

# Dynamic Regulation Auction Rules

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## 1. Introduction

- 1.1 These **DR Auction Rules** describe the daily auction process by which **NGESO** will procure **Dynamic Regulation** from prospective **Service Providers** during one or more **EFA Blocks** in a **DR Service Day**. Only if a **DR Sell Order** for an **EFA Block** submitted pursuant to this process is accepted (or part accepted) by **NGESO** (or where the context otherwise requires) will the **DR Service Terms** apply with respect to the provision of and payment for **Dynamic Regulation** in relation to that **EFA Block** and the **Response Unit** in question.
- 1.2 These **DR Auction Rules** supplement, and should be read alongside, the **DR Participation Guidance Document**.

## 2. Changes to these DR Auction Rules

- 2.1 Subject always to paragraph 2.2, **NGESO** may update these **DR Auction Rules** from time to time by publication of an updated version on its website, and each such updated version shall be effective from the date shown on its front cover.
- 2.2 To the extent required by the **Electricity Balancing Regulation** (and by reference to those provisions of the **DR Procurement Documents** constituting terms and conditions approved by the **Authority** as the terms and conditions related to balancing pursuant to Article 18 of the **Electricity Balancing Regulation**), any variation to these **DR Auction Rules** will be proposed and implemented in accordance with the applicable requirements in the **Electricity Balancing Regulation**.

## 3. Defined Terms

- 3.1 Unless the context otherwise requires, any capitalised terms used in these **DR Auction Rules** shall have the meaning given to it (if any) in the prevailing **DR Service Glossary**.
- 3.2 Unless defined in the **DR Service Glossary** or the context otherwise requires, any capitalised terms used in these **DR Auction Rules** shall have the meaning given to it (if any) in the prevailing **Balancing Services Glossary of General Terms and Rules of Interpretation**, and the rules of interpretation set out in that document shall also apply.
- 3.3 For the purposes of paragraphs 3.1 and 3.2, with respect to any **DR Sell Order**, “prevailing” shall mean the latest version of the applicable document which is in effect at the time of submission of that **DR Sell Order**.

## 4. DR Procurement Documents

- 4.1 Together with these **DR Auction Rules**, the following documents (each as amended or updated from time to time) shall comprise the **DR Procurement Documents**:-
- 4.1.1 the **DR Testing Documents**;
- 4.1.2 the **DR Service Terms**;
- 4.1.3 the **DR Service Glossary**;
- 4.1.4 the **Balancing Services Glossary of General Terms and Rules of Interpretation**;
- 4.1.5 the **Common Flexibility Service Terms and Conditions** to the extent that any of its provisions are incorporated by any of the other **DR Procurement Documents** into such documents; and
- 4.1.6 such other document(s) as **NGESO** may designate from time to time as comprising a part of the **DR Procurement Documents**.

## 5. Registration

- 5.1 No entity may submit a **DR Sell Order** unless and until **NGESO** has confirmed in accordance with the **DR Participation Guidance Document** that it is a **Registered DR Participant**, and for such purpose (and unless otherwise specified by **NGESO** in the **DR Participation Guidance Document**) the required

information must be submitted by the date and in the manner specified in the **DR Participation Guidance Document**.

