

# **FSP Contract DA/ID**

**FSP Contract DA/ID****[ContractReference]****between**

**[Company]**, a company established under **[Country]** law with registered offices at **[Address]**, company registration number **[Number]** and validly represented by **[Name1]** and **[Name2]**, in their respective capacity of **[Role1]** and **[Role2]**;

hereinafter referred to as the “the **FSP**”,

**and**

**ELIA TRANSMISSION BELGIUM N.V./S.A.**, a public limited company under **Belgian** law with registered offices at **Boulevard de l’Empereur 20, B-1000 Brussels, Belgium**, registered under the crossroads bank for enterprises under number **731.852.231** and represented by **[Name1]** and **[Name2]**, in their respective functions of **[Role1]** and **[Role2]**;

hereinafter referred to as “Elia” or “ELIA”,

Elia and the **FSP** may also hereinafter be referred to individually as “the Party” and collectively as “the Parties”.

**Whereas:**

- ELIA is responsible for the operation of the Belgian transmission system over which it has an ownership right or, at least, a right of use (hereinafter referred to as the “transmission system”);
- ELIA has been appointed as Transmission System Operator (hereinafter referred to as the “TSO”), in accordance with the Belgian law of 29 April 1999 concerning the organization of the electricity market (hereinafter referred to as the “Electricity Act”) and supervises the safety, reliability and efficiency of the transmission system;
- ELIA must therefore safeguard operational security, frequency quality and the efficient use of the interconnected system and resource – in accordance with the relevant legislation;
- In this context, the FSP has expressed its willingness to provide the DA/ID Flexibility Service;
- This Contract defines the mutual rights and obligations of Elia and the FSP relating to the provision of a DA/ID Flexibility Service by the FSP.

**The following points have been agreed:**

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# PART I - GENERAL CONDITIONS

## ART. I.1 DEFINITIONS

Except where there is further specification aimed at application for the purposes of the present Contract, and without ignoring the stipulations of public order, the concepts defined in the Electricity Act, the electricity decrees and/or ordinances in relation to the organization of the electricity market and/or the various applicable grid codes and EU network codes and guidelines, as amended from time to time, are also included for the purposes of the Contract in the sense of these statutory or regulatory definitions.

In addition, the following definitions apply for the purposes of the Contract:

Contract	The present Contract, including its Annexes;
Annex	Any annex to the present Contract;
Article	Any article of the present Contract;
CACM	The Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management;
CREG	The Commission for Electricity and Gas Regulation, i.e. the Belgian national regulatory authority;
Direct Damage	Any damage, with the exclusion of Indirect Damage, directly and immediately resulting from any contractual breach and/or fault within the framework of or as a result of the execution of the Contract, on any grounds whatsoever (contractual or extra-contractual). The said fault being one, which under similar circumstances, an experienced professional DA/ID Flexibility Service Provider or TSO, respectively, acting according to the rules and taking all reasonable precautions would in no case have committed.
EBGL	Commission Regulation (EU) 2017/2195 of November 23 <sup>rd</sup> , 2017 establishing a guideline on electricity balancing;
Electricity Act	The Belgian law of 29 April 1999 concerning the organisation of the electricity market (« Loi du 29 avril 1999 relative à l'organisation du marché de l'électricité, <i>M.B.</i> 11.05.1999 » / « Wet van 29 april 1999 betreffende de organisatie van de elektriciteitsmarkt, <i>B.S.</i> 11.05.1999 »), as amended from time to time;
Grid Codes	The Federal Grid Code for Transmission (adopted in the form of royal decree on the basis of article 11 of the Electricity Act – currently the

	<p>“Arrêté royal du 22 avril 2019 établissant un règlement technique pour la gestion du réseau de transport de l'électricité et l'accès à celui-ci, M.B. 29.04.2019” / “Koninklijk besluit van 22 april 2019 houdende een technisch reglement voor het beheer van het transmissienet van elektriciteit en de toegang ertoe, B.S. 29.04.2019”), as amended from time to time, and the grid codes for local and regional transmission, as amended from time to time;</p>
General Conditions	Part I of the present Contract;
Indirect Damage	Any indirect damage or consequential damage such as, but not limited to loss of revenue, loss of profit, loss of data, loss of business opportunities, loss of (prospective) clients, missed savings;
SOGL	Commission Regulation (EU) 2017/1485 of August 2 <sup>nd</sup> , 2017, establishing a guideline on electricity transmission system operation;
Specific Conditions	Part II of the present Contract, supplemented by any annexes.
Working Day	Any calendar day except for Saturday, Sunday, and Belgian public holidays;

**ART. I.2 SCOPE OF SERVICES AND CONTRACTUAL STRUCTURE****Scope of Services**

I.2.1 By the signature of the present Contract, the FSP undertakes to provide the DA/ID Flexibility Service in accordance with the General and Specific Conditions as provided for in this Contract.

The present Contract between the Parties lays down the mutual rights and obligations in relation to the eventual provision by the FSP of the DA/ID Flexibility Service.

**Structure of the Contract**

I.2.2 The present Contract is composed of a first part containing the General Conditions and of a second part containing the Specific Conditions for the DA/ID Flexibility Service, supplemented by the following Annexes:

- Annex 1: Procedure for FSP acceptance
- Annex 2: Procedure for Delivery Point acceptance
- Annex 3: Metering requirements
- Annex 4: List of Delivery Points
- Annex 5: Communication test
- Annex 6: FSP-Notification system
- Annex 7: Contact details

The Parties shall ensure that the proper performance of this Contract is always based on the existence and proper performance of the requisite contractual agreements, if any, with third parties involved.

**ART. I.3 ADDITIONAL RULES OF INTERPRETATION**

By signing this Contract, the FSP explicitly renounces to apply its own general conditions, special or otherwise, regardless of the time when they were issued or the form of their issuance.

The substantiation in this Contract of a specific obligation or stipulation listed in the applicable legislation shall in no way be considered as derogating from the obligations or stipulations which, under the applicable legislation, must be applied to the relevant situation.

In this Contract, including its annexes, unless the context require otherwise:

- The singular indicates the plural and vice versa;
- References to one gender include all other genders;
- The table of contents, titles and headings in this Contract are for convenience only and do not affect their interpretation;
- The word “including” and its variations are to be construed without limitation;
- Any reference to legislation, regulations, directive, order, instrument, code or any other enactment shall include any modification, extension or re-enactment of it then in force.

[In case of inconsistencies between this Contract and the ToE Rules, the ToE Rules shall prevail.]



**ART. I.4 ENTRY INTO FORCE AND DURATION OF THIS CONTRACT****Entry into force of this Contract**

I.4.1 This Contract shall enter into force on [DATE] provided it has been validly signed by all Parties.

Once this Contract has entered into force between the Parties, the Parties shall be bound by the General Conditions as detailed under Part I and the Specific Conditions as detailed under Part II of this Contract, supplemented by any annexes.

Once this Contract has entered into force between the Parties, it supersedes all previous agreements and documents exchanged between the Parties relating to the same subject matter.

**Duration of the Contract**

I.4.2 Without prejudice to Article I.9 and Article I.10 and without prejudice to the conditions for suspension of the DA/ID Flexibility Service as described in the Specific Conditions in Part II of this Contract, this Contract is concluded for an indefinite period of time.

**ART. I.5 LIABILITY****General Principles**

I.5.1 Without prejudice to any obligation of result provided for under this Contract (such as confidentiality obligations), as the case may be, the provision of the DA/ID Flexibility Service by the FSP is an obligation of means (“middelenverbintenis – obligation de moyens”).

The Parties shall do their utmost effort, during the lifetime of this Contract, to prevent damage by one Party to another and, as the case may be, to limit it.

**Direct Damages**

I.5.2 The Parties to this Contract shall be liable to one another for any Direct Damage. The Party in breach and/or fault will indemnify the other Party and compensate it for any Direct Damage, including for claims by third parties in relation to such Direct Damage. Except in a case of deception or deliberate fault, the Parties will under no circumstances be liable to the other Party for compensating or indemnifying the other Party, including for claims by third parties, for Indirect Damage.

**Process**

I.5.3 As soon as one of the Parties has knowledge of any claim to pay compensation, including a claim for compensation arising from a claim by a third party, for which the latter might institute proceedings against the other Party, that Party shall inform the other Party thereof without delay. This notification shall be made by means of a registered letter, mentioning the nature of the claim, the amount thereof (if known) and the method of calculation – all in reasonable detail and with reference to the legislative, regulatory or contractual provisions on which the claim might be based. In case of third party claim, the defaulting Party shall fully cooperate with the defending Party in such response and defense as reasonably required.

