Date and Longstop periods not get pushed out in line with this proposed modification.

As already noted, without these modification provisions, there is a fault in the fundamental market mechanisms, whereby 'good and sound projects' will be terminated – and they will make room for new projects.

These new projects, by virtue of participating in a subsequent auction, will be targeting to bring capacity to the market later than the 'good and sound projects' would have. These subsequent projects will, in turn, be faced with the very same challenging issues, including termination risks for the same reasons. The cycle will repeat, but, significantly, with further delay

On a broader note there is a risk associated with Supply of parts and equipment that would result in 3rd party delays outside the control of the participant, resulting from World events. Notwithstanding that this is not the focus of this modification proposal we believe that this risk warrants further consideration in any CMC modification proposed to address third party delay issues, noting that project delivery timelines are very short. We understand that this is the subject of current mod CMC 04_23¹.

¹ CMC04_23 Introduction of remedial action for unforeseeable delays due to extraordinary supply chain impacts

A reference note on Contingency planning; the recent EY report on the CRM fully recognises the extremely tight timelines within the current T-4 timescales and, while we fully acknowledge the importance of the Project to have inbuilt a reasonable level of contingency, that ineffective Contingency planning is not the reason for Implementation milestones not being met.

The delivery of New Capacity in the SEM is essential as a result of security of supply risks and tighter generation margins on the island of Ireland. On the electrical side, there has been clear direction from the Regulatory Authorities to the System Operators to offer Grid Connections to successful auction participants. Likewise, the Security of Supply paper CRU 21 115, referred to above, makes very clear the RAs calling out the need for facilitating new Gas Capacity in its direction to GNI in Ireland. Evidence, in the form of terminations in the Gas projects which were successful over a series of recent auctions points to the current system not working effectively for participants, nor for the RAs.

Currently the risks and costs associated with Third Party delays not attributable to the Participant seriously undermine the investment case for New Capacity and have clearly been putting projects at unsustainable risk. We believe that this modification has the power to reduce this level of participant risk to a more sustainable level, to the benefit of the System, the Consumer and of the Participant.

Code Objectives Furthered

(State the Code Objectives the Proposal furthers, see Sub-Section A.1.2 of the CMC Code Objectives)

- (a) to facilitate the efficient discharge by EirGrid and SONI of the obligations imposed by their respective Transmission System Operator Licences in relation to the Capacity Market;
- (c) to facilitate the participation of undertakings including electricity undertakings engaged or seeking to be engaged in the provision of electricity capacity in the Capacity Market;
- (f) to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code; and
- (g) through the development of the Capacity Market, to promote the short-term and long-term interests of consumers of electricity with respect to price, quality, reliability, and security of supply of electricity across the Island of Ireland.

Implication of not implementing the Modification Proposal

(State the possible outcomes should the Modification Proposal not be implemented)

Failure to implement this modification proposal will mean that participants in the T-3 2024_25 , and subsequent auctions, will be exposed to an undue amount of risk which is outside of their control. This significantly jeopardises the delivery of New Capacity which is detrimental to the objectives of the CMC.

As noted, without these modification provisions, where there is a fault in the fundamental market mechanisms, we recognise that 'good and sound projects' will be terminated – they will make room for new projects.

These new projects, by virtue of participating in a subsequent auction, will be targeting to bring capacity to the market later than the 'good and sound projects' would have. These subsequent projects will, in turn, be faced with the very same challenging issues, including termination risks for the same reasons. The cycle will repeat, but, significantly, with further delay.

Not implementing the Modification Proposal would not be in the interests of the Consumer or of the RAs and SOs given tightness in the Supply market and lack of Security of Supply.

Impacts

(Indicate the impacts on systems, resources, processes and/or procedures)

If passed, this modification proposal will require the Regulatory Authorities to only review applications made for extensions under the mitigation of Third Party Delays on participants relating to Gas Connection from investors awarded New Capacity contracts for the T-3 2024_25 auction and subsequent auctions. The Regulatory Authorities will not be put in the position of being adjudicator. Where Expert determination is required, it will be completed within the terms of the Gas connection contracts.

Unlike previous similar modification proposals, within the mechanisms proposed in this modification, in absence of agreement, the decisions as to apportionment of delays between the participant and the Connection provider are determined by the Expert and/or Independent Certified Engineer – within the terms and provisions/processes of the Gas Connection contract.

The effect of the Modification will be to bring value to the Consumer by safe delivery of projects needed by the system, bringing Security of Supply, without undue burden on the Regulatory Authorities' resources.

***Please return this form to the System Operators by email to
CapacityModifications@sem-o.com***

Notes on completing Modification Proposal Form:

- 1. If a person submits a Modification Proposal on behalf of another person, that person who proposes the material of the change should be identified on the Modification Proposal Form as the Modification Proposal Originator.**
- 2. Any person raising a Modification Proposal shall ensure that their proposal is clear and substantiated with the appropriate detail including the way in which it furthers the Code Objectives to enable it to be fully considered by the Regulatory Authorities.**
- 3. Each Modification Proposal will include a draft text of the proposed Modification to the Code unless, if raising a Provisional Modification Proposal whereby legal drafting text is not imperative.**
- 4. For the purposes of this Modification Proposal Form, the following terms shall have the following meanings:**

CMC / Code: means the Capacity Market Code for the Single Electricity Market

Modification Proposal: means the proposal to modify the Code as set out in the attached form

Derivative Work: means any text or work which incorporates or contains all or part of the Modification Proposal or any adaptation, abridgement, expansion or other modification of the Modification Proposal

The terms “System Operators” and “Regulatory Authorities” shall have the meanings assigned to those terms in the Code.

In consideration for the right to submit, and have the Modification Proposal assessed in accordance with the terms of Section B.12 of the Code, which I have read and understand, I agree as follows:

- 1. I hereby grant a worldwide, perpetual, royalty-free, non-exclusive licence:**
 - 1.1 to the System Operators and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;**
 - 1.2 to the Regulatory Authorities to amend, adapt, combine, abridge, expand or otherwise modify the Modification Proposal at their sole discretion for the purpose of developing the Modification Proposal in accordance with the Code;**
 - 1.3 to the System Operators and the Regulatory Authorities to incorporate the Modification Proposal into the Code;**
 - 1.4 to all Parties to the Code and the Regulatory Authorities to use, reproduce and distribute the Modification Proposal, whether as part of the Code or otherwise, for any purpose arising out of or in connection with the Code.**
- 2. The licences set out in clause 1 shall equally apply to any Derivative Works.**

- 3. I hereby waive in favour of the Parties to the Code and the Regulatory Authorities any and all moral rights I may have arising out of or in connection with the Modification Proposal or any Derivative Works.**
- 4. I hereby warrant that, except where expressly indicated otherwise, I am the owner of the copyright and any other intellectual property and proprietary rights in the Modification Proposal and, where not the owner, I have the requisite permissions to grant the rights set out in this form.**
- 5. I hereby acknowledge that the Modification Proposal may be rejected by the Regulatory Authorities and that there is no guarantee that my Modification Proposal will be incorporated into the Code.**