- 5.2** Where **NGESO** determines (acting reasonably) that any details provided, including confirmations and declarations given, by a **Registered DR Participant** pursuant to the **DR Participation Guidance Document** are no longer true and/or accurate, then **NGESO** may (but shall not be obliged to) de-register the relevant entity as a **Registered DR Participant** and/or **Registered Service Provider** (as the case may be). Such de-registration shall be notified by **NGESO** to the **Registered DR Participant** by email, whereupon no further **DR Sell Orders** may be submitted by that entity unless and until it is re-registered in accordance with the **DR Participation Guidance Document**.
- 5.3** Subject always to paragraph 5.6, a **DR Sell Order** may only be submitted by a **Registered DR Participant** in respect of **Plant** and **Apparatus** where:-
- 5.3.1** such **Plant** and **Apparatus** has been pre-qualified by **NGESO** as an **Eligible Asset** pursuant to the **Testing Documents**; and
- 5.3.2** such **Eligible Asset** has been allocated to a **Response Unit** with a **Registered Quantity**,  
in each case, in accordance with the **DR Participation Guidance Document**.
- 5.4** For the purposes of paragraph 5.3:-
- 5.4.1** **Plant** and **Apparatus** must be notified by the **Registered DR Participant** to **NGESO** for pre-qualification as an **Eligible Asset**; and
- 5.4.2** an **Eligible Asset** must be allocated by the **Registered DR Participant** to a **Response Unit**,  
in each case by the respective date and time specified in the **DR Participation Guidance Document**.
- 5.5** Where **NGESO** determines (acting reasonably), having regard to declarations of unavailability notified by the **Registered DR Participant** pursuant to the **DR Service Terms** or otherwise, that any **Eligible Asset** is no longer capable of providing its **Registered Quantity**, then **NGESO** shall so notify the **Registered DR Participant** whereupon the **Eligible Asset** shall be ineligible for allocation to any **Response Unit** until such time as it is pre-qualified by **NGESO** once more in accordance with the **Testing Documents**.
- 5.6** **NGESO** may determine (at its sole discretion) that a **Registered DR Participant** may not submit a **DR Sell Order** with respect to any **Response Unit** if that **Response Unit** is comprised of one or more **Eligible Assets** whose location would mean delivery of **Dynamic Regulation** would compromise operational security.
- 5.7** It is a further pre-condition to participation in the **DR** procurement process that, in respect of each **Response Unit** and for the duration of each relevant **EFA Block** the subject of a **DR Sell Order**, the **Service Provider** shall have procured that for the purposes of the **ABSVD Methodology Statement** and by exercise (or not) of any opt-out conferred on it (or on the **Lead Party** of all relevant **BM Units**), all and any energy volumes associated with the delivery of **Response** pursuant to any **DR Response Contract** will be included within the **Applicable Balancing Services Volume Data** if the **Response Unit** is **BM Participating**, otherwise will not be so included.
- 6. DR Buy Orders**
- 6.1** **DR Buy Orders** for any **EFA Block** may be submitted (and updated) by **NGESO** at any time prior to the **Auction Closing Time** (or later as provided in paragraph 6.4).
- 6.2** Each **DR Buy Order** shall be for a single **DR Product** and **EFA Block**, and for that **EFA Block** shall indicate **NGESO's** requirement (in MW) for that **DR Product** (which for the avoidance of doubt may be zero (0) MW) and a **Buy Order Price Limit**.
- 6.3** **DR Buy Orders** shall not be visible to **Registered DR Participants** on the **Designated Auction Platform** until publication in the **Daily Auction Report** pursuant to paragraph 11.