**Caps**

- I.5.4 Any compensation due, as the case may be, by any Party is in any case limited to a maximum of twice the value of the Contract per year (defined by the total Delivered Volume of Flexibility multiplied by the highest imbalance price over the last year) irrespective of the number of claims, the amount of which cannot exceed €12.5 million (twelve and a half million Euro) per year and per Party. This cap is without prejudice to the caps applicable for contractual third party claims.

**ART. I.6 EMERGENCY AND FORCE MAJEURE****Emergency Situation**

- I.6.1 In case of an emergency situation (as defined in the applicable legislation and regulations<sup>1</sup>), ELIA is entitled and/or obliged to take all the measures provided for in the applicable legislation and regulations. In case of contradictions with the provisions of this Contract, such measures as foreseen in the applicable legislation and regulation shall prevail on the rights and obligations of this Contract.

**Alert, Emergency, Black-Out and Restoration State**

- I.6.2 When the system is in alert, emergency, black-out or restoration state (as defined in the applicable legislation and regulations), ELIA is entitled and/or obliged to take all the measures provided for in the applicable legislation and regulations, including under certain circumstances the suspension of market activities as provided for in the applicable legislation and regulations. In case of contradictions with the provisions of this Contract, such measures as foreseen in the applicable legislation and regulation shall prevail on the rights and obligations of this Contract.

**Force Majeure**

- I.6.3 Without prejudice to the rights and obligations of the Parties in the cases as referred to under Article I.6.1 and I.6.2, and as defined in the applicable legislation and/or regulations, and without prejudice to the application of the rescue and restoration provisions, as defined in the applicable legislation and/or regulations, the Parties will be discharged of their respective obligations under this Contract in a case of force majeure that prevents the performance of their obligations under this Contract, either partly or entirely, with the exception of the financial obligations that arose before the force majeure event. This suspension of the obligations will only last as long as the force majeure event.

The term “force majeure” shall mean, without prejudice to the definition of force majeure in applicable legislation and/or regulations, any unforeseeable or unusual event or situation beyond the reasonable control of a Party, and not due to a fault of the Party, which cannot be avoided or overcome with reasonable foresight and diligence, which cannot be solved by measures which are from a technical, financial or economic point of view reasonably possible for the Party, which has actually happened and is objectively verifiable, and which makes it impossible for the Party to fulfill temporarily or permanently, its obligations in accordance with this Contract and which occurred after conclusion of the Contract.

The application of market mechanisms, such as imbalance prices or the application of high prices in a normal market state, cannot be qualified as force majeure.

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<sup>1</sup> Including article 72 of CACM; article 16.2 of the Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 and article 16.2 of the Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity.

The following situations, among others, will be considered as force majeure, but only if they comply with the conditions for force majeure as provided for in the second paragraph of Article I.6.3:

- natural disasters arising from earthquakes, floods, storms, cyclones or other climatologically exceptional situations recognized as such by a public authority habilitated for this;
- a nuclear or chemical explosion and its consequences;
- exceptional hazards (or “hors catégorie” hazards) during which the sudden unavailability of elements of the grid or of an electricity production unit is caused by reasons other than aging, lack of maintenance or qualification of the operators; including the unavailability of the IT system, whether or not caused by a virus, when all preventive measures have been taken considering the state of the art;
- the temporary or continuing technical impossibility for the grid to exchange electricity because of disruptions within the control area caused by electrical currents resulting from energy exchanges within another control area or between two or more other control areas and of which the identity of the market participants involved in those energy exchanges is unknown by ELIA and which ELIA could not reasonably be expected to know;
- the impossibility to operate the grid, installations that from a functional point of view are part of it, or installations of the FSP, due to a collective dispute that gives rise to a unilateral measure by employees (or groups of employees) or any other labor dispute;
- fire, explosion, sabotage, acts of terrorism, acts of vandalism, damage caused by criminal acts, criminal coercion and threats of a similar nature or acts having the same consequences;
- state of war (declared or not), threat of war, invasion, armed conflict, blockade, revolution or uprising; and
- The situation in which a competent authority invokes urgency and imposes exceptional and temporary measures on the system operators and/or grid users, such as measures needed in order to maintain or restore the safe and efficient operation of the grids, including the order to shed load in case of a shortage.

The Party that invokes a situation of force majeure shall inform the other Party as soon as possible, by phone and/or by mail, of the circumstances following which it cannot fulfil its obligations, either wholly or in part, how long such non-fulfilment might reasonably be expected to last, and of the measures it has taken to counteract the situation.

Nevertheless, the Party that invokes a situation of force majeure shall do everything possible to limit the consequences of the non-fulfilment of its obligations towards the other Party, the transmission system and third parties and to once again fulfil its obligations.

If the period of force majeure persists for 30 (thirty) successive Days or more, and a Party, as a result of the force majeure situation acknowledged by both Parties, is unable to fulfil its essential obligations of the Contract, the other Party may terminate the Contract with immediate effect by a reasoned registered letter.

## **ART. I.7 CONFIDENTIALITY**

### **No divulgation of confidential information**

I.7.1 The Parties and/or their employees shall treat any information that they exchange with one another within the framework or in relation to the Contract in the strictest confidence and not divulge it to third parties unless at least one of the following conditions is met:

- if one of the Parties is called to give evidence in court or in their relations with the competent regulatory, administrative and judicial authorities. The Parties shall, as far as possible, inform each other of the situation in advance, and will reach an agreement concerning the form and content of the communication of this information;
- if a prior written agreement has been obtained from the Party issuing the confidential information;
- with regard to ELIA, in consultation with operators of other grids or within the framework of contracts and/or rules with the foreign grid operators or regional security coordinators/regional coordination centers, insofar as necessary and where anonymization is not possible and insofar as the addressee of that information undertakes to accord the same degree of confidentiality to that information as that accorded by ELIA;
- if such information is easily and normally accessible or available to the public;
- if the divulgence of such information by a Party to persons such as subcontractors and/or their employees and/or their representatives and/or regional security coordinators/regional coordination centers is essential for technical or safety reasons, insofar as those addressees are bound by rules of confidentiality that appropriately guarantee the protection of confidentiality;
- if the information is already legally known by a Party and/or their employees and work agents at the time of transmission, and which has not been communicated by the notifying Party, prior to the transmission, directly, indirectly, or by a third party by breaching an obligation of confidentiality;
- the information which, after transmission, has been brought to the attention of the recipient Party and/or its staff and work agents via a third party, without breaching an obligation of confidentiality with regard to the notifying Party;
- the divulgence of the information is foreseen by applicable legislation and/or regulation;
- the divulgence of aggregated and anonymized information and data.

This Article is without prejudice to the specific provisions on confidentiality obligations regarding the operator of the Belgian electricity transport network (at both federal and regional levels) imposed by the applicable legislation and regulation.

A Party must not, for reasons of confidentiality, refuse to divulge information that is essential and pertinent to the implementation of the Contract. The other Party to whom such information is communicated guarantees that it will maintain the confidential nature thereof.

The FSP <sub>DA/ID</sub> declares and guarantees that the confidential information will only be used for the purposes of establishing the bid/performance of the DA/ID Flexibility Service and not for other purposes.

Both Parties shall take the requisite measures to ensure that this confidentiality obligation shall also be strictly observed by their employees, as well as any person who, without being an employee of one of the Parties but for whom that Party is nonetheless responsible, might properly receive such confidential information. In addition, confidential information shall only be divulged on a “need-to-know” basis, and reference will always be made thereby to the confidential nature of the information.

#### **Infringements to confidentiality obligations**

- I.7.2 Any infringement to this confidentiality obligation shall be considered as serious misconduct by the Party that violates that obligation. Such infringement shall give rise to the payment of compensation for any Direct and Indirect, material and immaterial damage (in deviation from Article I.5.2) that the other Party can reasonably demonstrate, subject to the caps of Article I.5.4.

### **Ownership**

- I.7.3 Each of the Parties shall maintain full ownership of that confidential information, even when it has been divulged to other Parties. The transmission of the confidential information does not entail any transfer of property nor of any other right other than those mentioned in the Contract.

### **Duration**

- I.7.4 Without prejudice to the applicable legislation and regulations, the aforementioned confidentiality obligations remain in force for a period of 5 (five) years after termination of the Contract.

### **Phone Recordings**

- I.7.5 The Parties agree that real-time telephone communications will be recorded at their respective dispatching centers. The Parties accept the need for this communication to be recorded and the principle underpinning it. As regards probative value, the Parties acknowledge that the recordings of these communications shall be admissible as proof in the event of a dispute settlement relating to this Contract. Both Parties shall notify their respective staff about the existence and/or possibility of recordings as well as about the existence and/or possibility of recordings by the other Party.

