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DIRECTIONS TO THE BOARDS OF MERIDIAN ENERGY LIMITED AND GENESIS POWER LIMITED

PURSUANT TO THE
ELECTRICITY INDUSTRY ACT 2010

DIRECTIONS TO THE BOARDS OF MERIDIAN ENERGY AND GENESIS POWER UNDER THE ELECTRICITY INDUSTRY ACT 2010

Under section 117(2)(a) of the Electricity Industry Act 2010 (“the Act”) we hereby direct the board of Meridian Energy Limited (“Meridian”) to require Meridian, and the board of Genesis Power Limited (“Genesis”) to require Genesis, to enter into contracts for financial hedges for electricity of 15 years duration.

Under section 117(2)(d) of the Act we hereby direct the board of Meridian to require Meridian to enter into the contract attached to this direction (attachment 1) that is necessary or desirable to implement the direction given under section 117(2)(a) of the Act.

Under section 117(2)(d) of the Act we hereby direct the board of Meridian to require Meridian, and the board of Genesis to require Genesis, to enter into the contract attached to this direction (attachment 2) that is necessary or desirable to implement the direction given under section 117(2)(a) of the Act.

Under section 118(4) of the Act, the following sections of attachment 1 will be withheld from disclosure on the grounds that the Minister for State Owned Enterprises considers these sections to be commercially sensitive:

- paragraphs 8 and 11;
- certain definitions in paragraph 10;
- annex 1, final column in table; and
- annex 2, final three columns in table.

Under section 118(4) of the Act, the following sections of attachment 2 will be withheld from disclosure on the grounds that the Minister for State Owned Enterprises considers these sections to be commercially sensitive:

- Main body of Head Agreement: clauses 7, 8.1(b) and 8.2 and certain definitions in clause 1.1;
- Schedule 1 (ISDA Schedule): part 1(g) and paragraphs 2(13)(ii), 3(7), 3(8), 4(5) and 4(6) of part 5 and certain definitions in paragraph 4(2) of part 5;
- Schedule 2 (Form of Confirmation for North Island Transaction): paragraphs 6 and 11;
- Schedule 3 (Form of Confirmation for South Island Transaction): paragraphs 6 and 11; and
- Schedule 4 (Form of Credit Support Annex): paragraphs 11(b)(iii), 11(e)(iii), 11(h) and 11(i)(G).

The withheld sections relate to commercial position of Meridian, MRP and Genesis in the market and bank account details.

Hon Simon Power
Minister for State Owned Enterprises

Hon Simon William English
Minister of Finance

ATTACHMENT 1
VERSION TO BE RELEASED

CONFIRMATION - ELECTRICITY SWAP

To:	Bruce Miller, Head of Wholesale Markets Mighty River Power Limited (" Party A ")
Address/Fax number:	Millenium Centre 602 Great South Road Private Bag 92008 Auckland 1142 New Zealand +64 95803508
From:	Wholesale Markets Manager Meridian Energy Limited (" Party B ")
Date:	

1. This Confirmation supplements, forms part of, and is subject to, the ISDA Master Agreement dated as of 20 June 2003, as amended and supplemented from time to time ("**Agreement**"), between you and us. All provisions contained in the Agreement govern this Confirmation except as expressly modified below. A reference to "Party A" in this confirmation is a reference to Mighty River Power Limited and a reference to "Party B" is to Meridian Energy Limited.
2. The purpose of this document is to confirm the terms and conditions of each Transaction described in the annex hereto entered into between us on the Trade Date specified below (each a "**Transaction**"). This document constitutes a "Confirmation" as referred to in this Agreement.
3. The Transactions will be organised as follows:
 - (a) there will be three separate groups of Transactions (each a "**Tranche**"); and
 - (b) each Tranche will be comprised of blocks of Transactions (each a "**Block**"), as described in the annex hereto.
4. The **Trade Date** for each Transaction is 2010 [*insert date that the Transaction is entered into*].
5. Settlement Date means, in respect of each Transaction, in respect of a Settlement Period, the latter of:
 - (a) the 20th day of the month following that Settlement Period; and
 - (b) if Party A has not actually received from Party B (as Calculation Agent) by the 15th day of the month following that Settlement Period an invoice detailing the aggregate of the Fixed Amounts and Floating Amounts in respect of that Settlement Period, the date falling 5 Business Days after the date on which Party A actually receives such invoice.
6. Settlement Period means, in respect of each Transaction, each calendar month during the Term of the Transaction.

7. For the purposes of the "Business Day" definition in section 1.3 of the 1993 ISDA Commodity Definitions, Auckland and Wellington shall be the relevant places.
8. Account details for payments to be received by each party are as follows:
9. All prices specified in, or calculated pursuant to, this Confirmation shall be inclusive of any tax, charge, assessment, levy or other cost in respect of carbon (or other greenhouse gas) emissions, including, without limitation, any cost or charge incurred under, or in connection with, the emissions trading scheme under the Climate Change Response Act 2002, and paragraph 2.10(b) of Part 5 of the Schedule shall not apply to the Transactions.
10. In this Confirmation:

"Effective Date" means, in relation to a **transaction**, 00:00 hours on the date specified in the annex hereto as the Effective Date for the Transaction.

"North Island Transactions" means the Transactions described in Part 2 of the annex hereto.

"Notional Quantity" means, in relation to each Calculation Period during a Year and a Transaction, the MW specified in the annex hereto as the Notional Quantity applicable to the Calculation Period during the Year in respect of the Transaction.

"South Island Transactions" means the Transactions described in Part 1 of the annex hereto.

"Term" means, in relation to a Transaction, the period from (and including) 00:00 hours on the Effective Date of the Transaction to (and including) 24:00 hours on the Termination Date of the Transaction.

"Termination Date" means, in relation to a Transaction, 24:00 hours on the date specified in the annex hereto as the Termination Date for the Transaction.

"Year" means Year 1, Year 2 or Year 3.

"Year 1" means, in relation to a Transaction, the period from (and including) 00:00 hours on the Effective Date of the Transaction to (and including) 24:00 hours on 31 December of the year in which the Effective Date falls.

"Year 2" means, in relation to a Transaction, the period from (and including) 00:00 hours on 1 January of the year immediately following the year in which the Effective Date falls to (and including) 24:00 hours on 31 December in that same year.

"Year 3" means, in relation to a Transaction, the period from (and including) 00:00 hours on 1 January of the year in which the Termination Date falls to (and including) 24:00 hours on the Termination Date.

11.

12. The Fixed Price for each Transaction shall be rounded, if necessary, to the nearest two decimal places.
13. Notwithstanding Section 7 of the Agreement (as replaced by Paragraph 3.10 of Part 5 of the Schedule), each party agrees that:

- (a) in the event that either party transfers all or substantially all of its hydro assets (which, for the avoidance of doubt, in the case of Party B, excludes a transfer of the Tekapo A and/or B hydro power stations to Genesis Power Limited and/or the transfer of the Manapouri hydro power station to any entity) to another entity (a "Third Party"), such party (the "Transferring Party") shall assign all of its rights under each Transaction to such Third Party, and each party shall use all reasonable endeavours to novate all of the rights and obligations of the Transferring Party under each Transaction to the Third Party; and
- (b) no other assignment, transfer or novation of any of the Transactions is permitted prior to the occurrence of an Early Termination Event without the express written agreement of both parties, except for:
 - (i) a transfer by a party under Section 6(b)(ii); or
 - (ii) an assignment, novation or transfer that occurs as part of any reorganisation of a party required by law.

14. **Limits on amendments to agreement:** This Confirmation shall not be amended except to the extent the amendment is:

- (a) to vary the account details in clause 8;
- (b) to sign up or adhere to, or incorporate into the ISDA Documents, a protocol published and/or recommended by ISDA or the New Zealand Bankers Association (or any replacement for that association);
- (c) to make changes of a minor or technical nature or to correct a manifest error; or
- (d) necessary to comply with mandatory provisions of law.

Nothing in this clause prevents the parties from making promises or agreements outside of this Confirmation, whether related to the subject matter of this Confirmation or the Agreement or otherwise, on the basis that the parties acknowledge that such promises or agreements are not part of this Confirmation and accordingly the provisions of sections 119(4) and 130(1)(c) of the Electricity Industry Act 2010 do not apply to those promises or agreements.

15. **Meaning of "amended":** "Amended" includes removing, adding or changing a term of this Confirmation. This Confirmation is not amended in breach of clause 14 if:

- 1.1 a party gives a notice or consent or exercises a right under this Confirmation or the Agreement that does not remove, add or change a term of the Confirmation; or
- 1.2 the parties enter into another agreement contemplated by this Confirmation or the Agreement (in a manner that does not remove, add, or change a term of the Confirmation), including (without limitation) novating or transferring the Transactions under Section 7 of the Agreement as replaced by Paragraph 3.10 of Part 5 of the Schedule and amended by clause 13 of this Confirmation.

16. **Privity:** Clauses 14 and 15 are for the benefit of the Crown and are enforceable by it under the Contracts (Privity) Act 1982.

SIGNED**MERIDIAN ENERGY LIMITED** by:**MIGHTY RIVER POWER LIMITED** by:_____
Signature_____
Signature_____
Name_____
Name

ATTACHMENT 1
VERSION TO BE RELEASED

ANNEX - Part 1
Details of South Island Transactions

1. For each of the Transactions described in the table below:

Party A is the Fixed Price Payer

Party B is the Floating Price Payer

The Grid Reference Point is BEN2201

2. The Effective Date, the Termination Date, the Notional Quantity for each Year during the Term, for each South Island Transaction are set out in the table below opposite the Transaction:

Transaction	Effective Date	Termination Date	Notional Quantity Year 1 (MW)	Notional Quantity Year 2 (MW)	Notional Quantity Year 3 (MW)	
Tranche 1						
Block 1	01 Jan 11	31 Dec 11	11.4	NA	NA	
Block 2	01 Jan 12	31 Dec 14	22.8	24.7	26.6	
Block 3	01 Jan 15	31 Dec 17	26.6	26.6	26.6	
Block 4	01 Jan 18	31 Dec 20	22.8	22.8	22.8	
Block 5	01 Jan 21	31 Dec 23	22.8	22.8	17.1	
Block 6	01 Jan 24	31 Dec 25	11.4	5.7	NA	
Tranche 2						
Block 1	01 Jan 11	31 Dec 12	11.4	22.8	NA	
Block 2	01 Jan 13	31 Dec 15	24.7	26.6	26.6	
Block 3	01 Jan 16	31 Dec 18	26.6	26.6	22.8	
Block 4	01 Jan 19	31 Dec 21	22.8	22.8	22.8	
Block 5	01 Jan 22	31 Dec 24	22.8	17.1	11.4	
Block 6	01 Jan 25	31 Dec 25	5.7	NA	NA	
Tranche 3						
Block 1	01 Jan 11	31 Dec 13	11.4	22.8	24.7	
Block 2	01 Jan 14	31 Dec 16	26.6	26.6	26.6	
Block 3	01 Jan 17	31 Dec 19	26.6	22.8	22.8	
Block 4	01 Jan 20	31 Dec 22	22.8	22.8	22.8	
Block 5	01 Jan 23	31 Dec 25	17.1	11.4	5.7	

ANNEX - Part 2
Details of North Island Transactions

1. For each of the Transactions described in the table below:

Party A is the Floating Price Payer
 Party B is the Fixed Price Payer
 The Grid Reference Point is WKM2201

2. The Effective Date, the Termination Date, the Notional Quantity for each Year during the Term,
 for each North Island
 Transaction is set out in the table below opposite the Transaction:

Transaction	Effective Date	Termination Date	Notional Quantity Year 1 (MW)	Notional Quantity Year 2 (MW)	Notional Quantity Year 3 (MW)			
Tranche 1								
Block 1	01 Jan 11	31 Dec 11	11.4	NA	NA			
Block 2	01 Jan 12	31 Dec 14	22.8	24.7	26.6			
Block 3	01 Jan 15	31 Dec 17	26.6	26.6	26.6			
Block 4	01 Jan 18	31 Dec 20	22.8	22.8	22.8			
Block 5	01 Jan 21	31 Dec 23	22.8	22.8	17.1			
Block 6	01 Jan 24	31 Dec 25	11.4	5.7	NA			
Tranche 2								
Block 1	01 Jan 11	31 Dec 12	11.4	22.8	NA			
Block 2	01 Jan 13	31 Dec 15	24.7	26.6	26.6			
Block 3	01 Jan 16	31 Dec 18	26.6	26.6	22.8			
Block 4	01 Jan 19	31 Dec 21	22.8	22.8	22.8			
Block 5	01 Jan 22	31 Dec 24	22.8	17.1	11.4			
Block 6	01 Jan 25	31 Dec 25	5.7	NA	NA			
Tranche 3								
Block 1	01 Jan 11	31 Dec 13	11.4	22.8	24.7			
Block 2	01 Jan 14	31 Dec 16	26.6	26.6	26.6			
Block 3	01 Jan 17	31 Dec 19	26.6	22.8	22.8			
Block 4	01 Jan 20	31 Dec 22	22.8	22.8	22.8			
Block 5	01 Jan 23	31 Dec 25	17.1	11.4	5.7			

**ATTACHMENT 2
VERSION TO BE RELEASED**

GENESIS POWER LIMITED

Genesis

MERIDIAN ENERGY LIMITED

Meridian

**VIRTUAL ASSET SWAP
HEAD AGREEMENT**

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AGREEMENT dated

2010

PARTIES**GENESIS POWER LIMITED ("Genesis")****MERIDIAN ENERGY LIMITED ("Meridian")****INTRODUCTION**

- A. In connection with the State-owned enterprises asset reconfiguration proposals contained in Subpart 2 of Part 5 of the Electricity Industry Act 2010 ("**EIA**"), Genesis and Meridian have been instructed to enter into a virtual asset swap involving one or more long-term contracts (of up to 15 years duration) with each other for financial hedges for electricity ("**VAS Transaction**").
- B. It is proposed that the VAS Transaction will be documented under a Master Agreement and ISDA Schedule to be entered into by Genesis and Meridian and that each separate Transaction will be recorded in a Confirmation (the Master Agreement, ISDA Schedule and any such Confirmations together, the "**ISDA Documents**").
- C. This agreement contains the terms and conditions relating to the VAS Transaction that are not included in the ISDA Documents and sets out the principles governing the rights of the parties in relation to various matters during the term of the VAS Transaction.