- 6.4 A **DR Buy Order** shall not be capable of being changed by **NGESO** after the **Auction Closing Time**, save in exceptional circumstances where, in **NGESO**'s reasonable opinion and having regard to market activity, there is a need to protect the integrity of the **Auctions**.
7. **DR Sell Orders**
- 7.1 **DR Sell Orders** for any **EFA Block** may be submitted by **Registered DR Participants** at any time after the **Auction Opening Time** and before the **Auction Closing Time**.
- 7.2 **DR Sell Orders** received after the **Auction Closing Time** shall be considered null and void regardless of cause unless otherwise decided by **NGESO** at its sole discretion.
- 7.3 Each **DR Sell Order** shall relate to a single **Response Unit** and **DR Product**, and in relation to any **Response Unit**:-
- 7.3.1 a **Registered DR Participant** may not submit multiple **DR Sell Orders** for the same **EFA Block** and **DR Product** except as provided in paragraph 7.5, and furthermore may not submit a **DR Sell Order** for an **EFA Block** which is the subject of a sell order on the **Designated Auction Platform** for another **Balancing Service** product; and
- 7.3.2 subject always to paragraph 7.3.1, a **Registered DR Participant** may submit **DR Sell Orders** for different **DR Products** (i.e. DR-L and DR-H) in respect of the same **EFA Block**.
- 7.4 To be valid, each **DR Sell Order** will need to be fully completed and correct as at the relevant **Auction Closing Time**, and must include (in the correct format as specified from time to time by the **Auction Administrator**):-
- 7.4.1 the name of the **Registered DR Participant** and its unique "order ID" allocated to it by the **Auction Administrator**;
- 7.4.2 the **Response Unit** (by reference to its "portfolio name" allocated to it as either BMU ID or Non-BM Unit ID);
- 7.4.3 the applicable **DR Product**;
- 7.4.4 the applicable **EFA Block** or consecutive **EFA Block(s)** in the same **DR Service Day** over which it is defined;
- 7.4.5 a "block code" indicating whether the **DR Sell Order** is a **Parent Block** (C01) or a **Child Block** (C02) or a **Loop Block** (C88);;
- 7.4.6 if a **Loop Block**, its **Minimum Acceptance Ratio**;
- 7.4.7 a price (in £/MW/h, where the applicable pound and pence figures shall each be an integer); and
- 7.4.8 the offered **Contracted Quantity** (in MW), for each applicable **EFA Block**, which shall be an integer not less than one (1) MW and shall not exceed any maximum limit which may be specified from time to time by **NGESO**, and which shall not in any event exceed the aggregate **Registered Quantity** of each component **Eligible Asset**.
- 7.5 For the avoidance of doubt, with respect to any single **Response Unit**, **EFA Block** and **DR Product**, a **Registered DR Participant** may submit multiple **DR Sell Orders** if having different "block codes".
- 7.6 All **DR Sell Orders** which are **Parent Blocks** or **Child Blocks** shall comply with the following requirements:-
- 7.6.1 a **Parent Block** may have more than one (1) **Child Block** across multiple **EFA Blocks** but only one (1) **Child Block** per **EFA Block**;
- 7.6.2 a **Parent Block** shall not be **Curtable**;
- 7.6.3 all **Child Blocks** shall be **Curtable**;