## **ART. I.8 OBLIGATION OF INFORMATION**

- I.8.1 The Parties undertake, for the duration of this Contract, to inform one another as soon as possible of any event or information that the Party who has knowledge thereof must reasonably consider as an event or information that might have a detrimental effect on the Contract or on the fulfilment of the obligations specified in the Contract towards the other Party.

## **ART. I.9 REVIEW**

### **Amendments to the main body of this Contract (General and Specific Conditions) and generally applicable Annexes**

This Contract can only be modified following the processes foreseen therefore in the applicable regulations and legislations.

After approval by the CREG of the amendments to the Contract, including the proposed date of entry into force, these amendments shall enter into force, indicated in the notification via registered mail with acknowledgement of receipt, sent by Elia to the FSP in case the amendments would apply to existing contractual relationships for the subject matter which is ruled by this Contract, but however not earlier than 14 days after such notification.

Without prejudice to the competences of the competent authorities and without prejudice to the applicable legislation and regulations, in case the FSP does not agree with the amendments that would be applicable to the Contract currently in force, the FSP may terminate the Contract.

**Amendments to party-specific Annexes of this Contract**

Without prejudice to obligations imposed by the applicable legislation and regulations, any Annex containing party-specific information can be modified in writing after agreement by both Parties (but only for the party-specific information itself).

Any modification to the contact information taken up under the relevant Annex to this Contract (i.e. contact person, address, e-mail, phone and fax numbers) must be communicated to the other Party no later than 7 (seven) Working Days before the date on which that modification comes into effect. Both Parties shall keep the contact details as provided for under that Annex up to date throughout the validity of the Contract. These exchanges and updates can be done via e-mail and do not require a formal written amendment process of the FSP Contract DA/ID.

**ART. I.10 TERMINATION OR SUSPENSION OF THE CONTRACT****Suspension or termination in case of serious default**

- I.10.1 The Contract may be suspended or terminated unilaterally by one of the Parties (the “impacted Party”) without judicial intervention if the other Party (the “defaulting Party”) does not rectify a serious breach or fault within 15 (fifteen) Working Days after the defaulting Party has received a registered letter with proof of receipt in which the serious breach or fault is mentioned and in which that Party was notified that the Contract would be suspended or terminated without any further notice if the aforementioned serious breach or fault is not fully rectified within the stated deadline. The deadline of 15 (fifteen) Working Days can be extended by the impacted Party. The Contract will be suspended or terminated subject to the reserve of any legal action available to the Party not in default against the defaulting Party, including a claim for damages.

**Termination with prior notice**

- I.10.2 Any Party may terminate this Contract without judicial intervention with a prior written notice of three (3) months by registered letter to the other Party.

This notice period is reduced to a period of 1 month in case a major and detrimental change takes place in the legal status, the legal structure, the activities, the management or the financial situation of one of the Parties, which reasonably leads to the conclusion that it will not be possible for such Party to fulfil the stipulations and conditions of this Contract.

- I.10.3 In case the FSP terminates this Contract according to Article I.10.2, the termination will be subject to the condition that, at the latest at the end of the notice period, the FSP has:
- Informed the involved Grid User(s), DSO(s) and/or CDSO(s) of such termination, whose written consent or written acknowledgement of participation may, as the case may be, be required by ELIA in this Contract as a necessary condition to provide the DA/ID Flexibility Service.
  - Informed the Balance Responsible Party associated with the FSP for the provision of the DA/ID Flexibility Service of such termination.

**ART. I.11 MISCELLANEOUS CLAUSES****Waiver**

- I.11.1 The fact that one of the Parties renounces permanently or temporarily to the application of one or more clauses of the Contract may under no circumstances be considered as a renunciation of the rights of that Party arising from that particular clause or those clauses.

**Entire agreement**

- I.11.2 Without prejudice to the application of the relevant legislation and regulations, the Contract comprises the entire agreement concluded between the Parties and includes all the agreements made by the Parties regarding the subject matter thereof.

**Notices**

- I.11.3 Any notification, as required under the Contract, will be made in writing (including e-mail) except if otherwise provided for in accordance with the provisions of this Contract.

The exchange of information for the performance of the Contract shall be directed to the respective contact persons of the Parties as provided for under the relevant Annex.

**Transfer of rights**

- I.11.4 The rights and obligations specified in the Contract may under no circumstances be transferred, either wholly or in part, without the prior written permission of the other Party (except for transfers to undertakings affiliated to ELIA in the sense of article 1:20 of the Belgian Code of Companies and Associations for which no such permission shall be required). That permission shall not be refused or postponed unreasonably.

**Severability**

- I.11.5 On condition that this has no effect on the subject of the Contract itself, the invalidity of one or more clauses in the Contract shall not affect the validity, interpretation and/or implementation of the other clauses of the Contract.
- I.11.6 If one or more clauses of the Contract have to be declared invalid or impossible to implement, the review process foreseen under Article I.9 shall be followed.

**ART. I.12 APPLICABLE LAW – RULES REGARDING DISPUTES**

- I.12.1 This Contract is governed and interpreted according to Belgian law.

Any dispute relating to the conclusion, validity, interpretation or execution of the Contract or of any subsequent contracts or operations that may arise therefrom, as well as any other dispute concerning or in relation to the Agreement shall, at the discretion of the more diligent Party, be presented to:

- the jurisdiction of the Brussels Enterprise Court; or
- the mediation/conciliation and arbitration service organized by the regulator concerned in accordance with the applicable legislation and regulations; or
- an ad hoc arbitration in accordance with the provisions of the Belgian Judicial Code.



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In view of the complex relationships, the Parties hereby agree, in order to facilitate the application of the rules regarding coherence or intervention, either – in the case of related disputes – to renounce any arbitration proceedings for the purpose of intervening in another judicial procedure, or – conversely – to renounce a judicial procedure for the purpose of taking part in multi-party arbitration. In the case of dissension, preference will be given to the procedure introduced first.





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## **PART II - SPECIFIC CONDITIONS**

## TITLE 1: DEFINITIONS

Except where there is further specification aimed at application for the purposes of the FSP Contract DA/ID, and without ignoring the stipulations of the General Conditions, public order, the concepts defined in the Electricity Act, the electricity decrees and/or ordinances in relation to the organization of the electricity market and/or the various applicable Grid Codes and EU network codes and guidelines, as amended from time to time, are also included for the purposes of the FSP Contract DA/ID in the sense of these statutory or regulatory definitions.

In addition, the following definitions apply for the purposes of the FSP Contract DA/ID:

Access Point(s)	As defined in article 2 §1 (29) of the Federal Grid Code for an access to the transmission grid of ELIA. For an access to the ELIA Grid other than transmission grid, or to a Public Distribution Grid, or to a CDS: a point, defined by physical location and voltage level, at which access to the ELIA Grid other than transmission grid, or to a Public Distribution Grid, or to a CDS is granted, with a goal to injecting or taking off power, from an electricity generation unit, a consumption facility, a non-synchronous storage facility, connected to this grid;
Automatic Frequency Restoration Reserve Or “aFRR”	As defined in article 3(99) of the SOGL;
aFRR Energy Bid	As defined in the BSP contract aFRR;
Balance Responsible Party Or “BRP”	As defined in article 2(7) of the EBGL and listed in the register of Balance Responsible Parties;
Balancing Services	As defined in article 2(3) of the EBGL;
Balancing Service Provider Or “BSP”	As defined in article 2(6) of the EBGL;
Baseline	Value (in MW) representing an estimation on a quarterly-hour basis of the average power that would have been measured on the considered Delivery Point without an activation;
BRP <sub>FSP</sub>	The Balance Responsible Party appointed by a Flexibility Service Provider to take the balancing responsibility for an activation by this Flexibility Service Provider for the duration of the activation;
BRP <sub>Source</sub>	The Balance Responsible Party of the Access Point of the Grid User;
BRP Contract	The contract concluded between ELIA and a BRP pursuant to article 219 and

