**Updated Drafting – CMC\_15\_23**

**J.3.2 Obligation to Provide**

[…]

*J.3.2.9 Where an extension has been granted to Awarded New Capacity in accordance with Section J.5.2, Section J.5.5, or under any other relevant sections of the Code, the Performance Security Posting Dates/Events applicable to that Awarded New Capacity as determined in accordance with paragraph J.3.2.2 shall be extended by a period equal to the Third Party Extension Period or Inflationary Extension Period granted to the Awarded New Capacity.*

This drafting would be accompanied by the following amendment to the CMC glossary:

***Performance Security Posting Date/ Event***

*means a date or event from which a specified €/MW rate shall be applied to Awarded Capacity in setting Performance Securities. There may be multiple different Performance Security Posting Dates/ Events. The Performance Security Posting Dates/ Events applicable to Awarded Capacity allocated in a Capacity Auction are determined by the Regulatory Authorities and provided to the System Operators subject to any extensions under this Code.*

**J.7 Termination Charges**

[…]

1. * + 1. The amount of the Termination Charge payable under this section **J.7.** in respect of each Capacity Market Unit shall be determined in accordance with the formula:

*TC = TFR x ACO*

where:

TC is the Termination Charge payable;

TFR is the termination fee rate for calculating Termination Charges per MW applicable at the time the Awarded New Capacity is terminated or adjusted or the Defaulting Participant is Terminated, as determined by the Regulatory Authorities and specified in the Initial Auction Information Pack, with relevant Date / Events used to calculate the applicable termination fee rate each extended by a period equal to any extension period granted under this Code including the Third Party Extension Period and Inflationary Period, for the relevant Capacity Auction in which the relevant Awarded New Capacity was allocated (and, for this purpose, where the Defaulting Participant’s designated currency is Sterling, that termination fee rate shall be converted to Sterling based on the Annual Capacity Payment Exchange Rate specified in the applicable Final Auction Information Pack) ; and

ACO (expressed in MW) is the amount of the relevant Awarded New Capacity, or, if the relevant Awarded New Capacity has been reduced, the amount by which it has reduced.

Where a Capacity Market Unit has received multiple extensions under this Code, the extension applied to each of the Date / Events used to calculate the applicable TFR, will be equal to the longest single extension period.

**CMC\_16\_23**

***Add the following paragraphs:***

**J.5.7 Extension of Long Stop Date for New Capacity affected by Capacity Market Indexation**

J.5.7.1 Subject to the requirements of paragraph J.5.7.2, 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 Inflationary Extension Period where that Capacity Market Unit is a New Capacity unit with Awarded New Capacity in the 2024/25 T-3 and 2025/26 T-4 Capacity Auctions.

J.5.7.2 The System Operator shall extend the date of Substantial Financial Completion and Long Stop Date under paragraph under J.5.5.1 subject to the requirements of paragraph J.4.5.2.

J.5.7.3 The System Operators may propose to the Regulatory Authorities the termination of the Awarded New Capacity for which an extension was granted under J.5.7.1 if:

(a) Substantial Financial Completion has not been achieved after more than eighteen months has passed since the end of the Substantial Financial Completion Period of the Capacity Auction Results Date in the Capacity Auction Timetable for the Capacity Auction in which the capacity was allocated (or such longer period as accepted by the Regulatory Authorities pursuant to J.5.2.4); or

(b) an Implementation Progress Report indicates that Substantial Financial Completion will not be achieved after more than eighteen months has passed since the end of the Substantial Financial Completion Period of the Capacity Auction Results Date in the Capacity Auction Timetable for the Capacity Auction in which the capacity was allocated (or such longer period as accepted by the Regulatory Authorities pursuant to J.5.2.4);

J.5.7.4 When considering any termination under paragraph J.5.7.3, the Regulatory Authorities may request further information on the Awarded New Capacity from the relevant Participant.

J.5.7.5 If following due consideration the Regulatory Authorities approve the proposed termination, the System Operators shall terminate the affected Awarded New Capacity.

**J.5.8 Extension of Capacity Quantity End Date due to Inflation**

J.5.8.1 Where the System Operators have granted an extension under paragraph J.5.7.1, a Participant or an Enforcing Party (on behalf of a Participant) may seek the approval of the Regulatory Authorities for an extension to the Capacity Quantity End Date and Time associated with a Capacity Market Unit by a period no greater than the Inflationary Extension Period.