- 7.6.4 all **Child Blocks** must be defined over a single **EFA Block** comprising:-
- (a) any of the **EFA Block(s)** over which its **Parent Block** is defined and/or
  - (b) the **EFA Block** immediately preceding the **EFA Block** (or the first **EFA Block**) over which its **Parent Block** is defined (if within the same **EFA Day**); and/or
  - (c) the **EFA Block** immediately succeeding the **EFA Block** (or the last **EFA Block**) over which its **Parent** is defined (if within the same **EFA Day**);
- 7.6.5 a **Child Block** and its **Parent Block** must relate to the same **DR Product** and **Response Unit**.
- 7.7 All **DR Sell Orders** which are **Loop Blocks** shall comply with the following requirements:-
- 7.7.1 a **Loop Block** shall comprise a **Loop Family** with just one (1) other **Loop Block**, each relating to a different **DR Product**;
- 7.7.2 each **Loop Block** shall be **Curtailable**, defined by its **Minimum Acceptance Ratio**;
- 7.7.3 **Loop Blocks** of the same **Loop Family** must relate to the same **Response Unit**.
- 7.8 Where, in relation to any **Response Unit**, any **DR Sell Order** is submitted for an **EFA Block** and **DR Product** which is the subject of a valid **DR Sell Order** previously submitted for that **Response Unit**, then the earlier **DR Sell Order** shall be treated as cancelled.
- 7.9 Validation of **DR Sell Orders** will be undertaken automatically at the time of submission (before operation of the **Auction** algorithm), and without prejudice to paragraph 7.13 all submitted **DR Sell Orders** so validated remain valid unless and until:-
- 7.9.1 the **DR Sell Order** is cancelled by the **Registered DR Participant** that submitted it (including in the manner described in paragraph 7.8);
- 7.9.2 the **Registered DR Participant** modifies it (and, in such case, paragraph 7.8 shall apply); or
- 7.9.3 the **DR Sell Order** is either accepted (including part accepted) or rejected in accordance with the **Market Clearing Rules** (whereupon it expires).
- 7.10 Each **Registered DR Participant** is responsible for ensuring that the **DR Sell Orders** it submits are correct and valid.
- 7.11 Subject always to paragraph 7.11, upon becoming aware of any error in a **DR Sell Order**, the **Registered DR Participant** shall modify the **DR Sell Order** where possible otherwise shall notify **NGESO** immediately, provided that in such event there shall be no obligation on **NGESO** to take any steps to avoid or mitigate any potential losses to the **Registered DR Participant**.
- 7.12 After the **Auction Closing Time**, **DR Sell Orders** may not be modified or cancelled by the **Registered DR Participant** and are binding and irrevocable subject always to paragraph 7.14/.
- 7.13 **DR Sell Orders** submitted by **Registered DR Participants** for each **EFA Block** and **DR Product** shall not be visible to other **Registered DR Participants** on the **Designated Auction Platform** until publication in the **Daily Auction Report** in the manner described in paragraph 10.
- 7.14 If, in the sole judgment of **NGESO** or the **Auction Administrator**, a **Registered DR Participant** has failed to submit a correct and valid **DR Sell Order** in accordance with this paragraph 7, **NGESO** or the **Auction Administrator** reserves the right to:-
- 7.14.1 deem that **DR Sell Order** to be valid and correct; or
- 7.14.2 cancel that **DR Sell Order**; and/or

7.14.3 take any other action as it deems appropriate in the circumstances including requesting the **Registered DR Participant** to resubmit and/or amend the **DR Sell Order** so that it is correct and valid.

7.15 The decision of **NGESO** or the **Auction Administrator** as to whether or not a **DR Sell Order** is correct and valid shall be final, and the **Registered DR Participant** may be notified of such decision without prior consultation or explanation.

## 8. Market Clearing Rules

8.1 After the **Auction Closing Time**, and for each **EFA Block** and **DR Product**, the **Auction** algorithm will optimise the matching of all valid **DR Sell Orders** to the **DR Buy Order** through the acceptance (or partial acceptance) of **DR Sell Orders**, to determine a **Market Clearing Price** for that **EFA Block** and **DR Product**, all as more particularly described or referred to in this paragraph 8 and in the **DR Participation Guidance Document**.

8.2 For a given **EFA Block** and **DR Product**, the **Auction** algorithm will accept (or partially accept) **DR Sell Orders** in accordance with the following rules:-

8.2.1 **DR Sell Orders** for a single **EFA Block** and **DR Product** will be accepted in ascending price order wherever possible subject always to the other provisions of this paragraph 8 and overall welfare maximisation;

8.2.2 where a **DR Sell Order** is not **Curtailable**:-

- (a) if **in the money**, it can be either fully rejected (*paradoxically rejected*) or fully accepted;
- (b) if **at the money**, it can be either fully rejected, fully accepted or
- (c) if **out of the money**, it can only be fully rejected;

8.2.3 where a **DR Sell Order** is a **Parent** or **Child Block**:-

- (a) a **Child Block at the money** can be partly accepted;
- (b) a **Child Block** cannot be accepted if its **Parent Block** is rejected; and
- (c) a **Parent Block out of the money** can be accepted if its **Child Block(s)** once accepted provides sufficient **surplus** to compensate;