	220 of the Federal Grid Code;
BSP Contract mFRR	The Balancing Service Provider contract for the manual Frequency Restoration Reserve;
CDS	Closed Distribution System, as defined in article 2 §1 3° of the Federal Grid Code. For the purpose of this Contract, CDS refers to a CDS connected to the ELIA Grid;
CDS Metering Technical Info Checklist	Report demonstrating that minimum metering requirements for the metering facility at a CDS Delivery Point set by ELIA are fulfilled;
CDS Operator Or “CDSO”	A natural or legal person appointed by the relevant authority as the operator of the CDS;
CIPU Contract	The contract for the Coordination of Injection of Production Units concluded with ELIA, or any other regulated contract(s) that will replace the CIPU Contract, in accordance with the dispositions in article 377 of the Federal Grid Code;
Connection Contract	As defined in article 2 §1 (9) of the Federal Grid Code;
Contract with Valorization of the Deviation Or “Pass-Through Contract”	Contract by which the Grid User nominates his expected programme before real time (mostly day-ahead) and by which the difference between his nomination and his actual programme is invoiced/reimbursed to him by his Supplier at an agreed rate that is based solely on the tariff for imbalances <sup>2</sup> .
DA/ID Flexibility Service	The service(s) and tasks provided by the FSP in the context of the energy trades carried out by the BRP <sub>FSP</sub> (associated to this FSP) on the day-ahead and intraday markets or over-the-counter, and consisting of the activation by this FSP of a volume of energy from DP <sub>PG</sub> located in the portfolio of a BRP <sub>Source</sub> ;
Daily Schedule	The program of production of a Technical Unit (in MW), given on a quarter-hourly basis <sup>3</sup> , provided to ELIA in day-ahead and updated in accordance with the rules of the CIPU Contract;
Day	Period of 24 hours starting at 00:00 CET morning until 24:00 CET;
Delivered Volume of Flexibility	The volume of flexibility that is actually provided by the FSP at a Delivery Point, calculated as described in section 12 of the ToE Rules.
Delivery Point	A point on an electricity grid or within the electrical facilities of a Grid User where a volume of flexibility is delivered in order to provide a balancing or strategic demand reserve service, or to participate in the DA/ID Flexibility

<sup>2</sup> A contract in which the difference between the nomination and the actual programme is invoiced/reimbursed at a rate that is based in whole or in part on a market price other than the tariff for imbalances (such as the day-ahead market price) is not considered a Pass-Through Contract.

<sup>3</sup> As described in the procedure “nomination” and “exploitation” in the CIPU Contract

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	Service. This point is associated with one or several metering(s) and/or measures, according to the dispositions of FSP Contract DA/ID, which enable(s) ELIA to control and assess the delivery of such services;
Delivery Point DP <sub>PG</sub> or "DP <sub>PG</sub> "	Delivery Point for which ELIA does not receive Daily Schedules and that can be pooled in Providing Group(s) when offered in Energy bids for the Balancing Services and when participating to the DA/ID Flexibility Services;
Delivery Point DP <sub>SU</sub> or "DP <sub>SU</sub> "	Delivery Point for which ELIA receives Daily Schedules (in MW), in accordance with the CIPU Contract and that has to be offered as a single unit in Energy Bid for the Balancing Services;
DP <sub>DA/ID;max,up</sub>	The maximum active power (in MW) that can be supplied by a Delivery Point upwards during an activation of the DA/ID Flexibility Service. This value is positive;
DP <sub>DA/ID;max,down</sub>	The maximum active power (in MW), in absolute value, that can be supplied by a Delivery Point downwards during an activation of the DA/ID Flexibility Service. This value is negative;
Distribution System Operator or "DSO"	A natural person or legal entity appointed by the designated regional regulator or regional authority, who is responsible for the exploitation, the maintenance and, if necessary, the development of the Public Distribution Grid in a certain zone and, where applicable, for its interconnectors with other systems and who is responsible for guaranteeing the long-term ability of the Public Distribution Grid to meet reasonable demands for electricity distribution;
ELIA Grid	The electricity grid to which ELIA holds the property right or at least the right of using and operating it, and for which ELIA has been appointed as system operator;
ELIA-Supplier Contract	The ELIA-Supplier contract for the exchange of data related to the Transfer of Energy;
Flexibility Service Provider Or "FSP"	As defined in article 2, 64° of the Electricity Act; the FSP may offer balancing services as BSP, strategic reserve services as SDR Supplier or the DA/ID Flexibility Service. In the context of this contract, the FSP offers the DA/ID Flexibility Service
Frequency Containment Reserve or "FCR"	As defined in article 3 (6) of the SOGL;
FSP Contract DA/ID	The Contract between ELIA and the FSP to provide the DA/ID Flexibility Service
FSP - DSO Contract	An agreement between a FSP and DSO allowing the FSP to provide the DA/ID Flexibility service with the Delivery Points listed in the corresponding FSP - DSO Contract;
Grid User	As defined in article 2 §1 (57) of the Federal Grid Code for a Grid User connected to the ELIA Grid or to a Public Distribution Grid; or as defined in

	article 2 §1 (58) of the Federal Grid Code for a Grid User connected to a CDS;
Grid User Declaration	The official declaration of the Grid User provided to ELIA, containing proof of the agreement between the FSP and the Grid User to provide the DA/ID Flexibility Service at one (or more) specific Delivery Point(s);
Headmeter	A (group of) meter(s), as defined in article 2 §1 5° of the Federal Grid Code, associated with the Access Point as determined by ELIA, or the DSO (for the Public Distribution Grid), installed by ELIA for the ELIA Grid and the DSO for the Public Distribution Grid;
Headmetering	The recording of active energy, as defined in article 2 §1 4° of the Federal grid Code, by means of a Headmeter;
Injection	The injection of active power as measured at the Delivery Point. The term injection is used to designate a certain sense of energy flow and does not exclusively refer to the technical means with which the participation in the DA/ID Flexibility Service is carried out;
Manual Frequency Restoration Reserve or “mFRR”	Frequency Restoration Reserve (FRR), as defined in article 3 (7) of the SOGL, that can be activated manually;
Market Situation with Transfer of Energy	As defined in Article 8.1 of the ToE Rules;
mFRR Energy Bid	As defined in the BSP contract mFRR;
Month	Period starting at 00:00 CET the 1st Day of the month until 24:00 CET the last Day of the month;
Offtake	Value indicating the offtake of active power at a Delivery Point. The term offtake is used to designate a certain sense of energy flow and does not exclusively refer to the technical means with which the participation in the DA/ID Flexibility Service is carried out;
Opt-Out Arrangement	Arrangement according to which the FSP, the BRP <sub>FSP</sub> , the BRP(s) <sub>Source</sub> and Supplier(s) of a Delivery Point jointly agree to enter in an Opt Out Regime;
Opt-Out Regime	As defined in the ToE Rules.
Pass-Through Regime	As defined in ToE Rules;
Pool	The complete list of Delivery Points included by the FSP in the present Contract or in a FSP-DSO Contract;
Public Distribution Grid Or “DSO Grid”	As defined in article 2, 49° of the Federal Grid Code;

Rules for the Organization of the Transfer of Energy Or "ToE Rules"	The set of rules, as defined by article 19bis §2 of the Electricity Act , proposed by Elia and approved by the CREG, that lay down the principles for Transfer of Energy;
SDR Supplier	A person, company or organisation that has been awarded a Strategic Demand Reserve Contract
Strategic Reserve Contract	A contract for strategic generation reserve, or a contract for strategic demand reserve;
Submeter	Either a meter, as defined in article 2 §1 5° of the Federal Grid Code, situated downstream of the Headmeter; or, an equation between one or more meter(s) situated downstream the Headmeter and/or the Headmeter;
Submetering	The recording of active energy, as defined in article 2 §1 (4) of the Federal Grid Code, by means of a Submeter;
Submetering Delivery Point	A Delivery Point for which the active power (in MW) is measured by Submetering;
Submeter Technical Info Checklist	Report demonstrating that the minimum technical requirements established by ELIA for the Submetering facility are fulfilled;
Supplier	As defined in article 2 15°bis of the Electricity Act;
Technical Unit	A facility connected within the Load-Frequency Control Block of ELIA;
Transfer of Energy Or "ToE"	As defined in article 19bis §2 of the Electricity Act;
Transfer Price	The price agreed upon as a result of the commercial negotiation between the FSP and a Supplier for the financial compensation between the FSP and the concerned Supplier in case a Market Situation with Transfer of Energy applies. In case of lack of agreement on the financial compensation between the FSP and the Supplier, the Transfer Price by default is applied, based on a CREG decision, in application of the article 19bis §4 of the Electricity Act;

## TITLE 2: CONDITIONS FOR PARTICIPATION

### ART. II.1 CONDITIONS FOR THE FSP

- II.1.1 The FSP complies with the conditions set forth in the Open Qualification Procedure as explained in Annex 1.A.
- II.1.2 The FSP designates a BRP<sub>FSP</sub>, who is:
- himself: in this case, a notification is sent by the FSP to ELIA;
  - another party: in the latter case, the FSP provides the name of the BRP<sub>FSP</sub>, complemented by an electronic copy of the signed declaration of the BRP<sub>FSP</sub>, established according to the template provided in Annex 1.B.