AGREEMENT**1. INTERPRETATION**

- 1.1 **Definitions:** In this agreement, unless the context otherwise requires:

"Approved Clearing Agent" means a central clearing counterparty approved by the Parties in accordance with clause 7.2.

"Approved Rating Agency" means Standard & Poor's, Moody's, Fitch, any of their respective successors, or any other credit rating agency from time to time agreed by the Parties (acting reasonably) to be an internationally recognised and reputable rating agency.

"Block" has the meaning given to it in clause 3.1(b).

"Business Day" means a day on which registered banks are open for ordinary over the counter business in Auckland and Wellington, excluding Saturdays, Sundays and statutory public holidays in Auckland or Wellington.

"CCP Adequacy Criteria" means, in relation to a central clearing counterparty at any time, that such person at that time:

- (a) is not a related person of either Party; and
- (b) has a Credit Rating of at least A (Standard & Poor's), A2 (Moody's) or the equivalent of such Credit Ratings granted by another Approved Rating Agency.

"Code" means the Electricity Industry Participation Code 2010 administered by the Electricity Authority as brought into force under section 36 of the EIA, as amended or substituted from time to time.

"Confirmation" means:

- (a) in relation to a North Island Transaction, a written confirmation in respect of the Transaction substantially in the form attached in schedule 2; and
- (b) in relation to a South Island Transaction, a written confirmation in respect of the Transaction substantially in the form attached in schedule 3.

"Credit Rating" means, in relation to any person at any time, a rating granted by an Approved Rating Agency to that person's long term unsecured unsubordinated indebtedness.

"Credit Support Annex" means the 1995 ISDA credit support annex (bilateral form - transfer) subject to English law substantially in the form attached in schedule 4.

"Dispute" has the meaning given to it in clause 10.1.

"Dollars", "New Zealand dollars" and "\$" means the lawful currency of New Zealand.

"Effective Date" in respect of a Transaction, means the day designated as such in clause 3.2.

"EIA" has the meaning given to it in the Introduction.

"Fitch" means Fitch Ratings Australia Pty Limited.

"GST Act" means the Goods and Services Tax Act 1985.

"ISDA" means the International Swaps and Derivatives Association, Inc.

"ISDA Definitions" means the definitions published or co-published from time to time by ISDA.

"ISDA Documents" has the meaning given in the Introduction provided that, if at any time:

- (a) the Parties have agreed that ISDA Definitions shall apply to the Transactions, it shall include those ISDA Definitions; and

- (b) a Credit Support Annex has been entered into, it shall include such Credit Support Annex.

"ISDA Schedule" means the form of the Schedule to the Master Agreement entered into or to be entered into by the Parties in the form attached at schedule 1.

"Master Agreement" means the 2002 ISDA Master Agreement entered into or to be entered into by the Parties.

"Moody's" means Moody's Investors Service Pty Limited.

"North Island Transaction" means a Transaction for a Block under which Meridian is the Fixed Price Payer.

"Notional Quantity" in respect of a Transaction, means the quantity designated as such in clause 3.2.

"Party" means each of Genesis and Meridian.

"Point of Connection" has the meaning given to that term in the Code.

"Price" in relation to a supply means the amount of any payment in connection with the supply.

"Pricing Date" means, in relation to a Transaction, the last day of November immediately prior to the Effective Date of that Transaction.

"Recipient" means the recipient of a supply for the purposes of the GST Act.

"Responsible Person" has the meaning given to it in clause 5.1.

"Shareholding Ministers" has the meaning given in the SOE Act.

"SOE Act" means the State Owned Enterprises Act 1986.

"South Island Transaction" means a Transaction for a Block under which Genesis is the Fixed Price Payer.

"Standard & Poor's" means Standard & Poor's (Australia) Pty Limited.

"Supplier" means the party making a supply for the purposes of the GST Act.

"Tax Invoice" has the same meaning given to the term in the GST Act.

"Term" means, in relation to any Transaction, the period from (and including) 00:00 hours on the Effective Date of that Transaction to (and including) 24:00 hours on the Termination Date of that Transaction.

"Termination Date" in respect of a Transaction, means the day designated as such in clause 3.2.

"Tranche" has the meaning given to it in clause 3.1(a).

"Transaction" means a transaction between the Parties that is or will be governed by the Transaction Documents, the details of which are set out in clause 3.2.

"Transaction Documents" means, at any time:

- (a) this agreement;
- (b) the ISDA Documents in effect at that time; and
- (c) any other agreement or document agreed from time to time by the Parties to be a Transaction Document.

"Unit" means a megawatt hour of electricity.

"VAS Transaction" has the meaning given to it in the Introduction.

1.2 **References:** Except to the extent that the context otherwise requires, any reference in this agreement to:

"authorisation" means:

- (a) any authorisation, consent, registration, filing, agreement, notarisation, certificate, permission, licence, permits, approval, authority or exemption; or
- (b) in relation to anything which will be proscribed or restricted in whole or part by law if a government agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without such intervention or action.

a **"clause"** or **"schedule"** is a reference to a clause of, or a schedule to, this agreement.

a **"directive"** includes any present or future directive, regulation, request, requirement, voluntary credit restraint programme or notification by any means or a change in interpretation or application of any law by any government agency (in each case, whether or not having the force of law but, if not having the force of law, compliance with which is in accordance with the general practice of persons to whom the directive is addressed);

"government" means any central or local government or any governmental, semi-governmental or judicial agency or authority (including any self-regulatory organisation established under statute or any stock exchange) and **"government agency"** shall be construed accordingly;

a **"law"** includes common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, by-law, statute, treaty or other legislative measure;

a **"person"** includes an individual, firm, company, corporation, unincorporated body of persons, organisation or trust, and any government agency, in each case whether or not having separate legal personality;

"related person" means, in respect of any person, a person who is "related" to that person within the meaning of section 5B(2) of the Securities Markets Act 1988, as if that person was a body corporate;

"tax" includes any present or future tax, levy, impost, duty, rate, charge, fee, deduction or withholding of any nature and whatever called, imposed or levied by any government agency, together with any interest, penalty, charge, fee or other amount imposed or made on, or in relation to, any of the foregoing, and **"taxation"** shall be construed accordingly; and

"written" and **"in writing"** include all means of reproducing words in a tangible and permanently visible form.

1.3 **Miscellaneous:**

- (a) Headings are inserted for convenience only and do not affect interpretation of this agreement.
- (b) Unless the context otherwise requires the singular includes the plural and vice versa and words denoting individuals include other persons and vice versa.
- (c) A reference to any legislation includes any statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, or re-enactment or replacement of, that legislation.
- (d) A reference to any document includes reference to that document as modified, novated, supplemented, varied or replaced from time to time.
- (e) A reference to any party to a Transaction Document or any other document includes its successors and permitted assigns.
- (f) A reference to a time of day is a reference to New Zealand time unless otherwise stated.
- (g) Except where inconsistent with the context, the expression "at any time" also means from time to time.

- 1.4 **ISDA Documents definitions:** The terms "Affected Party", "Affected Transaction", "Credit Support Document", "Credit Support Provider", "Early Termination Date", "Fixed Price", "Fixed Price Payer", "Floating Price Payer" and "Non-defaulting Party" have the meanings given in the ISDA Documents.

2. **COMMENCEMENT**

- 2.1 This agreement (other than clauses 4.1 and 4.2, which shall become effective from the date of this agreement) shall become effective on 1 January 2011.

3. **STRUCTURE OF VAS TRANSACTION**

- 3.1 **Subdivision into Tranches and Blocks:** The VAS Transaction will be given effect to by the parties entering into and performing a series of Transactions, the details of which are set out in this clause 3. The Transactions will be organised as follows (as illustrated in schedule 5):

- (a) there will be three separate groups of Transactions (each a "**Tranche**") covering different periods of the VAS Transaction;
- (b) each Tranche will be comprised of blocks of Transactions (each a "**Block**");
- (c) each Block will represent two Transactions, being a North Island Transaction and a South Island Transaction; and
- (d) the Parties will enter into a Confirmation in respect of each Transaction, such Confirmation to identify the Block and Tranche to which it relates.

3.2 **Details for each Transaction:** The Effective Date, Termination Date and Notional Quantity for each Transaction in a Block are set out in the table below opposite the Block:

Tranche/Block	Effective Date	Termination Date	Notional Quantity MW
Tranche 1			
• Block 1	00:00 hours on 1 January 2011	24:00 hours on 31 December 2013	17.1
• Block 2	00:00 hours on 1 January 2014	24:00 hours on 31 December 2016	17.1
• Block 3	00:00 hours on 1 January 2017	24:00 hours on 31 December 2019	17.1
• Block 4	00:00 hours on 1 January 2020	24:00 hours on 31 December 2022	17.1
• Block 5	00:00 hours on 1 January 2023	24:00 hours on 31 December 2025	17.1
Tranche 2			
• Block 1	00:00 hours on 1 January 2012	24:00 hours on 31 December 2014	17.1
• Block 2	00:00 hours on 1 January 2015	24:00 hours on 31 December 2017	17.1
• Block 3	00:00 hours on 1 January 2018	24:00 hours on 31 December 2020	17.1
• Block 4	00:00 hours on 1 January 2021	24:00 hours on 31 December 2023	17.1
Tranche 3			
• Block 1	00:00 hours on 1 January 2013	24:00 hours on 31 December 2015	17.1
• Block 2	00:00 hours on 1 January 2016	24:00 hours on 31 December 2018	17.1
• Block 3	00:00 hours on 1 January 2019	24:00 hours on 31 December 2021	17.1

Tranche/Block	Effective Date	Termination Date	Notional Quantity MW
• Block 4	00:00 hours on 1 January 2022	24:00 hours on 31 December 2024	17.1

3.3 Payments: In respect of each Block:

- (a) in the case of the South Island Transaction, Genesis is the Fixed Price Payer and Meridian is the Floating Price Payer; and
- (b) in the case of the North Island Transaction, Meridian is the Fixed Price Payer and Genesis is the Floating Price Payer.

4. ISDA DOCUMENTS

4.1 Master Agreement and ISDA Schedule: On or prior to 1 January 2011, the Parties shall enter into:

- (a) the Master Agreement; and
- (b) the ISDA Schedule.

4.2 Confirmations: The Parties shall enter into a Confirmation in respect of each Transaction as soon as reasonably practicable following the Pricing Date for the Transaction. Each Transaction shall be effective from the applicable Effective Date notwithstanding that a Confirmation for the Transaction may not have been entered into by that date, unless this agreement has been terminated pursuant to clause 9.2 prior to the Effective Date.

4.3 Hierarchy of Transaction Documents: Notwithstanding anything to the contrary in any Transaction Document, in the event of any inconsistency between the provisions of any Confirmation and this agreement, the Confirmation will prevail.

5. ANNUAL REVIEW OF PRICING

5.1 Each Party shall nominate a person ("**Responsible Person**") to determine the Fixed Price for each Transaction. The Responsible Persons shall, in relation to each Block:

- (a) meet in the 5 Business Day period following the Pricing Date for the Transactions for the Block for the purpose of determining the Fixed Prices; and
- (b) if the Responsible Persons are unable to reach agreement on the Fixed Prices for the Transactions for the Block within the 5 Business Day period, the Fixed Prices will be determined in accordance with the dispute resolution procedure set out in clause 10.