8.2.4 where a **DR Sell Order** is a **Loop Block**:-

- (a) that **Loop Block** cannot be accepted if the other **Loop Block** in its **Loop Family** is rejected;
- (b) any partial acceptance will be for a ratio at or above the highest **Minimum Acceptance Ratio** of the two **Loop Blocks** (if different), rounded down to the nearest MW;
- (c) a **Loop Block out of the money** can be accepted if the other **Loop Block** in its **Loop Family** once accepted provides sufficient **surplus** to compensate;

8.2.5 for any single **Response Unit** and **EFA Day**, the **Auction** algorithm may allow linking of a **DR Sell Order** to that for another **Balancing Services** product on the **Designated Auction Platform** provided they relate to different **EFA Blocks** in that **EFA Day**, and in any such case that **DR Sell Order** may accordingly be rejected notwithstanding it is **in the money** or accepted notwithstanding it is **out of the money**; and

8.2.6 for the purposes of this paragraph 8.2, in relation to any **DR Sell Order**:-

- (a) **in the money** means the average of the rounded **Market Clearing Prices** over the relevant hours and weighted by the corresponding accepted volume is higher than the price limit of that **DR Sell Order**;



- (b) **at the money** means the average of the rounded **Market Clearing Prices** over the relevant hours and weighted by the corresponding accepted volume is equal to the price limit of that **DR Sell Order**;
- (c) **out of the money** means the average of the rounded **Market Clearing Prices** over the relevant hours and weighted by the corresponding accepted volume is less than the price limit of that **DR Sell Order**;
- (d) **paradoxically rejected** means, due to **DR Sell Order** acceptance constraints (where not **Curtable**), that **DR Sell Order** can be rejected even if its price limit is less than the **Market Clearing Price**;
- (e) **surplus** in relation to a **DR Sell Order** means the sum over the relevant **EFA Block(s)** over which the **DR Sell Order** is defined, of the difference between the **Market Clearing Price** less the price limit of that **DR Sell Order**, multiplied by the accepted volume of that **DR Sell Order**;
- (f) a requirement for a sufficient compensatory surplus to allow acceptance of a **Parent Block out of the money** shall mean that the surplus of the relevant **Child Block(s)** exceeds the difference between price limit of the **Parent Block** less the **Market Clearing Price**, multiplied by the accepted volume of that **Parent Block**; and
- (g) a requirement for a sufficient compensatory surplus to allow acceptance of a **Loop Block out of the money** shall mean that the sum of the surplus of both **Loop Blocks** in the **Loop Family** is greater than or equal to zero (0).

**8.3** Each **DR Sell Order** for an **EFA Block** accepted (or part accepted) in accordance with the market clearing process described in this paragraph 8 in relation to a **DR Product** shall form a **DR Response Contract** for that **Response Unit**, **EFA Block** and **DR Product** as more particularly provided in paragraph 11.

## 9. Warranties and Undertakings

**9.1** Without prejudice to its other obligations under and/or pursuant to the **DR Procurement Documents** and any **DR Response Contract** and subject to clauses 11.1 and 11.3 of the prevailing **Common Flexibility Service Terms and Conditions** which shall apply as if set out in full herein:-

**9.1.1** **NGESO** and each **Registered DR Participant** warrants and undertakes to the other in the manner set out in paragraph 6.1 of the prevailing **Common Flexibility Service Terms and Conditions** as if set out in full herein; and

**9.1.2** on each occasion it submits a **DR Sell Order**, the **Registered DR Participant** warrants and undertakes to **NGESO** in the manner set out in paragraph 6.2 of the prevailing **Common Flexibility Service Terms and Conditions** as if set out in full herein.

**9.2** Without prejudice to any other right or remedy, **NGESO** and the **Registered DR Participant** shall each be entitled to claim damages from the other for any breach of the warranties and undertakings or any of them set out or referred to in this paragraph 9 subject to clauses 11.1 and 11.3 of the prevailing **Common Flexibility Service Terms and Conditions** which shall apply as if set out in full herein.