In case the FSP concludes a BSP Contract with ELIA for the provision of a Balancing Service or the Strategic Reserve Contract for the provision of strategic demand reserve, the BRP<sub>FSP</sub> is the party designated as BRP<sub>BSP</sub> (respectively BRP<sub>SDR supplier</sub>) by the FSP, in his role as BSP (respectively SDR Supplier).

The FSP communicates the required information by e-mail to ELIA's contractual responsible designated in Annex 7.

- II.1.3 ELIA is entitled to evaluate, at any time during the validity period of the FSP Contract DA/ID, whether the FSP complies with the conditions mentioned in Article II.1.1 and II.1.2. For the avoidance of doubt, this does not entail any right for ELIA to physically access FSP assets but without prejudice to any other regulation, i.e. the Federal Grid Code, regarding access to the Grid User connection installations.
- II.1.4 If the FSP no longer complies with conditions mentioned in Article II.1.1 and II.1.2, ELIA will notify the FSP by registered letter. If the FSP remains noncompliant to these conditions 15 Working Days after reception of notification, the FSP Contract DA/ID will be terminated. As a consequence, after termination of the FSP Contract DA/ID, the FSP must apply again to the Open Qualification Procedure and comply with the requirements of Article II.1.1 and II.1.2 if he wishes to sign a new FSP Contract DA/ID with Elia to renew his participation in the DA/ID Flexibility Service.
- II.1.5 The Parties shall ensure that the proper performance of the FSP Contract DA/ID is always based on the existence and proper performance of the requisite contractual agreements with third parties involved.

### ART. II.2 CONDITIONS FOR DELIVERY POINTS

- II.2.1 A Delivery Point may be any DP<sub>PG</sub> which is a Technical Unit or a group of Technical Units identified by:
- a Headmeter at an Access Point connected to the ELIA Grid or to a CDS;
  - a Headmeter at an Access Point connected to the Public Distribution Grid;
  - a Submeter within the electrical facilities of a Grid User downstream of an Access Point connected to the ELIA Grid or to a CDS;
  - a Submeter within the electrical facilities of a Grid User downstream of an Access Point connected to the Public Distribution Grid.

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- II.2.2 All Delivery Points must comply with the metering requirements set forth in Annex 3.
- II.2.3 All Delivery Points, as mentioned in Article II.2.1 are related to Access Point(s) included in valid Access Contract(s) and are in the Perimeter of a BRP<sub>Source</sub> having a valid BRP Contract.
- II.2.4 The FSP declares that an upward (respectively downward) activation of the DA/ID Flexibility Service at any Submetering Delivery Point has an overall effect of either reducing (respectively increasing) net offtake or increasing (respectively decreasing) net injection at the level of the Access Point. ELIA will request a sound justification to the FSP in case no visible effect at the Access Point is observed during an activation of the DA/ID Flexibility Service. If such a justification cannot be provided or remains insufficient, ELIA reserves the right to disqualify the Delivery Point from the DA/ID Flexibility Service after notification to the CREG.
- II.2.5 All Delivery Points connected to the ELIA Grid or to a CDS must have successfully completed the following applicable elements of the procedure for Delivery Points acceptance, pursuant to Annex 2:
- If the FSP is not the Grid User of concerned Delivery Point: a Grid User Declaration is provided to ELIA, as specified in template of Annex 2.A;
  - The choice between use of an unadjusted or adjusted Baseline for each Delivery Point, according to the applicable methods listed in Annex 2.D, is provided to ELIA;
  - In case of Submetering: a Submeter Commissioning Test is completed, as specified in Annex 2.E.
  - In case of Delivery Points within a CDS: a CDSO declaration is provided, as specified in Annex 2.F.
- II.2.6 The FSP and ELIA agree on the list of Delivery Points connected to the ELIA Grid or to a CDS in accordance with the template provided in Annex 4. The FSP declares that all listed Delivery Points in Annex 4 are compliant with all applicable conditions, as per Article II.2, and technically capable to participate in the DA/ID Flexibility Service.
- II.2.7 The agreed list of Delivery Points connected to the ELIA Grid or to a CDS, based on template in Annex 4, should at all times be kept up to date by the FSP.
- II.2.8 The agreed list of Delivery Points connected to the ELIA Grid or to a CDS may be modified by submitting an updated list, based on the template of Annex 4, via e-mail to ELIA's contractual responsible specified in Annex 7, under the following conditions:
- At the moment of the request by the FSP, the Delivery Point(s) to be added by the FSP must respect all applicable conditions, pursuant to Article II.2.
  - Following the request by the FSP of an update of Annex 4, ELIA disposes of 5 Working Days to approve the modifications and notify the approval (or reasons for rejection) to the FSP by e-mail to the contractual responsible, as per Annex 7.
  - The updated list of Delivery Points becomes effective no later than 5 Working Days following the notification of acceptance by ELIA. The exact date of entry into force is agreed between ELIA and the FSP.
  - The FSP is responsible to take, in due time, all actions necessary for the technical integration of Delivery Points, and ensures that the Delivery Point is operational at the agreed moment.



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- II.2.9 For each Delivery Point connected to the ELIA Grid or to a CDS, the FSP declares in Annex 4 the  $DP_{DA/ID,max,up}$  and/or  $DP_{DA/ID,max,down}$ , taking into account:
- In case the  $DP_{DA/ID,max,up}$  or  $DP_{DA/ID,max,down}$  does not apply for a Delivery Point, the FSP should indicate "N/A" in Annex 4.
- II.2.10 The Baseline, pursuant to Art. II.2.5, may be modified by submitting a request by e-mail to the contractual responsible designated in Annex 7. The modification will only be affective after the procedure as per Annex 2.D is completed.
- II.2.11 ELIA reserves the right to refuse the choice of the adjusted Baseline for a Delivery Point, as per Article 10.2.3. of the ToE Rules. In such a case ELIA will provide the FSP with a sound justification and notify the CREG.
- II.2.12 A Delivery Point may be disqualified if the participation of the Delivery Point in the DA/ID Flexibility Service jeopardizes the security of the ELIA Grid, the Public Distribution Grid or the CDS. In such a case, a sound justification is provided to the FSP and to the CREG.

## ART. II.3 CONDITIONS FOR APPLICATION OF THE TRANSFER OF ENERGY

### Financial guarantee

- II.3.1 Prior to participation of the FSP to the DA/ID Flexibility Service, the FSP must provide ELIA with a proof of a bank guarantee related to the application of the Transfer of Energy for all Delivery Points concerned, as provided by Article 7.1 of the ToE Rules.
- II.3.2 The bank guarantee complies with all provisions of chapter IV of CREG Decision 1677<sup>4</sup>.
- II.3.3 The template for the bank guarantee is published on the ELIA website.

### Transfer of Energy regime

- II.3.4 A Market Situation with Transfer of Energy, resulting in a Transfer Price (possibly being Transfer Price by Default), is only applicable to Delivery Points presenting a positive yearly average net offtake, as foreseen by Articles 4, 7.4 and 11.2 of the ToE Rules.
- II.3.5 In case a Delivery Point already provides the mFRR (or aFRR) service to ELIA in the framework of a BSP contract mFRR (aFRR) concluded between ELIA and the FSP (in his role as BSP), the same regime (i.e., Market Situation with Transfer of Energy, Opt-Out Regime or Pass-Through Regime) as used in the mFRR (aFRR) service is applicable for the concerned Delivery Point in the context of the DA/ID Flexibility Service.
- II.3.6 A Delivery Point characterized by a positive yearly average net offtake can be part of the Pool of the FSP if one of the following conditions is satisfied:
- The Delivery Point is linked to an Access Point included in a Pass-Through Contract, as declared to ELIA in the ELIA-Supplier Contract. Consequently, the concerned Delivery Point enters into a Pass-Through Regime, in accordance with the ToE Rules.
  - A proof that an Opt-Out Arrangement applies between the FSP, the Supplier(s), the BRP(s)<sub>Source</sub> and the BRP<sub>FSP</sub>, as per template provided in Annex 2.B, has been provided to ELIA<sup>5</sup>. Consequently, the concerned Delivery Point enters into an Opt-Out Regime, in accordance with ToE Rules. In case of an implicit Opt-Out, such a proof is not required.

<sup>4</sup> Or any amended version

<sup>5</sup> A written proof of Opt-Out Arrangement for the provision of the DA/ID Flexibility Service has to be provided even if a similar proof of Opt-Out Arrangement (between the same parties) has already been provided in the framework of a BSP contract mFRR or BSP contract aFRR.