6. ANNUAL MEETING REGARDING VAS TRANSACTION

6.1 Annual meeting: The Parties shall, if required in writing by either of them, make themselves available at least once a year to meet to discuss the VAS Transaction.

Neither Party shall have any obligations arising out of any such meeting except to the extent expressly agreed in writing by the Parties.

- 6.2 **Time and date:** Each annual meeting shall be at such time agreed by the Parties from time to time and, to the extent reasonably practicable, shall be at the same time as the Responsible Persons meet in accordance with clause 5.1.

7.

7.1

(a)

(b)

7.2

(a)

(b)

- 7.3 **Terms of Credit Support Annex:** The terms of Paragraph 11 of the Credit Support Annex will be as set out in schedule 4, with such changes (if any) that may be agreed by the Parties.

8. TERMINATION OF THE VAS TRANSACTION

- 8.1 **Term of agreement:** This agreement shall terminate on the earliest to occur of:

(a) 31 December 2025; and

(b)

8.2

(a)

(b)

(c)

(d)

9. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

9.1 **Representations and warranties:** Each of the Parties makes the following representations and warranties to the other on the date of this agreement:

- (a) **Status:** it is a company duly incorporated and validly existing under the laws of New Zealand;
- (b) **Power and authority:** it has:
 - (i) the power and authority to own its assets and to carry on its business as, and in such place or places as, it is now being conducted;
 - (ii) the power to enter into and exercise its rights and perform and comply with its obligations under the Transaction Documents; and
 - (iii) taken all necessary action to authorise the entry into the Transaction Documents and the performance of all its obligations expressed to be binding on it;
- (c) **Valid obligations:** the Transaction Documents constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to laws relating to creditors' rights generally and to the application of equitable principles);
- (d) **No laws violated:** neither its entry into the Transaction Documents nor the exercise of any right or the performance or observance of any obligation under the Transaction Documents, nor any transaction contemplated thereby, will:
 - (i) violate or contravene any law to which it is subject;
 - (ii) conflict with, or result in a breach of, any agreement, document, arrangement, obligation or duty, or by which it or any of its assets may be bound; or
 - (iii) violate any of the documents constituting it or cause any limitation on any of its powers, or on the right or ability of its directors to exercise those powers, to be exceeded;
- (e) **Consents and authorisations:** all material consents required by it in connection with the entry into, execution or performance by it of the Transaction Documents, and the transactions contemplated thereby, have been obtained or effected and are in full force and effect, there have been no

material revocations or modifications to any such consent and there has been no material default in compliance with the terms of any such consent;

- (f) **No immunity:** neither it nor any material part of its assets has any immunity from suit or attachment; and
- (g) **Solvency:** it satisfies the solvency test within the meaning of section 4 of the Companies Act 2003.

9.2 **Undertakings:** Each Party undertakes to the other that, for so long as any of the Transactions remain to be performed:

- (a) **Notice:** it will promptly notify the other Party in writing if it becomes aware of any Change of Control that has occurred in relation to it; and
- (b) **Further assurances:** use its reasonable commercial endeavours to enter all documents, provide all information and do all other things that need to be done from time to time in order to give effect to the VAS Transaction in accordance with the Transaction Documents.

10. DISPUTE RESOLUTION

10.1 **Meeting of Parties:** If any dispute arises between the parties out of or in connection with the Transaction Documents or any Transaction ("**Dispute**"), either Party may, by written notice to the other Party, summon a meeting of the parties, as follows:

- (a) The Party claiming a Dispute shall, in its written notice to the other Party, designate as its representative to attend the meeting(s) a person with authority to settle the Dispute.
- (b) The Party who receives such written notice shall give notice to the other Party in writing within five Business Days of receipt designating as its representative to attend the meeting(s) a person with similar authority.
- (c) The persons designated as authorised representatives shall meet promptly as many times as necessary to discuss the matter and to resolve or settle the Dispute quickly, fairly and in good faith.

10.2 **Mediation:** If the Dispute is not resolved by the authorised representatives within 15 Business Days of a written notice first being given by one Party to the other, the Dispute may be referred to the mediation of a single mediator. The referral to mediation shall be commenced by a Party serving written notice on the other Party stating in full the subject matter and details of the Dispute, and requiring the Dispute to be referred to a mediator to be appointed by agreement between the Parties. Failing agreement within five Business Days after, and exclusive of, the date of service of the written notice, the mediator shall be appointed at the request of a Party by the chairperson or any other office holder for the time being of the New Zealand chapter of LEADR, or the nominee of such chairperson or other office holder. The guidelines which shall govern the mediation shall be set by the Parties. Failing agreement on the guidelines within five Business Days after the appointment of the mediator, a Party may request the mediator to set the guidelines which shall govern the mediation. The parties agree to then submit to the mediation and to act in good faith in that mediation in attempting to resolve the Dispute.

10.3 **Arbitration:** If no agreement is reached within 15 Business Days from the date of appointment of the mediator, either Party shall be entitled, by notice in writing to the

other Party, to require the Dispute to be finally resolved by arbitration under the Arbitration Act 1996 by a sole arbitrator to be appointed by agreement between the Parties or, failing agreement within five Business Days of receipt of that notice, appointed by the President of the New Zealand Law Society or his or her nominee. The decision of the arbitrator shall be final and binding on the Parties, and the costs of the arbitrator shall (subject to any award by the arbitrator) be borne equally by the Parties. Subject to any right any Party may have to apply to a court for any interim or preliminary relief in respect of the Dispute, completion or termination of the mediation shall be a condition precedent to the commencement of arbitration.

- 10.4 **Provision and use of information:** The Parties acknowledge that the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause 10 is to attempt to settle the Dispute between the Parties. No Party may use any information or documents obtained solely in connection with a mediation or arbitration of a Dispute for any purpose other than in an attempt to settle the Dispute.

11. COSTS AND EXPENSES

- 11.1 **Establishment and administration costs:** Each Party shall pay its own costs and expenses and any taxes thereon incurred by the Party in or in connection with the negotiation, preparation, execution and the administration of the Transaction Documents or any amendment of, supplement to or waiver in respect of any Transaction Document.
- 11.2 **Enforcement and Disputes:** If any Party seeks to enforce the provisions of any Transaction Document, or there is any Dispute, that Party shall meet its own costs and expenses and taxes thereon in connection with such enforcement or dispute, subject to any costs order of a court or tribunal to the contrary.
- 11.3 **Stamp duty and taxes:** Each Party shall pay its own stamp, documentary, transaction, registration and other like duties and taxes (including fines, interest and penalties), if any, which may be payable or determined to be payable in connection with the signing, delivery, registration, performance, exercise of any right under, or enforcement or variation of, any Transaction Document.
- 11.4 **GST:** Subject to the Supplier providing the Recipient with a Tax Invoice, if any supply made by a Party under this agreement (including the supply of any rights, goods, services, benefits or other things) is subject to GST under the GST Act, the Supplier may, if it incurs a liability to pay GST under the GST Act in respect of that supply, recover from the Recipient an amount on account of that GST in addition to any payment or other consideration for the supply.
- 11.5 **Additional amount:** The additional amount payable pursuant to clause 11.4 above is:
- (a) equal to the Price (or the relevant part of the Price if only part of the Price relates to a supply which is subject to GST) for the supply multiplied by the prevailing GST rate; and
 - (b) is payable at the same time and in the same manner as the Recipient is required to pay or provide the consideration for the supply to which the additional amount relates.

12. CONFIDENTIALITY

12.1 Confidential information: Each Party shall at all times (including after the termination or expiry of the Transaction Documents) keep confidential, treat as privileged, and not directly or indirectly make any disclosure or use, or allow any announcement to be made of:

- (a) the subject matter or any of the terms of the Transaction Documents;
- (b) any information directly or indirectly obtained from the other Party under or in connection with the Transaction Documents,

except to the extent:

- (c) required by law or directive (including, for the avoidance of doubt, required by the Electricity Authority (or any successor to the powers of the Electricity Authority as at the date of this agreement));
- (d) required under continuous disclosure requirements under any law or directive applicable to State-owned enterprises;
- (e) necessary to satisfy the requirements of the New Zealand Exchange or any other stock exchange or trading market upon which the relevant Party or any of its related persons or securities is listed or quoted;
- (f) necessary to obtain the benefit of, or to carry out any obligation under, the Transaction Documents;
- (g) that the information is or becomes available in the public domain without a breach by a Party of its confidentiality obligations under this clause or at law;
- (h) that the information is made available to legal or financial advisers, auditors, financiers or transferees or potential transferees; or
- (i) necessary to comply with the requirements of the Code; or
- (j) that the information is made available to any subsidiary or holding company of that Party (as those terms are defined in the Companies Act 1993).

12.2 Compelled disclosures: If any Party is required to disclose any information referred to in clause 12.1, that Party shall:

- (a) immediately notify the other Party in writing so that it may (if it considers appropriate) seek a protective order or other remedy at its own cost;
- (b) only disclose information to the extent legally required or necessary to satisfy the requirements of the New Zealand Exchange or any other stock exchange or trading market upon which the relevant Party or any of its related persons is listed or quoted or of the Code; and
- (c) use its reasonable endeavours to obtain undertakings that confidential treatment will be accorded to the information by the person to whom it is disclosed.

13. NOTICES

13.1 **Notices:** Each notice or other communication to be given or made by a Party under this agreement shall:

- (a) **Writing:** be given or made in writing by letter or fax;
- (b) **Authorised officer:** be signed by an authorised officer of the sender;
- (c) **Address:** be given or made to the Party to be notified at the address or fax number, and marked for the attention of the person (if any), from time to time specified by that Party for the purposes of this agreement;
- (d) **Effective:** not to be effective until received by the Party to be notified; and
- (e) **Deemed delivery:** be deemed to be received by the Party to be notified:
 - (i) (if given or made by letter) when left at the address of that Party or five Business Days after being put in the post (by airmail if to another country), postage prepaid, and addressed to that Party at that address; or
 - (ii) (if given or made by facsimile) upon production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient,

provided that any notice or communication received or deemed received after 5pm on a working day in the place to which it is sent, or on a day which is not a working day in that place, will be deemed not to have been received until 9am on the next working day in that place.

13.2 **Initial address and numbers:** The initial address, facsimile number and person (if any) so designated by each Party, are set out under the name of that Party at the end of this agreement.

14. ASSIGNMENT

14.1 Neither Party may assign any of its right, title or interest in, to or under the Transaction Documents without the prior written consent of the other Party, which may be withheld in the discretion of the other Party.

15. GENERAL

15.1 **Amendment:** Any provision of this agreement may be amended only if the Parties so agree in writing.

15.2 **Partial invalidity:** If at any time any provision of this agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any relevant jurisdiction, that illegality, invalidity or unenforceability shall not affect the enforceability of the provisions, or (as the case may be) remaining provisions, of this agreement, nor shall the legality, validity or enforceability of any of those provisions under the law of any other jurisdiction be in any way affected or impaired thereby.

15.3 **Limits on amendments to agreement:** This agreement shall not be amended except to the extent the amendment is:

- (a) to vary an address for transfers under the Credit Support Annex;
- (b) to sign up or adhere to, or incorporate into the ISDA Documents, a protocol published and/or recommended by ISDA or the New Zealand Bankers Association (or any replacement for that association);
- (c) to make changes of a minor or technical nature or to correct a manifest error; or
- (d) necessary to comply with mandatory provisions of law.

Nothing in this clause prevents the parties from making promises or agreements outside of this agreement, whether related to the subject matter of this agreement or otherwise, on the basis that the parties acknowledge that such promises or agreements are not part of this agreement and accordingly the provisions of sections 119(4) and 130(1)(c) of the Electricity Industry Act 2010 do not apply to those promises or agreements.

15.4 **Meaning of "amended":** "Amended" includes removing, adding or changing a term of this agreement. This agreement is not amended in breach of clause 15.3 if:

- (a) a party gives a notice or consent or exercises a right under this agreement that does not remove, add or change a term of this agreement; or
- (b) the parties enter into another agreement contemplated by this agreement (in a manner that does not remove, add, or change a term of this agreement), including (without limitation):
- (c) entering into the Confirmations contemplated by clause 4.2; or
- (d) novating the Transactions under clause 7.1.

15.5 **Privity:** Clauses 15.3 and 15.4 are for the benefit of the Crown and are enforceable by it under the Contracts (Privity) Act 1982.

15.6 **No implied waivers:** Time shall be of the essence in the performance of this agreement but no failure on the part of either Party to exercise, and no delay on any of their parts in exercising, any right, power or remedy under this agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

15.7 **Consents:** Subject to the terms of this agreement, either Party may give or withhold any approval or consent in its absolute discretion and either conditionally or unconditionally.

15.8 **Remedies cumulative:** The rights, powers and remedies provided in this agreement are in addition to, and not exclusive of, any rights, powers or remedies provided by law.