**9.3** Each **Registered DR Participant** indemnifies **NGESO** from and against any losses, liabilities, claims, expenses and demands which **NGESO** might suffer as a result of the **Registered DR Participant** being in breach of the warranties and undertakings or any of them set out or referred to in paragraph 9.1.2.

## 10. Daily Auction Reports

**10.1** By such time following the **Auction Results Time** as may be specified in the **DR Participation Guidance Document**, **NGESO** shall publish (and may subsequently revise) the **Daily Auction Report**.



- 10.2 Each **Daily Auction Report** may (at **NGESO's** sole discretion) include in relation to each **DR Product** and **EFA Block**:
- 10.2.1 for each **DR Sell Order**, the information contained in paragraph 7.4, together with the location of each relevant **Eligible Asset** (whether or not the subject of an accepted **DR Sell Order**);
- 10.2.2 the **DR Buy Order** requirement;
- 10.2.3 the **Market Clearing Price**;
- 10.2.4 the **Auction Clearing Quantity**; and
- 10.2.5 in relation to each accepted **DR Sell Order**, the quantity of the **DR Product** the subject of a **DR Response Contract**.

## 11. Formation of DR Response Contracts

- 11.1 The **Auction Administrator** shall publish the outcome of each **Auction** by no later than the **Auction Results Time** and such information shall also be published by **NGESO** in the timeline and manner set out in the **DR Participation Guidance Document**. Insofar as **NGESO's** publication confirms the acceptance (or partial acceptance where applicable) of a **DR Sell Order**, a **DR Response Contract** will be formed automatically and simultaneously with such publication and for the purposes of paragraph 11.2 shall be treated as awarded to the relevant **Registered DR Participant**.
- 11.2 Each **Registered DR Participant** awarded a **DR Response Contract** pursuant to paragraph 11.1 shall provide the relevant **DR Product** from the applicable **Response Unit** during the applicable **EFA Block** pursuant to and in accordance with the **DR Service Terms**.
- 11.3 For the avoidance of doubt, for any **Registered DR Participant** with a **Response Unit** the subject of one or more accepted (or part accepted) **DR Sell Orders** in a **DR Service Day**, there shall be a separate **DR Response Contract** formed in respect of that **Response Unit** for each **EFA Block and DR Product**.
- 11.4 Each **DR Response Contract** shall be personal to **NGESO** and the **Registered DR Participant** and neither **Party** shall assign, transfer, mortgage, charge, sub-contract or deal in any other manner with any or all of its rights and obligations under a **DR Response Contract** except as permitted by the **DR Service Terms** or in accordance with paragraph 21 of the prevailing **Common Flexibility Service Terms and Conditions** as if such provision was set out in full herein.

## 12. Confidentiality

- 12.1 Subject always to paragraphs 12.2 and 12.3, the provisions of paragraph 13 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply to all and any information provided by **NGESO** or any **Registered DR Participant** to the other (whether orally or in writing) pursuant to or in connection with these **DR Auction Rules** as if set out in full herein.
- 12.2 Each **Registered DR Participant** agrees to the publication by **NGESO** of the information contained in the **Daily Auction Reports**, including in a non-anonymised form, insofar as relating directly or indirectly to the **Registered DR Participant** and the relevant **Response Unit**.
- 12.3 Without limiting paragraph 12.2, each **Registered DR Participant** also agrees to the disclosure by **NGESO** to the relevant **Public Distribution System Operator** of information related to any **DR Sell Order** (whether or not accepted) insofar as relevant to the management and operation of its **Distribution System**, including without limitation location of each **Eligible Asset** allocated to the relevant **Response Unit** and its MPAN and technology type, **DR Product Type** and the **Contracted Quantity**.