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- A proof of an agreement between the FSP and the Supplier(s) on the Transfer Price, has been provided to ELIA as per template provided in Annex 2.C, or provided to Elia by the FSP<sub>DA/ID</sub> in his role as BSP, in the framework of a BSP contract.
- A copy of the CREG decision, authorizing the FSP and the Supplier(s) to apply the Transfer Price by Default<sup>6</sup>, has been provided by the FSP to ELIA, or provided to Elia by the FSP in his role as BSP, in the framework of a BSP contract.

II.3.7 Any other Delivery Point can only be part of the Pool of the FSP if one of the following conditions is satisfied:

- The Delivery Point is linked to an Access Point included in a Pass-Through Contract, as declared to ELIA in the ELIA-Supplier Contract. Consequently, the concerned Delivery Point enters into a Pass-Through Regime, in accordance with ToE Rules.
- A proof that an Opt-Out Arrangement applies between the FSP, the Supplier(s), the BRP(s)<sub>Source</sub> and the BRP<sub>FSP</sub>, as per template in Annex 2.B, has been provided to ELIA. Consequently, the concerned Delivery Point enters into an Opt-Out Regime, in accordance with ToE Rules. In case of an implicit Opt-Out, such a proof is not required.

### ART. II.4 COMBINABILITY CONDITIONS

II.4.1 A Delivery Point participating in the DA/ID Flexibility Service cannot be part of any Strategic Reserve Contract as written in Article 9 of the ToE Rules.

II.4.2 According to Article 9 of the ToE Rules, a Delivery Point can only participate to both a Balancing Service and the DA/ID Flexibility Service on the condition that:

- The BSP and the FSP are the same party;
- The Delivery Point activated for the DA/ID Flexibility Service for a given quarter hour is not offered in the context of an aFRR or mFRR Energy Bid for the same quarter hour.

II.4.3 Any other Delivery Point, upstream or downstream of the Delivery Point supplying the DA/ID Flexibility Service, cannot be part of any Balancing Service, a DA/ID Flexibility Service, or a Strategic Reserve Contract with ELIA, independently from the fact that the FSP and the provider of that service are the same party. However, if the FSP and the BSP of both Delivery Points are the same party, ELIA will tolerate the situation, only for the FCR service, at the condition that the FSP renounces to invoke any influence of the service supplied downstream on the service supplied upstream.

### ART. II.5 COMMUNICATION TEST

II.5.1 After signature of the FSP Contract DA/ID with ELIA, and before offering the DA/ID Flexibility Service, the FSP must successfully complete the communication test specified in Annex 5.

II.5.2 The FSP must respect the requirements of the communication test at all times during the validity of the FSP Contract DA/ID. If the FSP no longer complies with these requirements, the FSP is temporarily excluded from offering the DA/ID Flexibility Service starting from the moment of notification by ELIA. The FSP has to succeed a new communication test in order to be considered again by ELIA for the participation in the DA/ID Flexibility Service.

II.5.3 Both Parties can request regular communication tests, as described in this Article II.5, to verify whether the communication channels are operational.

<sup>6</sup> The Transfer Price by default may be replaced at any time by a Transfer Price in case a successful commercial negotiation between the FSP and the Supplier is reached.

**TITLE 3: ACTIVATION****ART. II.6 EXCHANGE OF INFORMATION**

- II.6.1 In case of a Market Situation with Transfer of Energy, the FSP agrees that metering data from ELIA, the DSO or the CDSO constitute the basis for the calculation of the Delivered Volume of Flexibility.
- II.6.2 The Delivered Volume of Flexibility by Delivery Points connected to a Public Distribution Grid is determined based on the contractual data set in the FSP - DSO Contract.
- II.6.3 Pursuant to Article 14.2.3 of the ToE Rules, the FSP informs ELIA of an activation of the DA/ID Flexibility Service using the “FSP-Notification” system detailed in Annex 6.
- II.6.4 The FSP has the obligation to pro-actively maintain the communication channels in good functioning order. Any activation failure due to the unavailability or dysfunction of these communication channels (without fault by ELIA) is the FSP’s sole responsibility.
- II.6.5 In case of a Market Situation with Transfer of Energy, ELIA informs the FSP of the Delivered Volume of Flexibility for the DA/ID Flexibility Service in accordance with Article 16.4 of the ToE Rules.

**ART. II.7 ACTIVATION CONTROL AND PENALTIES**

- II.7.1 ELIA considers an activation of the DA/ID Flexibility Service as non-compliant if the FSP has failed to execute the complete communications as foreseen in Annex 6 (without fault by ELIA).
- II.7.2 All Delivery Points common to at least 3 non-compliant DA/ID Flexibility activations, as per Art. II.7.1, and listed in the corresponding FSP-Notification<sup>7</sup>, pursuant to Annex 6, over the last 3 months, will be suspended from the DA/ID Flexibility Service for 30 calendar Days.
- The concerned Delivery Point is suspended from the DA/ID Flexibility Service for an additional 90 calendar Days if, within a period of 12 Months after the end of suspension of the Delivery Point, 3 new non-compliant DA/ID Flexibility activations occur in which the Delivery Point is listed in the corresponding FSP-Notification<sup>7</sup>.
- II.7.3 During an activation of the DA/ID Flexibility Service, for each quarter hour of the activation period, ELIA will verify that Delivery Point(s) comply with Art II.4.2. Without prejudice to the perimeter-correction principles foreseen in the ToE Rules and/or the BRP Contract, ELIA suspends, after notification to the CREG, any Delivery Point(s) non-compliant with Art II.4.2 from the DA/ID Flexibility Service for a duration of 1 Month.

The concerned Delivery point is suspended for an additional 4 Months in case a second non-compliant activation of the Delivery Point, as per Art.II.4.2, within a period of 6 Months after the end of the suspension period occurs.

<sup>7</sup> ELIA will only consider the last received valid FSP-Notification of a non-compliant DA/ID Flexibility activation. Previous FSP-Notifications will be disregarded.

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II.7.4 In the event of a suspension from the DA/ID Flexibility Service of one or more Delivery Point(s) pursuant to Article II.7.2 and/or Article II.7.3, the list of non-compliant Delivery Points concerned will be notified to the FSP by e-mail addressed to the contractual responsible designated in Annex 7. The suspension will enter into force 5 Working Days after notification by ELIA. At the end of the suspension period, the concerned Delivery Points are automatically reincluded in the DA/ID Flexibility Service.

### **ART. II.8 CONTACT PERSONS**

II.8.1 In accordance with Art. I.9.2. of the General Conditions, both parties keep the contact details up to date throughout the validity of the FSP Contract DA/ID, by exchanging the filled out template in Annex 7. These exchanges and updates can be done via e-mail.

FSP Contract DA/ID

Drawn up in Brussels in two originals, of which each Party concerned acknowledges having received one.

**ELIA TRANSMISSION BELGIUM N.V./S.A.**, represented by:

[•]

[•]

[•]

[•]

Date:

Date:

[•], represented by:

[•]

[•]

[•]

[•]

Date:

Date:

## **PART III - ANNEXES**

## ANNEX 1. PROCEDURE FOR FSP ACCEPTANCE

This annex describes all the conditions to be fulfilled by the FSP in order to participate in provision of DA/ID Flexibility Service.

### 1.A OPEN QUALIFICATION PROCEDURE

Prior to signature of the FSP Contract DA/ID, a party should apply to become a qualified FSP. The conditions to become a selected FSP are listed hereunder:

- Provision of a declaration (referred to as “sworn statement”) in which the candidate FSP declares the fulfilment of the obligations related to payment of social security contributions in accordance with the legal provisions, fulfilment of the obligations related to payment of taxes in accordance with the legal provisions, and situation of non-bankruptcy.
- Proof of the sound financial and economic situation of the candidate FSP.

A candidate FSP can apply by submitting a completed application form and the required documents, for the applicable service to ELIA. The application form and the template for the sworn statement can be downloaded on the ELIA website or requested by e-mail to [contracting\\_AS@ELIA.be](mailto:contracting_AS@ELIA.be).

The application has to be submitted to ELIA at least one month before the date of signature of the FSP Contract DA/ID.

### 1.B DESIGNATION OF A BRP<sub>FSP</sub>

In accordance with Article II.1.2, if the FSP designates a third party as his BRP<sub>FSP</sub>, he has to submit to ELIA the following template document completed and signed by the concerned BRP<sub>FSP</sub>.