15.9 **Waivers:** A waiver of any provision of any Transaction Document will only be effective if it is expressly given in writing and signed by the Party granting it.

16. GOVERNING LAW AND JURISDICTION

- 16.1 This agreement is governed by the laws of New Zealand and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any Dispute.

SIGNATURES

GENESIS POWER LIMITED by its
authorised signatory:

Signature of authorised signatory

in the presence of:

Name of authorised signatory

Signature of witness

Name of witness

Occupation

City/town of residence

Address: Genesis Power Limited
 The Genesis Energy Building
 602 Great South Road
 P O Box 17188, Greenlane
 AUCKLAND 1546

Attention: Gary Pemberton, Wholesale Market Manager
Fax number: +64 9 580 4884

MERIDIAN ENERGY LIMITED by:

Signature of director

Signature of director

Name of director

Name of director

Address: Meridian Energy Limited
33 Customhouse Quay
Queens Wharf
WELLINGTON

Attention: Wholesale Markets Manager
Fax number: +64 4 3811201

SCHEDULE 1
Form of ISDA Schedule



International Swaps and Derivatives Association, Inc.

**SCHEDULE
to the
2002 Master Agreement**

dated as of

between

Genesis Power Limited
("Party A")

and

Meridian Energy Limited
("Party B")

PART 1 TERMINATION PROVISIONS

(a) "**Specified Entity**" means in relation to Party A for the purpose of:-

Section 5(a)(v), N/A

Section 5(a)(vi), N/A

Section 5(a)(vii), N/A

Section 5(b)(v), N/A

and in relation to Party B for the purpose of:-

Section 5(a)(v), N/A

Section 5(a)(vi), N/A

Section 5(a)(vii), N/A

Section 5(b)(v), N/A

(b) "**Specified Transaction**" will have the meaning specified in Section 14 of this Agreement and will also include any electricity swap or option transactions.

(c) The "**Cross Default**" provisions of Section 5(a)(vi) will apply to Party A and will apply to Party B.

"**Specified Indebtedness**" means any obligation (whether present or future, contingent or otherwise, as principal, surety or otherwise):

(i) in respect of money borrowed or raised; or

(ii) under any finance lease, redeemable preference share, letter of credit, a transaction of a type described in paragraph (a)(i) or (ii) of the definition of

Specified Transaction, futures contract, guarantee, indemnity, or electricity swap, swaption or option transaction.

"Threshold Amount" means:

- (i) in respect of Party A, NZ\$10,000,000; and
- (ii) in respect of Party B, NZ\$10,000,000,

(the **"New Zealand Dollar Amount"**) or its equivalent in any other currency or currencies.

For the purpose of determining the equivalent of the New Zealand Dollar Amount on any date in another currency (the **"Other Currency"**), the New Zealand Dollar Amount is to be converted at the rate equal to the spot exchange rate of the foreign exchange agent (selected as provided below) for the purchase of that Other Currency with New Zealand Dollars at or about 11:00 a.m. (in Wellington) on that date. The foreign exchange agent is to be selected in good faith by the party making the determination.

- (d) The **"Credit Event Upon Merger"** provisions of Section 5(b)(v) will apply to Party A and will apply to Party B.
- (e) The **"Automatic Early Termination"** provisions of Section 6(a) will not apply to either party.
- (f) **"Termination Currency"** means New Zealand Dollars.
- (g)

PART 2 TAX REPRESENTATIONS

- 1 **Payer Representations:** For the purpose of Section 3(e) of this Agreement, Party A and Party B do not make any representations.
- 2 **Payee Representations:** For the purpose of Section 3(f) of this Agreement, Party A and Party B each makes the representations specified below:
 - (a) It is resident in New Zealand for the purposes of the Income Tax Act 2007 or, if it is not so resident, it carries on business in New Zealand through a fixed establishment in New Zealand.

- (b) It holds a valid certificate of exemption from New Zealand resident withholding tax issued under Section RE 27 of the Income Tax Act 2007 (or its successor or predecessor provision).

PART 3 AGREEMENT TO DELIVER DOCUMENTS

For the purpose of Sections 4(a)(i) and (ii) of this Agreement, each party agrees to deliver the following documents, as applicable:-

- (a) Tax forms, documents or certificates to be delivered are:-

Party required to deliver document	Form / Document / Certificate	Date by which to be delivered	
Party A and Party B	Any document or certificate reasonably required or reasonably requested by a party in connection with its obligations to make a payment under this Agreement that would (a) enable that party to make the payment free from any deduction or withholding for or on account of Tax or (b) reduce the rate at which any deduction or withholding for or on account of Tax is applied to that payment.	On the earlier of:	
		(a)	learning that such document or certificate is required; and
		(b)	as soon as reasonably practicable following a request by the other party.

- (b) Other documents to be delivered are:-

Party required to deliver document	Form / Document / Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
Party A and Party B	A list of authorised signatories for the party and evidence satisfactory in form and substance to the other party of the authority of the authorised signatories of the party to execute this Agreement and any Confirmation or any other notice or communication issued in respect of this Agreement on behalf of the party.	On the execution of this Agreement or any relevant Confirmation, other notice or any communication unless that list has already been supplied for that purpose and remains true and in effect, and when the list is updated.	Yes

PART 4 MISCELLANEOUS

- (a) **Address for Notices.** The address for notices or communications for each party for the purposes of Section 12(a) are as advised by each party to the other in writing from time to time.
- (b) **Process Agent.** For the purpose of Section 13(c) of this Agreement:-

Party A appoints as its Process Agent, N/A

Party B appoints as its Process Agent, N/A.
- (c) **Offices.** The provisions of Section 10(a) will not apply to this Agreement.
- (d) **Multibranch Party.** For the purpose of Section 10(b) of this Agreement:-

Party A is not a Multibranch Party and Party B is not a Multibranch Party.
- (e) **Calculation Agent.** For each Transaction where Party A is the Floating Price Payer, the Calculation Agent is Party A. For each Transaction where Party B is the Floating Price Payer, the Calculation Agent is Party B.
- (f) **Credit Support Document.** Details of any Credit Support Document:- As agreed between the parties from time to time.
- (g) **Credit Support Provider.** Credit Support Provider means, in relation to Party A or to Party B, as agreed between the parties from time to time.
- (h) **Governing Law.** This Agreement will be governed by and construed in accordance with New Zealand law.
- (i) **Netting of Payments.** Multiple Transaction Payment Netting will apply for the purpose of Section 2(c) of this Agreement to all Transactions (in each case, starting from the date of this Agreement).
- (j) **"Affiliate"** will have the meaning specified in Section 14 of this Agreement.
- (k) **Absence of Litigation.** For the purpose of Section 3(c):-

"Specified Entity" means, in relation to Party A: Not applicable

"Specified Entity" means, in relation to Party B: Not applicable
- (l) **No Agency.** The provisions of Section 3(g) will apply to this Agreement.
- (m) **Additional Representation will apply.** For the purpose of Section 3 of this Agreement, each of the following will constitute an Additional Representation:-
 - (i) **Relationship between the Parties.** Each party will be deemed to represent to the other party on the date on which it enters into a Transaction that (absent a written agreement between the parties that expressly imposes affirmative obligations to the contrary for that Transaction):-
 - (1) **Non-Reliance.** It is acting for its own account, and it has made its own independent decisions to enter into that Transaction and as to whether that Transaction is

appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other party as investment advice or as a recommendation to enter into that Transaction, it being understood that information and explanations related to the terms and conditions of a Transaction will not be considered investment advice or a recommendation to enter into that Transaction. No communication (written or oral) received from the other party will be deemed to be an assurance or guarantee as to the expected results of that Transaction.

(2) **Assessment and Understanding.** It is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of that Transaction. It is also capable of assuming, and assumes, the risks of that Transaction.

(3) **Status of Parties.** The other party is not acting as a fiduciary for or an adviser to it in respect of that Transaction.

(n) **Recording of Conversations.** Each party (i) consents to the recording of telephone conversations between the trading, marketing and other relevant personnel of the parties in connection with this Agreement or any potential Transaction, (ii) agrees to obtain any necessary consent of, and give any necessary notice of such recording to, its relevant personnel and (iii) agrees, to the extent permitted by applicable law, that recordings may be submitted in evidence in any Proceedings.

PART 5 OTHER PROVISIONS

1 Application

This Agreement is only intended to be used for Transactions in respect of:

- (a) electricity price futures contracts (as defined in the Authorised Futures Dealers Notice 1997 (No 3), as amended or substituted from time to time ("**Notice**")); and
- (b) any other class of electricity pricing contract that the parties are permitted, whether under the Securities Markets Act 1988 or under any other New Zealand law, to enter into, or can enter into without breaching any New Zealand law,

and shall not be used in any other circumstance.

2 General Amendments to Master Agreement

(1) In Section 2(a)(i), a new sentence is inserted as follows:

Each payment will be by way of exchange for the corresponding payment or payments payable by the other party.

- (2) A new Section 2(a)(iv) is inserted as follows:
- (iv) The condition precedent in Section 2(a)(iii)(1) does not apply to a payment due to be made to a party if it has satisfied all its payment obligations under Section 2(a)(i) and Section 9(h) and has no future payment obligations, whether absolute or contingent, under Section 2(a)(i) or Section 9(h).
- (3) A new Section 2(a)(v) is inserted as follows:
- (v) Each Transaction will be settled by way of payment, and neither party shall be required or obliged (in any circumstances) to provide delivery of the Commodity.
- (4) A new Section 2(a)(vi) is inserted as follows:
- (vi) If a party:
- (A) satisfies Section 2(a)(iii) on a scheduled payment date, no account may be taken of its failure to satisfy Section 2(a)(iii) on any subsequent date in determining whether any obligation is due to it on that scheduled payment date; and
- (B) does not satisfy Section 2(a)(iii) on a scheduled payment date, then the effect of this is only to suspend any obligation that would otherwise be owed to it on that date until it satisfies Section 2(a)(iii).
- (5) In Section 3:
- (a) after the words "Section 3(g)" in line 2 of paragraph 1, the words ", 3(h) and 3(i)" are inserted; and
- (b) new Sections 3(h) and 3(i) are inserted as follows:
- (h) **Non-assignment:** It has not assigned (whether absolutely, in equity, by way of security or otherwise), declared any trust over or granted any security interest over any of its rights, interests, or obligations under this Agreement or any Transaction.
- (i) **Authorised person:** It is either:
- (i) a designated dealer (as defined in the Notice) and is acting on its own account; or
- (ii) a person who falls within at least one of the classes of person referred to in clause 3(2)(a) of the Notice (or any substituted or amended clause) and who is acting on its own account.
- (6) At the end of Section 5(b)(iii), insert the following:
- , provided that, if a party ceases to hold a valid certificate of exemption from New Zealand resident withholding tax under Section RE 27 of the Income Tax Act 2007, the provisions of this Section 5(b)(iii) will not apply to render it a Tax Event unless it results from a Change in Tax Law;
- (7) The following sentence is inserted at the end of the last paragraph of Section 6(b)(ii):

However, consent may be withheld if the other party considers that the creditworthiness of the transferee is, or is likely to be, materially weaker than the Affected Party.

(8) Section 6(f) is replaced with the following:

(f) **Set-off**

(i) If:

- (A) an Early Termination Date occurs;
- (B) on or after that date an amount is (or, but for this Section 6(f), would be) payable under this Agreement by one party ("**Payer**") to the other party ("**Payee**"); and
- (C) on or after that date an amount ("**Set-Off Amount**") is payable (whether at that time, in the future or upon the occurrence of a contingency) by the Payee to the Payer (irrespective of the currency, place of payment or booking office of the obligation) in respect of a transaction ("**Other Transaction**") under any other contract ("**Other Contract**") between the Payee and the Payer or otherwise under this Agreement,

then:

- (D) at the option of the Payer, the Other Transaction will become a transaction to which this Agreement applies and an amount equal to the Set-Off Amount will be deemed to be an Unpaid Amount due to the Payer for the purposes of Section 6(e); and
 - (E) the obligation of the Payee to pay the Set-Off Amount under the Other Contract or under this Agreement is terminated on the inclusion of that amount in accordance with subparagraph (D) in the calculation of the Early Termination Amount payable between the parties under Section 6(e).
- (ii) The Payer must notify the Payee of any set-off effected under this Section 6(f).
 - (iii) If an obligation is unascertained, the Payer may in good faith estimate that obligation and set off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained.
 - (iv) Nothing in this Section 6(f) creates a charge or other security interest. This Section 6(f) is without prejudice and in addition to any right of set-off, offset, combination of accounts, lien, right of retention or withholding or similar right or requirement to which any party is at any time otherwise entitled or subject (whether by operation of law, contract or otherwise).