## 13. Exceptional Circumstances

- 13.1 If an exceptional situation arises, in particular if a system or the information needed to operate an **Auction** is unavailable or if an incident prevents an **Auction** from being held in normal circumstances, then **NGESO** may take any or all of the following measures (at its sole discretion):-

- 13.1.1 modify any or all of the **Auction Opening Time**, **Auction Closing Time** or **Auction Results Time**;
- 13.1.2 authorise **Registered DR Participants** to submit new **DR Sell Orders** or modify existing **DR Sell Orders**;
- 13.1.3 authorise **Registered DR Participants** to submit **DR Sell Orders** otherwise than in accordance with paragraph 7;
- 13.1.4 cancel the **Auction** for any one or more **DR Service Days**; and/or
- 13.1.5 take such other actions or steps as it reasonably considers to be necessary.

#### 14. Use of Designated Auction Platform

- 14.1 Insofar as made available as part of the **Auctions**, each **Registered DR Participant** agrees to use the **Designated Auction Platform** (including all and any associated hardware and software IT and telecommunications equipment and transmission media):-
  - 14.1.1 in compliance with all applicable **Law**;
  - 14.1.2 in compliance with all and any technical specifications provided from time to time by or on behalf of **NGESO** or the **Auction Administrator**; and
  - 14.1.3 solely for the purpose of formation of **DR Response Contracts** (and any other contracts for **Balancing Services** from time to time procured by **NGESO** on the **Designated Auction Platform**, and any other use is strictly prohibited.

#### 15. Accuracy of Information

- 15.1 All and any information provided by **NGESO** to **Registered DR Participants** for the purposes of these **DR Auction Rules** including in each **Daily Auction Report** is provided in good faith, but no representation or warranty is given by **NGESO** (or any of its employees, officers agents or advisers) as to the accuracy or completeness of such information.

#### 16. Intellectual Property

- 16.1 **NGESO** and each **Registered DR Participant** retain ownership of the documents, data and information of any kind (including all intellectual property rights in them) that are provided to the other pursuant to these **DR Auction Rules**.
- 16.2 Each **Registered DR Participant** undertakes to **NGESO** that it will at all times when participating in an **Auction**, hold all and any authorisations and/or property rights and/or licences for all of the configurations, interfaces, firmware and software needed by it for it to participate in the applicable **Auction** through the **Designated Auction Platform**.
- 16.3 Each **Registered DR Participant** shall comply (and use reasonable endeavours to ensure that its staff and other representatives comply) with all applicable user licences and terms of use of which the **Registered DR Participant** is aware governing use by the **Registered DR Participant** of the systems or software applications comprised in the **Designated Auction Platform**.
- 16.4 Each **Registered DR Participant** indemnifies and keeps indemnified **NGESO** from and against any claims from a third party relating to an infringement of that third party's intellectual property rights or other property rights arising out of use by the **Registered DR Participant** of the **Designated Auction Platform** in breach of any user licence or terms of use referred to in paragraph 16.3 of which it is aware.
- 16.5 **NGESO** shall procure such third-party intellectual property authorisations as may be necessary to enable the **Registered DR Participant** to use the **Designated Auction Platform** for the purposes of each **Auction**.
- 16.6 **NGESO** shall indemnify and keep indemnified the **Registered DR Participant** from and against any claims from a third party if and to the extent that the use of the **Designated Auction Platform** by such **Registered**

**DR Participant** for the purposes of a **DR Sell Order** infringes a third party's intellectual property rights or other property rights.

- 16.7 In respect of the indemnities given in paragraphs 16.4 and 16.6 the indemnified party shall:
- 16.7.1 notify the indemnifying party as soon as possible of any claim the subject of the indemnity (in this paragraph 16, "**IPR Claim**");
  - 16.7.2 give the indemnifying party control of the **IPR Claim**;
  - 16.7.3 make no admissions in respect of an **IPR Claim** without prior written consent of the indemnifying party; and
  - 16.7.4 provide such support in respect of the **IPR Claim** as the indemnifying party may reasonably require at the cost of the indemnifying party.