J.5.8.2 The Regulatory Authorities may request that a Participant provide additional information or evidence as part of an Inflationary Extension Application.

J.5.8.3 If a Participant makes an Inflationary Extension Application, then the Regulatory Authorities shall notify the Participant and the System Operators whether or not they approve the Inflationary Extension Application and, if they do approve it, the provisional value of the Capacity Quantity Extension Period to be applied to the Capacity Quantity End Date and Time.

J.5.8.4 At the earlier of Substantial Completion and the Long Stop Date, the final value of the Inflationary Extension Period shall be determined as the minimum of:

(a) the provisional Capacity Quantity Extension Period; and

(b) the period from the Capacity Quantity Start Date and Time to the Capacity Quantity Commissioning Date where this period shall be zero if the Capacity Quantity Commissioned Date is prior to the Capacity Quantity Start Date and Time.

J.5.8.5 The Capacity Quantity End Date and Time shall be extended by the Capacity Quantity Extension Period and the System Operators shall update the Capacity and Trade Register as set out in Appendix F accordingly.

***Amendments will be required to the following paragraphs:***

J.6.1.1 For the purposes of this section:

(a) Minimum Completion: Awarded New Capacity achieves Minimum Completion when:

(i) all the construction, repowering or refurbishment works associated with providing the Awarded New Capacity are substantially complete (subject only to snag or punch list items or any other matters which do not prevent substantial completion or taking over taking place under the applicable Major Contracts);

(ii) each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity has undergone commissioning testing;

(iii) a Final Compliance Certificate, Operational Certificate or Final Operational Notification has been issued under the applicable Grid Code in respect of each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity;

(iv) the Proportion of Delivered Capacity in respect of the Awarded New Capacity is not less than 50%; and

(v) each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity has met all Trading and Settlement Code and Grid Code requirements for participating in the Balancing Market; and

(vi) each new or refurbished Generator Unit providing New Capacity complies with the CO2 Limits; and

(b) Long Stop Date: the Long Stop Date in respect of Awarded New Capacity means

(i) in the case of a Capacity Award with a capacity duration greater than one year, the last day of the eighteenth full calendar Month after the start of the first Capacity Year in which the Awarded New Capacity is to be provided; or

(ii) in the case of a Capacity Award with a capacity duration of one year or less, the last day of the first full calendar Month after the start of the first Capacity Year in which the Awarded New Capacity is to be provided; or

(iii) such later date as specified under paragraph(s) J.5.5.1 and/or J.5.7.1.

J.6.1.2 The System Operators shall terminate all the Awarded New Capacity in respect of a new or refurbished Generator Unit or Interconnector in the event that:

(a)

(i) Substantial Financial Completion has not been achieved within the Substantial Financial Completion Period of the Capacity Auction Results Date in the Capacity Auction Timetable for the Capacity Auction in which the capacity was allocated;

(ii) such later date as allowed by the Regulatory Authorities under section J.5.2; or

(iii) such later date as specified under paragraph J.5.5.1 and/or J.5.7.1; or

(b) Minimum Completion has not been achieved by the applicable Long Stop Date.

J.6.1.6 Except where an extension has been granted under paragraph J.5.5.2 and/or J.5.7.2, the System Operators shall terminate all or part of the Awarded New Capacity in respect of New Capacity only for the first Capacity Year for which that capacity was awarded if requested to do so by the Regulatory Authorities if it is determined by the Regulatory Authorities (based on an independently verified report) prior to the T-1 Capacity Auction for the Capacity Year that all or part of the Awarded Capacity is not likely to be delivered by the start of the Capacity Year.

***The following definitions to be added to the Glossary:***

**Inflationary Extension Period** means a period of three hundred and forty three (343) calendar days.

**Inflationary Extension Application** means an extension made under Section J.5.7 of this Code.

***The following definitions to be amended:***

**Capacity Quantity Extension Period** means the extension to the Capacity Quantity End Date and Time approved in respect of a Third Party Extension Application or Inflationary Extension Application in accordance with section(s) J.5.6 and/or J.5.8.