- (9) Section 7 is replaced with:

7. ***Transfer***

- (a) Neither the rights nor the obligations of either party under this Agreement (including any Transaction) are capable of being assigned or transferred (whether at law, in equity or otherwise) or made the subject of any security interest or trust or other fiduciary obligation. Any action by a party that purports to do any of these things is void.
- (b) Nothing in this Section 7:
 - (i) restricts a transfer by a party under Section 6(b)(ii); or
 - (ii) restricts a transfer by a party of its rights and obligations under this Agreement (including any Transaction) pursuant to a consolidation or amalgamation with or merger into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); or
 - (iii) restricts a novation of the rights and obligations of a party under this Agreement (including any Transaction); or
 - (iv) restricts a transfer by a party of all of its interest in an Early Termination Amount payable to it from a Defaulting Party, together with any amounts payable on or with respect to that interest and any other rights associated with that interest pursuant to Sections 8, 9(h) and 11; or
 - (v) prohibits either party from assigning, novating or otherwise transferring its rights and obligations under this Agreement (including any Transaction) as part of any reorganisation required by law.

- (10) New Sections 9(i) and 9(j) are inserted as follows:

- (i) ***Partial Invalidity.*** The illegality, invalidity or unenforceability of any provision of this Agreement under any law does not affect:
 - (i) the legality, validity or enforceability of that provision under another law; or
 - (ii) the legality, validity or enforceability of any other provision.
- (j) ***Reliance.*** Each party may rely on any communication or document reasonably believed by it to be genuine and to have been made or delivered by the person or persons whose name or names and/or signatures have been previously notified to it by the other party.

- (11) In Section 11, after "including legal fees, execution fees and Stamp Tax", insert the following:

and any goods and services tax;

- (12) Section 13(b)(i) is deleted and replaced by the following:

submits to the non-exclusive jurisdiction of the courts of New Zealand;

- (13) In Section 14:

- (i) the definition of "Non-default Rate" is replaced with the following:

"Non-default Rate" means, on any date, the average bid rate for the purchase of bank accepted bills of exchange having a tenor of 90 days as displayed at or about 10.45 a.m. on that date on page BKBM (or its successor page) of the Reuters Monitor Screen.

- (ii)

- (iii) a new definition of "Head Agreement" is inserted as follows:

"Head Agreement" means the document entitled "Virtual Asset Swap Head Agreement" dated on or about the date of this Agreement between Party A and Party B.

- (iv) a new definition of "Shareholding Minister" is inserted as follows:

"Shareholding Minister" has the meaning given in the State Owned Enterprises Act 1986.

- (14) Subject to the terms of any Confirmation and except as modified by this Agreement, the definitions and provisions contained in the 2006 ISDA Definitions (as published by the International Swaps and Derivatives Association, Inc.), the 2005 ISDA Commodity Derivatives Definitions, (as published by the International Swaps and Derivatives Association, Inc.), as amended or supplemented from time to time, (the **"2006 Definitions"** and the **"2005 Definitions"** respectively) are incorporated into each Confirmation. In the event of any inconsistency between the definitions and provisions contained in the 2006 Definitions and the 2005 Definitions, the 2005 Definitions will govern. If there is an inconsistency between those definitions and provisions and any Confirmation, the Confirmation will govern.

- (15) Any reference to a:

- (a) **"Swap Transaction"** in the 2006 Definitions is deemed to be a reference to a "Transaction" for the purpose of interpreting this Agreement or any Confirmation; and
- (b) **"Transaction"** in this Agreement or any Confirmation is deemed to be a reference to a "Swap Transaction" for the purpose of interpreting the 2006 Definitions.

- (16) The definition of "**Business Day**" contained in Section 1.3 of the 2005 Definitions is replaced with the following:

"Business Day. "Business Day" means a day on which registered banks are open for ordinary over the counter business in Auckland and Wellington, excluding Saturdays, Sundays and statutory public holidays in Auckland or Wellington."

- (17) The parties agree that, with effect from the date of this Agreement, the terms of Section 6 and the definitions and provisions contained in Annexes 1 to (and including) 15 of the 2002 Master Agreement Protocol published by the International Swaps and Derivatives Association, Inc. (the **Protocol**) are incorporated and shall apply to this Agreement as if the parties had adhered to the Protocol without amendment in respect of that Annex.

- (18) **Limits on amendments to agreement:** This Agreement shall not be amended except to the extent the amendment is:

- (a) to vary the account details of a party under a Confirmation;
- (b) to sign up or adhere to, or incorporate into this Agreement, a protocol published and/or recommended by ISDA or the New Zealand Bankers Association (or any replacement for that association);
- (c) to make changes of a minor or technical nature or to correct a manifest error; or
- (d) necessary to comply with mandatory provisions of law.

Nothing in this Sub-Section (18) prevents the parties from making promises or agreements outside of this Agreement, whether related to the subject matter of this Agreement or otherwise, on the basis that the parties acknowledge that such promises or agreements are not part of this Agreement and accordingly the provisions of sections 119(4) and 130(1)(c) of the Electricity Industry Act 2010 do not apply to those promises or agreements.

- (19) **Meaning of "amended":** "Amended" does not include entering into the Confirmations contemplated by clause 4.2 of the Head Agreement but otherwise includes removing, adding or changing a term of this Agreement. This Agreement is not amended in breach of Sub-Section (18) if:

- (a) a party gives a notice or consent or exercises a right under this Agreement that does not remove, add or change a term of this Agreement; or
- (b) the parties enter into an agreement contemplated by this Agreement (in a manner that does not remove, add, or change a term of this Agreement), including (without limitation) entering into the Confirmations contemplated by clause 4.2 of the Head Agreement,

provided that entering into the Confirmations contemplated by clause 4.2 of the Head Agreement does not constitute adding or changing a term of this Agreement for the purposes of this Sub-Section (19).

- (20) **Privity:** Sub-Sections (18) and (19) are for the benefit of the Crown and are enforceable by it under the Contracts (Privity) Act 1982.

3 ***Electricity Transactions***

(1) ***Definitions:*** For the purposes of each Confirmation and each Transaction:

"Averaging Period" means, in respect of an Asian style option, the period specified as such in the Confirmation for that option.

"Calculation Period" means, for a Transaction, a half hour (being a period of 30 consecutive minutes commencing on the hour or at 30 minutes past the hour) during the Term of that Transaction.

"Code" means the Electricity Industry Participation Code 2010 administered by the Electricity Authority as brought into force under section 36 of the Electricity Industry Act 2010, as amended or substituted from time to time.

"Commodity" means electricity.

"Exchange" means the wholesale market for electricity established and operated in accordance with the Code or any successor to it.

"Fixed Price" means, in respect of a Calculation Period, the fixed price per Unit specified in the relevant Confirmation for that Calculation Period.

"Floating Price" means:

- (a) in respect of an Asian style option and a Calculation Period, the unweighted arithmetic mean (or such other method of averaging as is specified) in the relevant Confirmation of the Specified Price per Unit for each Calculation Period during the relevant Averaging Period by reference to the Grid Reference Point; and
- (b) in any other case, in respect of a Calculation Period, the Specified Price per Unit for that Calculation Period by reference to the Grid Reference Point.

"Grid Reference Point" means, in respect of a Transaction, the Grid Reference Point specified in the Confirmation for that Transaction.

"Month" means, in relation to a Transaction, each calendar month that includes one or more days of the Term of that Transaction.

"Notional Quantity" means, in respect of a Calculation Period, the Units specified in the relevant Confirmation for that Calculation Period.

"Price Source" means the information system (as defined in the Code).

"Pricing Date":

- (a) in the context of an electricity swap Transaction, means each Calculation Period during the Term of that Transaction; and
- (b) in the context of an electricity option Transaction, has the meaning set out in Section 6.2(b) of the 2005 Definitions.

"Settlement Date" means, for each Calculation Period that occurs in a billing period (as that term is defined in the Code), the day upon which the party that is obliged to pay a Floating Amount or Cash Settlement Amount for that Calculation Period would be obliged to make a payment under clause 14.37 of the Code if it were a payer (as that

term is defined in the Code) and an invoice issued under the Code (and not delayed) showed that that party owed an amount to the other party in respect of electricity purchased by it in that Calculation Period.

"Specified Price" means the final price (as defined in the Code).

"Units" means megawatt hours.

The definitions of **"Commodity"**, **"Exchange"**, **"Specified Price"** and **"Units"** set out above are for the purposes, among others, of determining a Commodity Reference Price under section 7.2(c)(v)(A) in Sub-Annex A of the Annex in the 2005 Definitions.

(2) **Formation of a contract:** Without limiting Section 9(e) of this Agreement, a binding Transaction may be entered into by:

- (a) an authorised signatory of each party signing a confirmation in one of the forms annexed to this Schedule, or in the case of a VAS Transaction (as defined in Section 4 of Part 5 of this Schedule) the Head Agreement, or in such other form as is agreed between the parties (**"Form of Confirmation"**); or
- (b) an authorised signatory of each party agreeing all of the terms of the Transaction over the telephone or in person (at which time the Transaction will be binding), provided always that the parties shall then, as soon as practicable, execute a Form of Confirmation to evidence the Transaction,

and provided always that a Transaction will not automatically be held or considered to be non-binding by reason of the fact that the provisions of this clause have not been complied with.

(3) **Additional provisions relating to swaps:** If the relevant Form of Confirmation is for an electricity swap, the following provisions shall apply:

- (a) A Fixed Amount shall be calculated in accordance with the formula set out in Article 5 of the 2005 Definitions in respect of each Calculation Period in each Month and the aggregate of such Fixed Amounts shall be paid by the Fixed Price Payer to the Floating Price Payer on the Settlement Date for that Month.
- (b) A Floating Amount shall be calculated in accordance with the formula set out in Article 6 of the 2005 Definitions in respect of each Calculation Period in each Month and the aggregate of such Floating Amounts shall be paid by the Floating Price Payer to the Fixed Price Payer on the Settlement Date for that Month.
- (c) No amounts shall be payable by the parties pursuant to Article 5 and Article 6 of the 2005 Definitions other than as set out in paragraphs (a) and (b) above.
- (d) Article 9 of the 2005 Definitions does not apply. In calculating the Fixed Amount and the Floating Amount, each such amount shall be calculated in New Zealand Dollars and rounded to two decimal places in each Calculation Period.

- (4) **Additional provisions relating to options:** If the relevant Form of Confirmation is for an electricity option, then the Cash Settlement Amount ("**CSA**") shall be determined in respect of each Calculation Period in each Month in respect of which the option is exercised or deemed exercised in accordance with the following formula:

$$\text{CSA} = \text{Notional Quantity} \times \text{Strike Price Differential}$$

where the Strike Price Differential is a price, expressed as a price per Unit, equal to:

- (a) If the option is a Put Option, the excess, if a positive number, of the Strike Price over the Floating Price; and
- (b) if the option is a Call Option, the excess, if a positive number, of the Floating Price over the Strike Price.

The aggregate of such CSAs shall be paid by the Seller to the Buyer on the Settlement Date for the relevant Calculation Period. For the avoidance of doubt, Sections 8.7 and 8.8 of the 2005 Definitions shall not apply to any electricity option Transaction.

- (5) **Corrections to Floating Price:** Unless otherwise specified in the relevant Confirmation, if any Floating Price used by the Calculation Agent to determine any payment in respect of any Calculation Period for any Transaction is subsequently amended under the Code then:

- (a) either party may notify the other party of that amendment;
- (b) as soon as practicable after that notification, the Calculation Agent shall recalculate the payments payable in respect of each relevant Calculation Period on the basis of the amended Floating Price, and advise the parties of the amount payable as a result of the amendment and recalculation, together with the identity of the party required to make the payment; and
- (c) within 5 Business Days of such notification, the party obliged to make the payment shall pay the relevant amount to the other party, together with interest at the Non-default Rate from (and including) the relevant Settlement Date for the relevant Transaction until (but excluding) the date of actual payment.

For the avoidance of doubt, Section 7.3 of the 2005 Definitions shall not apply to any Transaction.

- (6) **Temporary unavailability of Floating Price:** If, on any Settlement Date, the Floating Price for any Calculation Period is not available, then:

- (a) the Calculation Agent shall calculate the amount payable by the relevant party on the basis of a provisional price for electricity:
 - (i) determined under Part 13 of the Code (or its successor) for the relevant Grid Reference Point for that Calculation Period; or
 - (ii) if there is no such provisional price, determined by the Calculation Agent acting in good faith,

(the amount payable by one party to the other being the "**Provisional Amount**"), and the parties shall settle the Transaction on the basis of the Provisional Amount; and

- (b) once the Floating Price for the relevant Calculation Period is available, the Calculation Agent shall calculate the actual amount payable by the relevant party for that Calculation Period ("**Actual Amount**") and, if the Actual Amount is different from the Provisional Amount, the Calculation Agent shall advise the other party of the extent of that difference and the identity of the party required to pay that difference to the other. The party obliged to make the payment shall then pay that amount within 5 Business Days of such notification, together with interest at the Non-default Rate, calculated from (and including) the relevant Settlement Date for the relevant Transaction to (but excluding) the date of actual payment,

provided that, if, in relation to any Calculation Period, the Grid Reference Point is Disconnected (as defined in the Code) so that the software used to determine the Floating Price for that Calculation Period substitutes an arbitrary (non-cost related) model variable for the Floating Price, the Floating Price for that Calculation Period shall instead be the Floating Price determined for the unaffected Grid Exit Point (as defined in the Code) nearest to the Grid Reference Point as reasonably determined by the Calculation Agent.