## 17. Viruses

- 17.1 Each **Registered DR Participant** shall, prior to uploading any information to the **Designated Auction Platform** or otherwise interfacing with it, use up to date versions of anti-virus software available from an industry accepted anti-virus software vendor to check for and delete from its systems viruses, trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programmes or similar computer code designed adversely to affect the operation of any computer software or hardware (in this paragraph 17, "**Malicious Software**").
- 17.2 If, notwithstanding the provisions of paragraph 17.1, **Malicious Software** is found on the **Designated Auction Platform**, the **Registered DR Participant** shall provide reasonable co-operation to **NGESO** to assist in reducing the effect of the **Malicious Software** and, particularly if **Malicious Software** causes loss of operational efficiency to the **Designated Auction Platform**, provide reasonable assistance to assist **NGESO** to mitigate any losses and restore the **Designated Auction Platform** to its original operating efficiency.

## 18. Costs

- 18.1 For the avoidance of doubt, each **Registered DR Participant** shall remain responsible for all costs and expenses incurred by it in connection with these **DR Auction Rules** and participation in **Auctions** including all costs of preparing and submitting **DR Sell Orders**.

## 19. Site Export and Import Limits

- 19.1 Each **Registered DR Participant** shall, prior to submitting a **DR Sell Order**, ensure sufficient export and/or import capacity at the premises at which each relevant **Eligible Asset** is situated (including where applicable **Transmission Entry Capacity** (and, if relevant, the **STTEC**)) so as to enable it to provide **Dynamic Regulation** during each and every applicable **EFA Block** in accordance with its obligations under the **DR Response Contract** which may be formed in relation thereto and in conformance with its obligations owed to the owner of the relevant part of the **National Electricity Transmission System** or the relevant **Distribution System** or such other network (as applicable).

## 20. Notices

- 20.1 Save to the extent the manner of communication between **NGESO** and **Registered DR Participants** is stipulated in the **DR Participation Guidance Document**, paragraph 17 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply as if set out in full herein to any notice required to be submitted under these **DR Auction Rules** by either **NGESO** or the **Registered DR Participant** to the other.
- 20.2 For the purposes of paragraph 20.1, the relevant contact details and addresses of each **Party** shall be those notified from time to time by that **Party** to the other pursuant to the **Registration Procedure**.

## 21. Dispute Resolution

21.1 The provisions of paragraph 18 of the prevailing **Common Flexibility Service Terms and Conditions** shall apply in relation to any dispute or difference of whatever nature however arising under, out of, or in connection with these **DR Auction Rules** as if set out in full herein, save that:-

21.1.1 no **Party** shall have any right to refer any dispute to an **Expert** for determination except where the dispute is stated in these **DR Auction Rules** to be referable to an **Expert** for determination or otherwise agreed in writing by the **Parties** to be so referable;

21.1.2 nothing in this paragraph 21 shall prevent the **Parties** from agreeing to resolve any dispute or difference through the courts in which case paragraph 22.2 shall apply; and

21.1.3 where any dispute is referred to arbitration, the Electricity Arbitration Association arbitration rules shall apply unless otherwise agreed in writing by the **Parties** (and paragraph 18 of the prevailing **Common Flexibility Service Terms and Conditions** shall be read and construed accordingly).

## 22. Governing Law and Jurisdiction

22.1 Any claim, dispute or matter (whether contractual or non-contractual) arising under or in connection with these **DR Auction Rules** or their enforceability shall be governed by and construed in accordance with the laws of England and Wales.

22.2 Subject always to paragraph 21, **NGESO** and each **Registered DR Participant** submits to the exclusive jurisdiction of the courts of England and Wales over any claim, dispute or matter arising under or in connection with these **DR Auction Rules** or their enforceability and waives any objection to proceedings being brought in such courts or on the grounds that proceedings have been brought in an inconvenient forum.