#### Template for BRP<sub>FSP</sub> designation

[BRP<sub>FSP</sub>] validly represented by Mr/Mrs [Name] in his/her quality as [Function] (hereinafter “The BRP<sub>FSP</sub>”) hereby confirms to ELIA that he will be representing [FSP] validly represented by Mr/Mrs [Name] in his/her quality as [Function] (hereinafter “The FSP”) for the provision of the DA/ID Flexibility Service as described in the FSP Contract DA/ID. This agreement is valid from DD/MM/YYYY to DD/MM/YYYY. The BRP<sub>FSP</sub> confirms holding a valid BRP Contract with ELIA during the period of validity of this agreement. Any Party of this agreement has the right to terminate the agreement unilaterally by registered letter to ELIA and the other Party. Termination of the agreement will become effective 10 Working Days after reception by ELIA of the registered letter.

## ANNEX 2. PROCEDURE FOR DELIVERY POINT ACCEPTANCE

This annex describes all the conditions to be fulfilled by a Delivery Point in order to participate in the DA/ID Flexibility Service.

### 2.A GRID USER DECLARATION

In accordance with Article II.2.5, ELIA must receive the proof that the Grid User has signed without reserve the Grid User Declaration. A single Grid User Declaration can include one or a list of Delivery Points related to the concerned Grid User. The Grid User Declaration has to contain at least the following clauses:

- The present Grid User Declaration only applies for the Delivery Points listed in table 1 (below).
- The Grid User hereby acknowledges that all given information in this Grid User Declaration is true and accurate.
- The Grid User hereby acknowledges that he will participate to the DA/ID Flexibility Service only with one party (being the FSP) at the same time and that the list of Delivery Point(s) listed in table 1 is submitted for only one party (being the FSP) at the same time.
- The Grid User confirms to ELIA that his commitment to provide the DA/ID Flexibility Service as stipulated in the FSP Contract DA/ID does not breach existing contracts with third parties (with whom the Grid User has a contractual or regulated relationship, such as, but not limited to, the Supplier of the Grid User).
- The Grid User hereby gives permission to the FSP to offer the DA/ID Flexibility Service as described in the FSP Contract DA/ID, from DD/MM/YYYY to DD/MM/YYYY.
- The Grid User acknowledges that the present document is valid for each Delivery Point listed in table 1 until either respective date of the Grid User Declaration or the submission by another party of a new Grid User declaration, for one (or more) of the Delivery Point(s) listed in table 1, signed and validated by the Grid User. The present Grid User Declaration remains valid until its expiry date for all Delivery Points listed in table 1 not concerned by the aforementioned new Grid User Declaration.
- The Grid User hereby gives explicit permission to ELIA to inform the FSP of the measurements of the Delivery Points.
- Details of the concerned Delivery Point(s):

Delivery Point name	Delivery Point identification (EAN)	DP <sub>DA/ID,max,up</sub> [MW]	DP <sub>DA/ID,max,down</sub> [MW]

Table 1 – List of Delivery Point(s) concerned



FSP Contract DA/ID

## 2.B TEMPLATE FOR THE OPT-OUT ARRANGEMENT

The FSP duly represented by Mr/Mrs [Name] in his/her quality as [Function];

The BRP<sub>FSP,DA/ID</sub> duly represented by Mr/Mrs [Name] in his/her quality as [Function], associated with the FSP towards ELIA according to dispositions of the FSP Contract DA/ID;

For each concerned BRP<sub>Source</sub> of the Delivery Point(s) concerned:

BRP<sub>Source</sub> duly represented by Mr/Mrs [Name] in his/her quality as [Function], being a designated BRP for the Delivery Point(s) concerned according to dispositions of the Access Contract;

For each concerned Supplier of the Delivery Point(s) concerned:

The Supplier duly represented by Mr/Mrs [Name] in his/her quality as [Function], being the designated Supplier for the Delivery Point(s) concerned according to dispositions of the Access Contract;

hereinafter referred to together as “Parties”, jointly agree the following:

The Parties authorize the FSP to provide the DA/ID Flexibility Service and/or to balancing service(s) to ELIA, using all Delivery Point(s) concerned for which the FSP holds a valid Grid User Declaration for the corresponding Service(s).

## 2.C TEMPLATE FOR AGREEMENT BETWEEN FSP AND SUPPLIER(S) ON THE TRANSFER PRICE FOR THE TRANSFER OF ENERGY

The FSP validly represented by Mr/Mrs [Name] in his/her quality as [Function];

For each concerned Supplier of the Delivery Point(s) concerned:

The Supplier validly represented by Mr/Mrs [Name] in his/her quality as [Function], being the designated Supplier for the Delivery Point(s) concerned according to dispositions of the Access Contract;

The Supplier and the FSP declare that they have reached an agreement on the financial conditions and all related dispositions in order to implement the Transfer of Energy, as foreseen in sections 7.1 and 7.2 of ToE Rules.

## 2.D CHOICE OF THE BASELINE

A FSP may choose to use either the unadjusted or adjusted Baseline per Delivery point, as specified in Article 10.2.3 of the ToE Rules. In case of an adjusted Baseline, the request has to be justified and a validation test has to be performed in accordance with Article 10.2.3. of the ToE Rules. The chosen Baseline is indicated by the FSP in Annex 4 and will be unique for the DA/ID Flexibility Service.

### Organisation of validation test for adjusted Baseline

- The 90 days prior to the date of the request for use of an adjusted Baseline by the FSP will be considered as the reference period for the validation test. In case flexibility activations occurred during the reference period, the concerned days are excluded from the validation test and the reference period is extended to maintain a total of 90 days. A validation test can only be requested by the FSP when the Delivery Point(s) concerned has (have) been duly added to the Pool of the FSP, pursuant to Art. II.2.8 and the communication test, as per Art. II.5, is succeeded.

## FSP Contract DA/ID

- At the latest 10 Working Days after the FSP requested the use of an adjusted Baseline, ELIA will provide the results of the validation test by e-mail to the contractual responsible of the FSP, as per Annex 7.
- In order to take the adjusted Baseline in to account, the result of validation test should be known and Annex 4 should be updated accordingly, as per Art. II.2.8, at least 5 Working Days before the DA/ID Flexibility activation for which the new adjusted Baseline applies.

## 2.E SUBMETER TECHNICAL INFO CHECKLIST

All Submetering Delivery Points, as well as all Delivery Points within a CDS, must be able to provide a valid Submeter Technical Info Checklist.

The aim of this Submeter Technical Info Checklist is to prove that the Submeters meet the metering requirements imposed by ELIA in Annex 3 and give necessary information to ELIA to perform its verifications on metering requirements and data communication.

The technical requirements for Submeters as well as the Submeter Technical Info Checklist can be found on ELIA website or can be requested via email to [contracting\\_AS@ELIA.be](mailto:contracting_AS@ELIA.be). Provided information must comprise at least:

- Single-line diagram on which the location of the Submeters are marked
- Technical information of the Submeter(s) (accuracy class, etc.)
- The metering equation used to determine the correct metering data.

The FSP declares that the metering equation is valid for the normal exploitation topology behind the Access Point (no conditional equation depending on the exploitation topology is allowed).

In case of a change in topology behind the Access Point, which impacts the metering equation, the FSP will inform ELIA immediately.

ELIA must receive a Proof of Submeter Compliance per new Submeter at least 10 Working Days before the Submeter commissioning test as foreseen in section 2.E.

ELIA reserves the right to physically access the Grid User installations for verification of the submetering installation only in case of explicit authorization given by the Grid User as stipulated in section 2.E of the present annex.

## 2.F SUBMETER COMMISSIONING TEST

The technical requirements and procedures of the Submeter commissioning test are described in the standard offer that ELIA will make for the installation of a submetering solution and which can be obtained upon request by e-mail to [wiovdsupport@ELIA.be](mailto:wiovdsupport@ELIA.be) or consulted on the ELIA website.

The Submeter Technical Info Checklist document as foreseen in section 2.D must be provided to ELIA 10 Working Days before the commissioning test.

All Submetering Delivery Points which will communicate with the ELIA metering data management system thanks to a submeter, a GSM modem or a datalogger must pass the submeter commissioning test performed by ELIA.

ELIA and the FSP will agree on a date for the submeter commissioning test to be performed.

The general liability regime organized by Article I.5 is applicable to the FSP during the test.

## 2.G CDSO DECLARATION

The FSP sends this declaration, completed and signed by the CDSO, by e-mail to the address [contracting\\_AS@elia.be](mailto:contracting_AS@elia.be), with a copy to the CDSO. Any Delivery Point concerned can only be integrated into the DA/ID Flexibility Service upon signature of this declaration.