(7)

(8)

(9) ***Business Day Convention/Commodity Business Day Convention:*** Following.

4 ***VAS Transactions***

(1) This Section 4 of Part 5 of this Schedule shall apply to each Transaction that is a VAS Transaction and any other Transaction as agreed between the parties. For each VAS Transaction, the Fixed Price will be determined in accordance with this Section.

(2) ***Definitions:*** For the purposes of each Confirmation for a VAS Transaction:

"Block" has the meaning given to it in the Head Agreement.

"Effective Date" has the meaning given to it in the Head Agreement.

"Grid Reference Point" in relation to each Confirmation for:

- (a) a South Island Transaction, means the South Island Settlement Node; and
- (b) a North Island Transaction, means the North Island Settlement Node.

"Market Node" means:

- (a) the North Island Market Node; or
- (b) the South Island Market Node.

"Market Price" means:

- (a) the North Island Market Price; or
- (b) the South Island Market Price.

"Node" means:

- (a) a Settlement Node; or
- (b) a Market Node.

"North Island Transaction" means a Transaction for a Block under which Party B is the Fixed Price Payer.

"Notional Quantity" has the meaning given to it in the Head Agreement.

"Point of Connection" has the meaning given to that term in the Code.

"Pricing Date" means, in determining the Fixed Price of a Transaction, the last day of November immediately prior to the Effective Date of that Transaction.

"Settlement Node" means:

- (a) the North Island Settlement Node; or
- (b) the South Island Settlement Node.

"South Island Transaction" means a Transaction for a Block under which Party A is the Fixed Price Payer.

"Termination Date" has the meaning given to it in the Head Agreement.

"Tranche" has the meaning given to it in the Head Agreement.

"Unavailable" has the meaning given to it in Sub-Section (5) below.

"VAS Transaction" means a Transaction as defined in the Head Agreement.

- (3) **Related Settlement Nodes:** For the purposes of this Section 4 of Part 5 of this Schedule, subject to Sub-Section (6) below:
- (a) the South Island Settlement Node is the related Settlement Node of the South Island Market Node; and
 - (b) the North Island Settlement Node is the related Settlement Node of the North Island Market Node.
- (4) **Fixed Prices:** The Fixed Price for each Transaction shall be rounded, if necessary, to the nearest two decimal places.
- (5)
- (6)

5 **Confidentiality**

(1) The confidentiality provisions in clause 12 of the Head Agreement will apply to the VAS Transactions. The confidentiality provisions set out in Sub-Sections (2) and (3) below will apply to all other Transactions under this Agreement.

(2) **Obligation of confidentiality:** Each party shall at all times (including after the termination or expiry of this Agreement) keep confidential, treat as privileged, and not directly or indirectly make any disclosure or use, or allow any announcement to be made of:

- (a) the subject matter or any of the terms of this Agreement;
- (b) any information directly or indirectly obtained from the other party under or in connection with this Agreement,

except to the extent:

- (c) required by law (including, for the avoidance of doubt, required by the Electricity Authority);
- (d) necessary to satisfy the requirements of the New Zealand Exchange or any other stock exchange or trading market upon which the relevant party or any of its related persons is listed or quoted;
- (e) necessary to obtain the benefit of, or to carry out any obligation under, this Agreement;
- (f) that the information is or becomes available in the public domain without a breach by a party of its confidentiality obligations under this clause or at law; or
- (g) that the information is made available to legal or financial advisers, auditors, financiers or transferees or potential transferees; or
- (h) necessary to comply with the requirements of the Code; or
- (i) that the information is made available to any subsidiary or holding company of that party (as those terms are defined in the Companies Act 1993).

(3) **Compelled disclosures:** If any party is required to disclose any information referred to in Sub-Section (2) above, that party shall:

- (a) immediately notify the other party in writing so that it may (if it considers appropriate) seek a protective order or other remedy at its own cost;
- (b) only disclose information to the extent legally required or necessary to satisfy the requirements of the New Zealand Exchange or any other stock exchange or trading market upon which the relevant party or any of its related persons is listed or quoted or of the Code; and

use its reasonable endeavours to obtain undertakings that confidential treatment will be accorded to the information by the person to whom it is disclosed.

SIGNATURES

GENESIS POWER LIMITED by its
authorised signatory:

Signature of authorised signatory

in the presence of:

Name of authorised signatory

Signature of witness

Name of witness

Occupation

City/town of residence

MERIDIAN ENERGY LIMITED by:

Signature of director

Signature of director

Name of director

Name of director

SCHEDULE 2
Form of Confirmation for North Island Transaction

**VIRTUAL ASSET SWAP
CONFIRMATION
NORTH ISLAND TRANSACTION**

TO:	[Insert name of authorised signatory] Genesis Power Limited (" Party A ")
ADDRESS/FAX NUMBER:	[Insert physical address/fax number/email address]
FROM:	[Insert name of authorised signatory] Meridian Energy Limited (" Party B ")
DATE:	<i>[Insert date]</i>
DESCRIPTION:	North Island Transaction pursuant to the Head Agreement (as defined below) Tranche [●] Block [●]

1. Notwithstanding the terms of any other agreement between you and us, this Confirmation supplements, forms part of, and is subject to the ISDA Master Agreement dated on or about [●] 2010 between Party A and Party B ("**Master Agreement**").
2. All provisions contained in the Master Agreement govern this Confirmation except as expressly modified below. A reference to Party A in this Confirmation is a reference to Genesis Power Limited and a reference to Party B is to Meridian Energy Limited. This document is a Confirmation for the purposes of the Master Agreement and the Virtual Asset Swap Head Agreement dated on or about [●] 2010 between Party A and Party B ("**Head Agreement**").
3. The purpose of this document is to confirm the terms and conditions of the Transaction entered into between us on the Trade Date specified below ("**Transaction**").
4. The Trade Date for this Transaction is 1 January [●].
5. The Term is from the Effective Date of 00:00 hours on the first day of January [●] to the Termination Date of 24:00 hours on the last day of December [●].
- 6.
7. Notional Quantity: 17.1MW.
8. For the purposes of this Transaction:

Party A is the Floating Price Payer.

Party B is the Fixed Price Payer.
9. The Fixed Price is, in respect of each megawatt hour in each Calculation Period, NZ\$[#] per MWh.
10. The Transaction will be settled in cash in accordance with the Master Agreement.

11. Account details for payments to be received by each party are as follows

SIGNED

Signature

Name

Position

Signature

Name

Position

SCHEDULE 3
Form of Confirmation for South Island Transaction

**VIRTUAL ASSET SWAP
CONFIRMATION
SOUTH ISLAND TRANSACTION**

TO:	[Insert name of authorised signatory] Genesis Power Limited (" Party A ")
ADDRESS/FAX NUMBER:	[Insert physical address/fax number/email address]
FROM:	[Insert name of authorised signatory] Meridian Energy Limited (" Party B ")
DATE:	<i>[Insert date]</i>
DESCRIPTION:	South Island Transaction pursuant to the Head Agreement (as defined below) Tranche [●] Block [●]

- Notwithstanding the terms of any other agreement between you and us, this Confirmation supplements, forms part of, and is subject to the ISDA Master Agreement dated on or about [●] 2010 between Party A and Party B ("**Master Agreement**").
- All provisions contained in the Master Agreement govern this Confirmation except as expressly modified below. A reference to Party A in this Confirmation is a reference to Genesis Power Limited and a reference to Party B is to Meridian Energy Limited. This document is a Confirmation for the purposes of the Master Agreement and the Virtual Asset Swap Head Agreement dated on or about [●] 2010 between Party A and Party B ("**Head Agreement**").
- The purpose of this document is to confirm the terms and conditions of the Transaction entered into between us on the Trade Date specified below ("**Transaction**").
- The Trade Date for this Transaction is [●].
- The Term is from the Effective Date of 00:00 hours on the first day of January [●] to the Termination Date of 24:00 hours on the last day of December [●].
-
- Notional Quantity: 17.1MW.
- For the purposes of this Transaction:

Party A is the Fixed Price Payer.

Party B is the Floating Price Payer.
- The Fixed Price is, in respect of each megawatt hour in each Calculation Period, NZ\$[#] per MWh.
- The Transaction will be settled in cash in accordance with the Master Agreement.

11. Account details for payments to be received by each party are as follows:

SIGNED

Signature

Name

Position

Signature

Name

Position

SCHEDULE 4
Form of Credit Support Annex

(Bilateral Form - Transfer)¹(ISDA Agreements Subject to English Law)²**ISDA®**

International Swaps and Derivatives Association, Inc.

CREDIT SUPPORT ANNEX

to the Schedule to the

ISDA Master Agreement

dated as of

between

Genesis Power Limited

("Party A")

and

Meridian Energy Limited

("Party B")

This Annex supplements, forms part of, and is subject to, the ISDA Master Agreement referred to above and is part of its Schedule. For the purposes of this Agreement, including, without limitation, Sections 1(c), 2(a), 5 and 6, the credit support arrangements set out in this Annex constitute a Transaction (for which this Annex constitutes the Confirmation).

Paragraph 1. Interpretation

Capitalised terms not otherwise defined in this Annex or elsewhere in this Agreement have the meanings specified pursuant to Paragraph 10, and all references in this Annex to Paragraphs are to Paragraphs of this Annex. In the event of any inconsistency between this Annex and the other provisions of this Schedule, this Annex will prevail, and in the event of any inconsistency between Paragraph 11 and the other provisions of this Annex, Paragraph 11 will prevail. For the avoidance of doubt, references to "transfer" in this Annex mean, in relation to cash, payment and, in relation to other assets, delivery,

¹ This document is not intended to create a charge or other security interest over the assets transferred under its terms. Persons intending to establish a collateral arrangement based on the creation of a charge or other security interest should consider using the ISDA Credit Support Deed (English law) or the ISDA Credit Support Annex (New York law), as appropriate.

² This Credit Support Annex has been prepared for use with ISDA Master Agreements subject to English law. Users should consult their legal advisers as to the proper use and effect of this form and the arrangements it contemplates. In particular, users should consult their legal advisers if they wish to have the Credit Support Annex made subject to a governing law other than English law or to have the Credit Support Annex subject to a different governing law than that governing the rest of the ISDA Master Agreement (e.g., English law for the credit Support Annex and New York law for the rest of the ISDA Master Agreement).

Paragraph 2. Credit Support Obligations

(a) *Delivery Amount.* Subject to Paragraphs 3 and 4, upon a demand made by the Transferee on or promptly following a Valuation Date, if the Delivery Amount for that Valuation Date equals or exceeds the Transferor's Minimum Transfer Amount, then the Transferor will transfer to the Transferee Eligible Credit Support having a Value as of the date of transfer at least equal to the applicable Delivery Amount (rounded pursuant to Paragraph 11(b)(iii)(D)). Unless otherwise specified in Paragraph 11(b), the "Delivery Amount" applicable to the Transferor for any Valuation Date will equal the amount by which:

(i) the Credit Support Amount

exceeds

(ii) the Value as of that Valuation Date of the Transferor's Credit Support Balance (adjusted to include any prior Delivery Amount and to exclude any prior Return Amount, the transfer of which, in either case, has not yet been completed and for which the relevant Settlement Day falls on or after such Valuation Date).

(b) *Return Amount.* Subject to Paragraphs 3 and 4, upon a demand made by the Transferor on or promptly following a Valuation Date, if the Return Amount for that Valuation Date equals or exceeds the Transferee's Minimum Transfer Amount, then the Transferee will transfer to the Transferor Equivalent Credit Support specified by the Transferor in that demand having a Value as of the date of transfer as close as practicable to the applicable Return Amount (rounded pursuant to Paragraph 11(b)(iii)(D)) and the Credit Support Balance will, upon such transfer, be reduced accordingly. Unless otherwise specified in Paragraph 11(b), the "Return Amount" applicable to the Transferee for any Valuation Date will equal the amount by which:

(i) the Value as of that Valuation Date of the Transferor's Credit Support Balance (adjusted to include any prior Delivery Amount and to exclude any prior Return Amount, the transfer of which, in either case, has not yet been completed and for which the relevant Settlement Day falls on or after such Valuation Date)

exceeds

(ii) the Credit Support Amount.

Paragraph 3. Transfers, Calculations and Exchanges

(a) *Transfers.* All transfers under this Annex of any Eligible Credit Support, Equivalent Credit Support, Interest Amount or Equivalent Distributions shall be made in accordance with the instructions of the Transferee or Transferor, as applicable, and shall be made:

(i) in the case of cash, by transfer into one or more bank accounts specified by the recipient;

(ii) in the case of certificated securities which cannot or which the parties have agreed will not be delivered by book-entry, by delivery in appropriate physical form to the recipient or its account accompanied by any duly executed instruments of transfer, transfer tax stamps and any other documents necessary to constitute a legally valid transfer of the transferring party's legal and beneficial title to the recipient; and

(iii) in the case of securities which the parties have agreed will be delivered by book-entry, by the giving of written instructions (including, for the avoidance of doubt, instructions

given by telex, facsimile transmission or electronic messaging system) to the relevant depository institution or other entity specified by the recipient, together with a written copy of the instructions to the recipient, sufficient, if complied with, to result in a legally effective transfer of the transferring party's legal and beneficial title to the recipient.

Subject to Paragraph 4 and unless otherwise specified, if a demand for the transfer of Eligible Credit Support or Equivalent Credit Support is received by the Notification Time, then the relevant transfer will be made not later than the close of business on the Settlement Day relating to the date such demand is received; if a demand is received after the Notification Time, then the relevant transfer will be made not later than the close of business on the Settlement Day relating to the day after the date such demand is received.

(b) *Calculations.* All calculations of Value and Exposure for purposes of Paragraphs 2 and 4(a) will be made by the relevant Valuation Agent as of the relevant Valuation Time. The Valuation Agent will notify each party (or the other party, if the Valuation Agent is a party) of its calculations not later than the Notification Time on the Local Business Day following the applicable Valuation Date (or, in the case of Paragraph 4(a), following the date of calculation).

(c) *Exchanges.*

(i) Unless otherwise specified in Paragraph 11, the Transferor may on any Local Business Day by notice inform the Transferee that it wishes to transfer to the Transferee Eligible Credit Support specified in that notice (the "New Credit Support") in exchange for certain Eligible Credit Support (the "Original Credit Support") specified in that notice comprised in the Transferor's Credit Support Balance.

(ii) If the Transferee notifies the Transferor that it has consented to the proposed exchange, (A) the Transferor will be obliged to transfer the New Credit Support to the Transferee on the first Settlement Day following the date on which it receives notice (which may be oral telephonic notice) from the Transferee of its consent and (B) the Transferee will be obliged to transfer to the Transferor Equivalent Credit Support in respect of the Original Credit Support not later than the Settlement Day following the date on which the Transferee receives the New Credit Support, unless otherwise specified in Paragraph 11(d) (the "Exchange Date"); *provided* that the Transferee will only be obliged to transfer Equivalent Credit Support with a Value as of the date of transfer as close as practicable to, but in any event not more than, the Value of the New Credit Support as of that date.

Paragraph 4. Dispute Resolution

(a) *Disputed Calculations or Valuations.* If a party (a "Disputing Party") reasonably disputes (I) the Valuation Agent's calculation of a Delivery Amount or a Return Amount or (II) the Value of any transfer of Eligible Credit Support or Equivalent Credit Support, then:

(1) the Disputing Party will notify the other party and the Valuation Agent (if the Valuation Agent is not the other party) not later than the close of business on the Local Business Day following, in the case of (I) above, the date that the demand is received under Paragraph 2 or, in the case of (II) above, the date of transfer;

(2) in the case of (I) above, the appropriate party will transfer the undisputed amount to the other party not later than the close of business on the Settlement Day following the date that the demand is received under Paragraph 2;

- (3) the parties will consult with each other in an attempt to resolve the dispute; and
- (4) if they fail to resolve the dispute by the Resolution Time, then:
 - (i) in the case of a dispute involving a Delivery Amount or Return Amount, unless otherwise specified in Paragraph 11(e), the Valuation Agent will recalculate the Exposure and the Value as of the Recalculation Date by:
 - (A) utilising any calculations of that part of the Exposure attributable to the Transactions that the parties have agreed are not in dispute;
 - (B) calculating that part of the Exposure attributable to the Transactions in dispute by seeking four actual quotations at mid-market from Reference Market-makers for purposes of calculating Market Quotation, and taking the arithmetic average of those obtained; *provided* that if four quotations are not available for a particular Transaction, then fewer than four quotations may be used for that Transaction, and if no quotations are available for a particular Transaction, then the Valuation Agent's original calculations will be used for the Transaction; and
 - (C) utilising the procedures specified in Paragraph 11(e)(ii) for calculating the Value, if disputed, of the outstanding Credit Support Balance;
 - (ii) in the case of a dispute involving the Value of any transfer of Eligible Credit Support or Equivalent Credit Support, the Valuation Agent will recalculate the Value as of the date of transfer pursuant to Paragraph 11(e)(ii).

Following a recalculation pursuant to this Paragraph, the Valuation Agent will notify each party (or the other party, if the Valuation Agent is a party) as soon as possible but in any event not later than the Notification Time on the Local Business Day following the Resolution Time. The appropriate party will, upon demand following such notice given by the Valuation Agent or a resolution pursuant to (3) above and subject to Paragraph 3(a), make the appropriate transfer.

(b) *No Event of Default.* The failure by a party to make a transfer of any amount which is the subject of a dispute to which Paragraph 4(a) applies will not constitute an Event of Default for as long as the procedures set out in this Paragraph 4 are being carried out. For the avoidance of doubt, upon completion of those procedures, Section 5(a)(i) of this Agreement will apply to any failure by a party to make a transfer required under the final sentence of Paragraph 4(a) on the relevant due date.

Paragraph 5. Transfer of Title, No Security Interest, Distributions and Interest Amount

(a) *Transfer of Title.* Each party agrees that all right, title and interest in and to any Eligible Credit Support, Equivalent Credit Support, Equivalent Distributions or Interest Amount which it transfers to the other party under the terms of this Annex shall vest in the recipient free and clear of any liens, claims, charges or encumbrances or any other interest of the transferring party or of any third person (other than a lien routinely imposed on all securities in a relevant clearance system).

(b) *No Security Interest.* Nothing in this Annex is intended to create or does create in favour of

either party any mortgage, charge, lien, pledge, encumbrance or other security interest in any cash or other property transferred by one party to the other party under the terms of this Annex.

(c) *Distributions and Interest Amount.*

(i) *Distributions.* The Transferee will transfer to the Transferor not later than the Settlement Day following each Distributions Date cash, securities or other property of the same type, nominal value, description and amount as the relevant Distributions ("Equivalent Distributions") to the extent that a Delivery Amount would not be created or increased by the transfer, as calculated by the Valuation Agent (and the date of calculation will be deemed a Valuation Date for this purpose).

(ii) *Interest Amount.* Unless otherwise specified in Paragraph 11(f)(iii), the Transferee will transfer to the Transferor at the times specified in Paragraph 11(f)(ii) the relevant Interest Amount to the extent that a Delivery Amount would not be created or increased by the transfer, as calculated by the Valuation Agent (and the date of calculation will be deemed a Valuation Date for this purpose).

Paragraph 6. Default

If an Early Termination Date is designated or deemed to occur as a result of an Event of Default in relation to a party, an amount equal to the Value of the Credit Support Balance, determined as though the Early Termination Date were a Valuation Date, will be deemed to be an Unpaid Amount due to the Transferor (which may or may not be the Defaulting Party) for purposes of Section 6(e). For the avoidance of doubt, if Market Quotation is the applicable payment measure for purposes of Section 6(e), then the Market Quotation determined under Section 6(e) in relation to the Transaction constituted by this Annex will be deemed to be zero, and, if Loss is the applicable payment measure for purposes of Section 6(e), then the Loss determined, under Section 6(e) in relation to the Transaction will be limited to the Unpaid Amount representing the Value of the Credit Support Balance.

Paragraph 7. Representation

Each party represents to the other party (which representation will be deemed to be repeated as of each date on which it transfers Eligible Credit Support, Equivalent Credit Support or Equivalent Distributions) that it is the sole owner of or otherwise has the right to transfer all Eligible Credit Support, Equivalent Credit Support or Equivalent Distributions it transfers to the other party under this Annex, free and clear of any security interest, lien, encumbrance or other restriction (other than a lien routinely imposed on all securities in a relevant clearance system).

Paragraph 8. Expenses

Each party will pay its own costs and expenses (including any stamp, transfer or similar transaction tax or duty payable on any transfer it is required to make under this Annex) in connection with performing its obligations under this Annex, and neither party will be liable for any such costs and expenses incurred by the other party.

Paragraph 9. Miscellaneous

(a) *Default Interest.* Other than in the case of an amount which is the subject of a dispute under Paragraph 4(a), if a Transferee fails to make, when due, any transfer of Equivalent Credit Support, Equivalent Distributions or the Interest Amount, it will be obliged to pay the Transferor (to the extent permitted under applicable law) an amount equal to interest at the Default Rate multiplied by the Value on the relevant Valuation Date of the items of property that were required to be transferred,

from (and including) the date that the Equivalent Credit Support, Equivalent Distributions or Interest Amount were required to be transferred to (but excluding) the date of transfer of the Equivalent Credit Support, Equivalent Distributions or Interest Amount. This interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(b) *Good Faith and Commercially Reasonable Manner.* Performance of all obligations under this Annex, including, but not limited to, all calculations, valuations and determinations made by either party, will be made in good faith and in a commercially reasonable manner.

(c) *Demands and Notices.* All demands and notices given by a party under this Annex will be given as specified in Section 12 of this Agreement.

(d) *Specifications of Certain Matters.* Anything referred to in this Annex as being specified in Paragraph 11 also may be specified in one or more Confirmations or other documents and this Annex will be construed accordingly.

Paragraph 10. Definitions

As used in this Annex:

"Base Currency" means the currency specified as such in Paragraph 11(a)(i).

"Base Currency Equivalent" means, with respect to an amount on a Valuation Date, in the case of an amount denominated in the Base Currency, such Base Currency amount and, in the case of an amount denominated in a currency other than the Base Currency (the "Other Currency"), the amount of Base Currency required to purchase such amount of the Other Currency at the spot exchange rate determined by the Valuation Agent for value on such Valuation Date.

"Credit Support Amount" means, with respect to a Transferor on a Valuation Date, (i) the Transferee's Exposure plus (ii) all Independent Amounts applicable to the Transferor, if any, minus (iii) all Independent Amounts applicable to the Transferee, if any, minus (iv) the Transferor's Threshold; *provided, however*, that the Credit Support Amount will be deemed to be zero whenever the calculation of Credit Support Amount yields a number less than zero.

"Credit Support Balance" means, with respect to a Transferor on a Valuation Date, the aggregate of all Eligible Credit Support that has been transferred to or received by the Transferee under this Annex, together with any Distributions and all proceeds of any such Eligible Credit Support or Distributions, as reduced pursuant to Paragraph 2(b), 3(c)(ii) or 6. Any Equivalent Distributions or Interest Amount (or portion of either) not transferred pursuant to Paragraph 5(c)(i) or (ii) will form part of the Credit Support Balance.

"Delivery Amount" has the meaning specified in Paragraph 2(a).

"Disputing Party" has the meaning specified in Paragraph 4.

"Distributions" means, with respect to any Eligible Credit Support comprised in the Credit Support Balance consisting of securities, all principal, interest and other payments and distributions of cash or other property to which a holder of securities of the same type, nominal value, description and amount as such Eligible Credit Support would be entitled from time to time.

"Distributions Date" means, with respect to any Eligible Credit Support comprised in the Credit Support Balance other than cash, each date on which a holder of such Eligible Credit Support is entitled to receive Distributions or, if that date is not a Local Business Day, the next following Local Business Day.

"Eligible Credit Support" means, with respect to a party, the items, if any, specified as such for that party in Paragraph 11(b)(ii) including, in relation to any securities, if applicable, the proceeds of any redemption in whole or in part of such securities by the relevant issuer.

"Eligible Currency" means each currency specified as such in Paragraph 11(a)(ii), if such currency is freely available.

"Equivalent Credit Support" means, in relation to any Eligible Credit Support comprised in the Credit Support Balance, Eligible Credit Support of the same type, nominal value, description and amount as that Eligible Credit Support.

"Equivalent Distributions" has the meaning specified in Paragraph 5(c)(i).

"Exchange Date" has the meaning specified in Paragraph 11(d).

"Exposure" means, with respect to a party on a Valuation Date and subject to Paragraph 4 in the case of a dispute, the amount, if any, that would be payable to that party by the other party (expressed as a positive number) or by that party to the other party (expressed as a negative number) pursuant to Section 6(e)(ii)(l) of this Agreement if all Transactions (other than the Transaction constituted by this Annex) were being terminated as of the relevant Valuation Time, on the basis that (i) that party is not the Affected Party and (ii) the Base Currency is the Termination Currency; *provided* that Market Quotations will be determined by the Valuation Agent on behalf of that party using its estimates at mid-market of the amounts that would be paid for Replacement Transactions (as that term is defined in the definition of 'Market Quotation').