### Declaration by a CDSO

With this declaration, [company name], a company incorporated under [nationality] law, enterprise number [number], with registered office at [address], validly represented by Mr/Mrs [name] and Mr/Mrs [name], respectively in their quality of [function] and [function], identified for the purposes hereof as “the CDSO”, hereby grants permission for the Delivery Point(s) identified below, which is part of its CDS with power measured by CDSOmeters, to participate in the DA/ID Flexibility Service for the period DD/MM/YYYY to DD/MM/YYYY, organized by ELIA, as defined in the FSP Contract DA/ID,

In the knowledge that the power measured at this Delivery Point under specific circumstances and under specific conditions can be reduced and/or interrupted in order to supply the DA/ID Flexibility Service,

In the knowledge that this Delivery Point corresponds fully or partly with the CDS Access Point of [company name], a company incorporated under [nationality] law, enterprise number [number], with registered office at [address], recognized as a User of the CDS that is managed by the CDSO,

And

Undertakes to conclude a cooperation agreement with ELIA in accordance with the model which can be found on ELIA website or can be obtained upon request from ELIA and which describes the conditions for exchanging metering data between ELIA and the CDSO, and to do so prior to the commissioning of the Delivery Point as under the FSP Contract DA/ID .

And

Informs ELIA whether there is a risk of full or partial load transfer from the Delivery Point that is part of the CDS, as detailed below:

Detail of the Delivery Point(s)

CDS User	CDS Access Point	Delivery Point Identification (EAN)

Risk of full or partial load transfer (to be described by the CDSO):

.....  
 .....  
 .....

And

Confirms that it has obtained express permission from the CDS User to send to ELIA the confidential information, including metering data (quarter-hourly values of active power) for the above-identified Delivery

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Point and the corresponding CDS Access Point, since such communication is necessary for the correct invoicing of the DA/ID Flexibility Service with respect to the FSP, which to that end makes use of the CDS User Delivery Point.

Done in [location], on DD/MM/YYYY

Signature of the CDSO:

Name:

Function:

## ANNEX 3. METERING REQUIREMENTS

All Delivery Points must have one or several meter(s) installed that meet(s) the following minimum requirements:

### 3.A GENERAL METERING REQUIREMENTS FOR ALL DELIVERY POINTS

- An AMR<sup>8</sup> meter that can provide 15-minute metering data to measure Injection or Offtake<sup>9</sup> of the Delivery Point concerned.
- It must be possible to calculate the Power Measured based on the metering data at a Delivery Point.

### 3.B SPECIFIC METERING REQUIREMENTS FOR EACH TYPE OF DELIVERY POINT

#### Delivery Points on the ELIA Grid

- In case of Headmetering, the meter is a Headmeter listed in Annex 4 of the Connection Contract.
- In case of the Submetering, the Submeter must comply with the metering requirements specified in the document "General technical requirements of the submetering solutions" published on the ELIA website and available on demand by e-mail to [contracting\\_AS@elia.be](mailto:contracting_AS@elia.be).
- In case a Delivery Point DP<sub>SU</sub> is situated downstream of a Delivery Point DP<sub>PG</sub>, the metering data to be considered cannot include the metering data of the Delivery Point DP<sub>SU</sub>. In consequence, two options can be considered being the use of a Submeter or the application of an equation based on Headmeter and/or Submeter(s).

#### Delivery Points on the Public Distribution Grid

- The FSP should refer to the FSP-DSO contract.
- All communications and agreements regarding the metering requirements should be discussed with the applicable DSO.

#### Delivery Points within a CDS

- The CDSO must use the metering facilities (already) associated with Delivery Points within a CDS in relation to their invoicing obligations regarding their CDS access points.
- The metering data must be validated by the CDSO.

### 3.C VALIDATION OF THE ELIA GRID SUBMETERING AND CDS METERING DATA

- ELIA will make available to the FSP the metering data for Day D at the latest on Day D+2 Working Days, for the following cases:
  - a Headmeter at an Access Point connected to a CDS;
  - a Submeter within the electrical facilities of a Grid User downstream of an Access Point connected to the ELIA Grid or to a CDS.

<sup>8</sup> Automatic Meter Reader

<sup>9</sup> On the ELIA Grid, compensated value for the quarter-hour is used.

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- If the FSP does not agree, he can contest the provided metering data at the latest at Day D+5 Working Days, for Day D by means of an e-mail to [system.services@elia.be](mailto:system.services@elia.be). In its contestation the FSP must declare that he disagrees with the metering data, indicate the reason of contestation and provide proof that the data is incorrect. Subject to these reasons and proof, ELIA and the FSP may agree to use adjusted metering data.
- If the deadline of Day D+5 Working Days is not respected or if ELIA and the FSP cannot reach an agreement, the original metering data shall be used as provided by ELIA.

### **3.D REQUEST FOR POWER MEASUREMENT**

The FSP may also request to receive from ELIA power measurements through its real-time connection (in case these are measured by ELIA) for Delivery Points validly contained in Annex 4. The FSP and ELIA will sign an addendum concerning this communication.

## ANNEX 4. LIST OF DELIVERY POINTS

In accordance with Article II.2.6, the list of Delivery Points connected to the ELIA Grid or to a CDS is defined based on the following templates. The list is exchanged by e-mail between ELIA and the FSP through the form of an Excel file.

Annex4\_FSPdaid\_  
ddmmyyyy.xlsx



Annex4\_FSpDAID\_yyyy  
mmdd.xlsx

### 4.A FSP POOL ATTRIBUTES

Refer to sheet 1 of the excel file.

4.A FSP Pool attributes	
FSP name	
Agreement reference	
Request for update (dd/mm/yyyy)	
Go Live of the update (dd/mm/yyyy)	

### 4.B LIST OF DELIVERY POINTS

The FSP shall refer to sheet 2 of the excel file to fill in the attributes of his pool of Delivery Points.

4.B List of delivery points DP <sub>PG</sub>							
Delivery Point name	Delivery Point EAN	Access Point EAN (if different)	Grid User name	GUD Valid until (dd/mm/yyyy)	DP_DA/ID_max_up	DP_DA/ID_max_down	Baseline adjusted High X of Y* (Yes/No)

## **ANNEX 5. COMMUNICATION TEST**

- In accordance with the dispositions of Article II.5, ELIA will check the communication channels of the FSP.
- The FSP must be able to send signals to ELIA as described in Annex 6 for the activation of the DA/ID Flexibility Service.
- In case the FSP does not fulfill the above requirements, ELIA and the FSP will make their best effort to identify the source of the failure. The FSP is expected to solve the source of the failure.
- Any costs linked to the tests are borne by the FSP.



## ANNEX 6. FSP-NOTIFICATION SYSTEM

- The FSP uses the FSP-Notification system, as described in Article 14.2.3 of the ToE Rules and summarized in table 3, to inform ELIA of DA/ID Flexibility Service activations. The FSP sends a set (0,1 & 2) of FSP-Notifications to ELIA per activation.

FSP Notification:	Applicable Timeframe	Required Contents
<b>FSP-Notification 0</b>	Between 15 minutes to 5 minutes before the start of the activation period.	<ul style="list-style-type: none"> <li>Total activated volume (MW)</li> <li>Activation period</li> <li>List of contributing Delivery Points</li> <li>Contribution per Delivery Point (MW)</li> </ul>
<b>FSP-Notification 1</b>	<p>At the earliest 5 minutes before the start of the activation period and at the latest 3 minutes after the start of the activation period.</p> <p>In addition, in case of changes happening with respect to the notified total activated volume and/or the notified contribution per Delivery point, the FSP needs to resend the updated FSP-Notification 1 as soon as possible.</p>	<ul style="list-style-type: none"> <li>Total activated volume (MW)</li> <li>Activation period</li> <li>List of contributing Delivery Points</li> <li>Contribution per Delivery Point (MW)</li> </ul>
<b>FSP-Notification 2</b>	At the earliest immediately after the end of the activation period and at the latest within 3 minutes after the end of the activation period.	<ul style="list-style-type: none"> <li>Total activated volume (MW)</li> <li>Activation period</li> <li>List of contributing Delivery Points</li> <li>Contribution per Delivery Point (MW)</li> </ul>

Table 3: FSP Notification System

- The activation period and the list of contributing Delivery Points have to be the same for all three notifications. The total activated volume and the contribution per Delivery Point can be adjusted in between consecutive notifications;
- A positive (negative) Contribution per Delivery Point indicates a net upward (downward) activation;

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## **ANNEX 7. CONTACT DETAILS**

**Version: DD/MM/YYYY**

For ELIA:

<b>1</b>	<b>Contractual responsible(s)</b>
<b>2</b>	<b>Real time operations and operational monitoring</b>
<b>3</b>	<b>Offline operations (Duty)</b>

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For the FSP:

<b>1</b>	<b>Contractual responsible(s)</b>
<b>2</b>	<b>Real time (24 hrs per day) (max. one phone number)</b>
<b>3</b>	<b>Transactions outside real time</b>