"Independent Amount" means, with respect to a party, the Base Currency Equivalent of the amount specified as such for that party in Paragraph 11(b)(iii)(A); if no amount is specified, zero.

"Interest Amount" means, with respect to an Interest Period, the aggregate sum of the Base Currency Equivalents of the amounts of interest determined for each relevant currency and calculated for each day in that Interest Period on the principal amount of the portion of the Credit Support Balance comprised of cash in such currency, determined by the Valuation Agent for each such day as follows:

- (x) the amount of cash in such currency on that day; multiplied by
- (y) the relevant Interest Rate in effect for that day; divided by
- (z) 360 (or, in the case of pounds sterling, 365),

"Interest Period" means the period from (and including) the last Local Business Day on which an Interest Amount was transferred (or, if no Interest Amount has yet been transferred, the Local Business Day on which Eligible Credit Support or Equivalent Credit Support in the form of cash was transferred to or received by the Transferee) to (but excluding) the Local Business Day on which the current Interest Amount is transferred.

"Interest Rate" means, with respect to an Eligible Currency, the rate specified in Paragraph 11(f)(i) for that currency.

"Local Business Day", unless otherwise specified in Paragraph 11(h), means:

- (i) in relation to a transfer of cash or other property (other than securities) under this Annex, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment;

(ii) in relation to a transfer of securities under this Annex, a day on which the clearance system agreed between the parties for delivery of the securities is open for the acceptance and execution of settlement instructions or, if delivery of the securities is contemplated by other means, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place(s) agreed between the parties for this purpose;

(iii) in relation to a valuation under this Annex, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place of location of the Valuation Agent and in the place(s) agreed between the parties for this purpose and

(iv) in relation to any notice or other communication under this Annex, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in the place specified in the address for notice most recently provided by the recipient.

"Minimum Transfer Amount" means, with respect to a party, the amount specified as such for that party in Paragraph 11(b)(iii)(C); if no amount is specified, zero.

"New Credit Support" has the meaning specified in Paragraph 3(c)(i).

"Notification Time" has the meaning specified in Paragraph 11(c)(iv).

"Recalculation Date" means the Valuation Date that gives rise to the dispute under Paragraph 4; *provided, however*, that if a subsequent Valuation Date occurs under Paragraph 2 prior to the resolution of the dispute, then the *"Recalculation Date"* means the most recent Valuation Date under Paragraph 2.

"Resolution Time" has the meaning specified in Paragraph 11(e)(i).

"Return Amount" has the meaning specified in Paragraph 2(b).

"Settlement Day" means, in relation to a date, (i) with respect to a transfer of cash or other property (other than securities), the next Local Business Day and (ii) with respect to a transfer of securities, the first Local Business Day after such date on which settlement of a trade in the relevant securities, if effected on such date, would have been settled in accordance with customary practice when settling through the clearance system agreed between the parties for delivery of such securities or, otherwise, on the market in which such securities are principally traded (or, in either case, if there is no such customary practice, on the first Local Business Day after such date on which it is reasonably practicable to deliver such securities).

"Threshold" means, with respect to a party, the Base Currency Equivalent of the amount specified as such for that party in Paragraph 11(b)(iii)(B); if no amount is specified, zero.

"Transferee" means, in relation to each Valuation Date, the party in respect of which Exposure is a positive number and, in relation to a Credit Support Balance, the party which, subject to this Annex, owes such Credit Support Balance or, as the case may be, the Value of such Credit Support Balance to the other party.

"Transferor" means, in relation to a Transferee, the other party.

"Valuation Agent" has the meaning specified in Paragraph 11(c)(i).

"Valuation Date" means each date specified in or otherwise determined pursuant to Paragraph

11(c)(ii).

"Valuation Percentage" means, for any item of Eligible Credit Support, the percentage specified in Paragraph 11(b)(ii).

"Valuation Time" has the meaning specified in Paragraph 11(c)(iii),

"Value" means, for any Valuation Date or other date for which Value is calculated, and subject to Paragraph 4 in the case of a dispute, with respect to:

- (i) Eligible Credit Support comprised in a Credit Support Balance that is:
 - (A) an amount of cash, the Base Currency Equivalent of such amount multiplied by the applicable Valuation Percentage, if any; and
 - (B) a security, the Base Currency Equivalent of the bid price obtained by the Valuation Agent multiplied by the applicable Valuation Percentage if any; and
- (ii) items that are comprised in a Credit Support Balance and are not Eligible Credit Support, zero.

CREDIT SUPPORT ANNEX
Bilateral Form - Transfer

Elections and Variables

part of the ISDA Master Agreement dated as of [●] 2010

between

Genesis Power Limited
("Party A")

and

Meridian Energy Limited
("Party B")

Paragraph 11. Elections and Variables

(a) Base and Eligible Currency.

(i) "Base Currency" means New Zealand Dollars.

(ii) "Eligible Currency" means the Base Currency.

(b) Credit Support Obligations.

(i) Delivery Amount, Return Amount and Credit Support Amount.

(A) "Delivery Amount" has the meaning specified in Paragraph 2(a).

(B) "Return Amount" has the meaning specified in Paragraph 2(b).

(C) "Credit Support Amount" has the meaning specified in Paragraph 10.

(ii) Eligible Credit Support. The following will qualify as "Eligible Credit Support" for the party specified.

Type	Valuation Percentage
Cash in an Eligible Currency	100%

(iii) Thresholds.

(A) "Independent Amount"

(B) "Threshold"

(C) **"Minimum Transfer Amount"**

(D) **Rounding.**

(c) **Valuation and Timing.**

- (i) **"Valuation Agent"** means, for purposes of Paragraph 2 and 4, the party making the demand under Paragraph 2, and, for purposes of Paragraph 5(c), the Transferee.
- (ii) **"Valuation Date"** means each Local Business Day.
- (iii) **"Valuation Time"** means, with respect to the determination of Exposure and Value, the close of business on the Local Business Day immediately preceding the Valuation Date or date of calculation, as applicable.

- (iv) **"Notification Time"** shall be 2.00 p.m., New Zealand time on a Valuation Date. Notwithstanding Paragraph 3(a), if a demand for the transfer of Eligible Credit Support or Equivalent Credit Support is received by the Notification Time, then the relevant transfer shall be made not later than the close of business on the next Local Business Day or, if a demand is received after the Notification Time, then the relevant transfer shall be made not later than the close of business on the second Local Business Day following the date such demand is received.
- (d) **Exchange Date.** "Exchange Date" has the meaning specified in Paragraph 3(c)(ii).
- (e) **Dispute Resolution.**
- (i) **"Resolution Time"** means 2:00 p.m., New Zealand time, on the Local Business Day following the date on which notice is given that gives rise to a dispute under Paragraph 4.
- (ii) **Value.** For purposes of Paragraph 4(a)(4)(i)(C) and 4(a)(4)(ii), the Value of the outstanding Credit Support Balance or of any transfer of Eligible Credit Support or Equivalent Credit Support, as the case may be, will be calculated as the Base Currency Equivalent of such amount multiplied by the applicable Valuation Percentage, if any.
- (iii)
- (f) **Distributions and Interest Amount.**
- (i) **Interest Rate.** The "Interest Rate" in relation to the Eligible Currency specified below will be:
- | <i>Eligible Currency</i> | <i>Interest Rate</i> |
|--------------------------|---|
| NZD | The official cash rate for the relevant day as published on Reuters Monitor System Page RBNZ02. |
- (ii) **Transfer of Interest Amount.** The transfer of the Interest Amount will be made on the [first] Local Business Day of each calendar month.
- (iii) **Alternative to Interest Amount.** The provisions of Paragraph 5(c)(ii) will apply, provided, however, that the Interest Amount will compound daily.

- (g) **Additional Representations.** Each party hereby represents to the other (which representation will be deemed to be repeated as of each date on which it, transfers Eligible Credit Support or Equivalent Credit Support (as applicable)) that:
- (A) all consents, approvals or other authorisations of any governmental authority or regulatory body required in connection with the transfer of Eligible Credit Support or Equivalent Credit Support (as applicable) have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and
 - (B) on such date:
 - (i) its assets exceed its liabilities; and
 - (ii) it is able to pay its due debts and will not become unable to do so as a result of the transfer.
- (h) **Address for Transfer.**

- (i) **Other Provisions.**
- (A) **Wire Transfers.** At any time when a party shall be required to transfer Eligible Credit Support in the form of cash hereunder such party shall, unless otherwise instructed by the other party, transfer the relevant amount by means of a wire transfer of immediately available funds denominated in the Eligible Currency for credit to the account of its counterparty.
 - (B) **Demand and Notices.** Any notice or communication hereunder shall be sufficiently given if given in accordance with the provisions of this Agreement and will be effective at the same time such notice or communication would be effective pursuant to Section 12 of this Agreement.

- (C) **Successors.** This Annex and all obligations, rights and remedies hereunder shall be binding upon the successors and assigns of each party.
- (D) **No Third Party Rights.** This Annex has been and is made solely for the benefit of Party A and Party B and their respective successors and assigns, and no other person or entity shall acquire or have any right under or by virtue of this Annex.
- (E) **Local Business Day.** Notwithstanding anything to the contrary contained herein Local Business Day shall, in addition to any other meaning specified herein, include a day on which registered banks are open for ordinary over the counter business in Auckland and Wellington, excluding Saturdays, Sundays and statutory public holidays in Auckland or Wellington.
- (F) **Minimum Transfer Amount.** Notwithstanding the provisions of Paragraph 11(b)(iii)(C), when the Credit Support Amount with respect to both parties on a Valuation Date is zero, the Minimum Transfer Amount with respect to both parties will be zero.
- (G)

- (H) **Exposure.** The term "Exposure" in Paragraph 10 of the Annex is hereby amended to read in its entirety as follows:

'''Exposure' means, with respect to a party on a Valuation Date and subject to Paragraph 4 in the case of a dispute, the amount, if any, that would be payable to that party by the other party (expressed as a positive number) or by that party to the other party (expressed as a negative number) pursuant to Section 6(e)(ii)(1) of this Agreement if all Transactions (other than the Transaction constituted by this Annex) were being terminated as of the relevant Valuation Time, on the basis that (i) that party is not the Affected Party and (ii) the Base Currency is the Termination Currency; provided that the Close-out Amount will be determined by the Valuation Agent on behalf of that party using its estimates at mid-market of the amounts that would be paid for transactions providing the economic equivalent of (x) the material terms of the Transactions, including the payments and deliveries by the parties under Section 2(a)(i) in respect of the Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date (assuming satisfaction of the conditions precedent in Section 2(a)(iii)); and (y) the option rights of the parties in respect of the Transactions."

- (I) **Day Count - Interest Amount.** The term "Interest Amount" in Paragraph 10 of this Annex is hereby amended in respect of subparagraph (z) of the definition only as follows:

"(z) 365"

- (J) **Personal Property Securities Act.** The following paragraph is inserted as a new Paragraph 12:

"Paragraph 12. **Personal Property Securities Act 1999**

- (a) Each party hereby agrees and confirms that nothing in this Annex is intended to create or does create in favour of either party a security interest as defined in, and for the purposes of, the Personal Property Securities Act 1999 (New Zealand) ("PPSA") in any personal property transferred by one party to the other party under the terms of this Annex.
- (b) Notwithstanding the terms of the above agreement and confirmation or the other terms of this Annex, if (but only to the extent that) this Annex creates or provides for the creation of a security interest as defined in, and for the purposes of, the PPSA then, (x) each other document which describes any cash or other personal property which the parties agree is to be (or has been) transferred by one party to the other under the terms of this Annex (including, but not limited to, the entries in the records of each party for the other party in respect of the Eligible Credit Support comprised in the Credit Support Balance) is deemed to be incorporated into, and form part of, this Annex, and (v) each of the parties shall be deemed to have agreed from the date of this Annex to have:
 - (i) to the fullest extent possible, contracted out of:
 - (A) all of the sections referred to in section 107(1) of the PPSA; and
 - (B) all of the debtor's rights referred to in section 107(2) of the PPSA; and
 - (ii) agreed that they will not register a financing statement on the Register (as defined in the PPSA) in respect of such security interest.
- (c) If this Annex does not create or provide for the creation of a security interest which is governed by the PPSA, then Paragraph 12(b) above shall be of no force or effect and shall not be taken into account in construing any other provision of this Agreement, any Confirmation or the other terms of this Annex.

All terms used in this Paragraph 12 and not defined in the Agreement shall have the same meanings as in the PPSA."

IN WITNESS WHEREOF, the parties hereto have executed this Annex as of the date first above written.

Genesis Power Limited

Meridian Energy Limited

By:
Name:

Title:

Date:

By:
Name:

Title:

Date:

By:
Name:

Title:

Date:

By:
Name:

Title:

Date:

