APPENDIX 1

FOR THE PROTECTION OF NORTH LINCOLNSHIRE COUNCIL AS LOCAL HIGHWAY AUTHORITY

1. Application

The provisions of this Part of this Schedule have effect and apply to NLC highway works within the administrative area of the local highway authority, unless otherwise agreed in writing between the undertaker and the local highway authority.

2. Interpretation

(1) The terms used in this Part of this Schedule are as defined in article [2] (interpretation) of this Order save where inconsistent with sub-paragraph (2) which will prevail.

(2) In this Part of this Schedule—

"as built information" means one digital copy of the following information where applicable to the NLC highway works in question—

(a) as constructed drawings in both PDF and AutoCAD DWG formats for anything designed by the undertaker;

(b) list of suppliers and materials used;

(c) product data sheets, technical specifications for all materials used;

(d) as constructed information for any utilities discovered or moved during the works;

(e) method statements for works carried out;

(f) in relation to road lighting, signs and traffic signals any information required by Series 1400 of the Specification for Highway Works (or any successor document);

(g) plan of temporary signage indicating new road layouts;

(h) populated post-construction inventory in a form agreed with the local highway authority;

(i) organisation and methods manuals for all products used in the construction of the authorised development;

(j) as constructed programme;

(l) a Stage 3 Road Safety Audit and any exceptions agreed; and

(m) health and safety file;

"the bond sum" means the sum equal to 110% of all the costs of the carrying out the NLC highway works concerned and 100% of the commuted sum relating to the NLC highway works or such other sum agreed between the undertaker and the local highway authority;

"NLC" means North Lincolnshire Council;

"NLC highway works" means any works authorised by this Order undertaken on, to or under any highway which is maintainable by the local highway authority;

“commuted sum” means such sum as provided for in paragraph 9(2) of this Part of this Schedule and to be used to fund the future cost of maintenance of the NLC highway works and which may be required for the following infrastructure items: highway trees/ and hedgerows; sustainable drainage, linear drainage units; traffic signals and associated equipment; highway structures; bespoke materials; grass verges and soft landscapes; street lighting equipment including any bespoke equipment; CCTV camera and associated equipment; and vehicle restraint systems;

“contractor” means any contractor or sub-contractor appointed by the undertaker to carry out the NLC highway works;

“detailed design information” means the following drawings, specifications and other information unless otherwise agreed between the local highway authority and the undertaker—

(a) site clearance details;

(b) boundary environmental and mitigation fencing;

(d) drainage and ducting;

(e) earthworks including supporting geotechnical assessments;

(f) pavement, pavement foundations, kerbs, footways and paved areas, including vertical and horizontal alignments;

(g) traffic signs and road markings;

(h) traffic signal equipment and associated signal phasing and timing detail;

(j) electrical work for traffic signs and signals;

(k) highway structures;

(l) Stage 2 Road Safety Audit and exceptions agreed;

(n) utilities diversions;

(o) topographical survey;

(p) identification of any land to be dedicated as highway;

(q) pre-construction health and safety information; and

(r) such other information as NLC reasonably considers necessary.

where relevant to the NLC highway works concerned;

“estimated costs” means the estimated costs agreed pursuant to paragraphs 5(1) and (5) of this Part of this Schedule;

“the excess” means the amount by which the local highway authority estimates that the costs referred to in paragraph 5(1) of this Part of this Schedule will exceed the estimated costs;

“local highway authority” means NLC in its capacity as highway authority;

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of the NLC highway works as notified to the local highway authority from time to time;

"programme of works" means a document setting out the sequence and timetabling of the NLC highway works in question;

"Road Safety Audit" means an audit carried out in accordance with the Road Safety Audit Standard;

"Road Safety Audit Standard" means GG 119 or any successor document;

"utilities" means any pipes, wires, cables or equipment belonging to any person or body having power or consent to undertake street works under the 1991 Act; and

"winter maintenance" means maintenance of the road surface to deal with snow and ice during the winter months.

3. Prior approvals and security

(1) The NLC highway works must not commence until–

(a) the detailed design information and a programme of works has been submitted to and approved by the local highway authority;

(b) the local highway authority has agreed the bond sum for those works and the undertaker has provided security for the carrying them out as provided for in paragraph 8 of this Part of this Schedule or some other form of security acceptable to the local highway authority;

(c) the local highway authority has approved the audit brief and CVs for all Road Safety Audits and exceptions to items raised if appropriate for those works in accordance with the Road Safety Audit Standard;

(d) a Stage 2 Road Safety Audit has been carried out in respect of those works and all issues raised incorporated into an amended design approved by the local highway authority or any relevant exceptions approved by the local highway authority;

(e) the undertaker has agreed the commuted sum for those works with the local highway authority to be calculated in accordance with paragraph 9(2) of this Part of this Schedule;

(f) the undertaker has provided confirmation of ownership to the local highway authority for any land which is to be dedicated as highway following completion of the NLC highway works;

(g) the undertaker has obtained any necessary permits under The North and North East Lincolnshire Permit Scheme Order 2018 (or any subsequent Permit Scheme made by the City of North Lincolnshire Council to vary or replace that Order as may be relevant); and

(h) the undertaker has notified the Health and Safety Executive (if required) of those works and has provided NLC with a copy of that notification and any acknowledgement from the Health and Safety Executive.

4. Carrying out of works

(1) The undertaker must prior to commencement of the NLC highway works give the local highway authority 28 days' notice in writing of the date on which that phase will start unless otherwise agreed with the local highway authority.

(2) The undertaker must comply with the local highway authority's usual road space booking procedures prior to and during the carrying out the NLC highway works and no NLC highway works for which a road space booking is required must commence without a road space booking having first been secured.

(3) The NLC highway works must be carried out to the satisfaction of the local highway authority in accordance with—

(a) the relevant detailed design information and a programme of works approved pursuant to paragraph 3(1) of this Part of this Schedule or as subsequently varied by agreement between the undertaker and the local highway authority;

(b) the Department for Transport's Manual for Streets, Design Manual for Roads and Bridges, Local Transport Note 1/20, the Specification for Highway Works (contained within the Manual of Contract Documents for Highways Works), all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016, and any amendment to or substitution thereof for the time being in force save to the extent that a departure from such standards has been approved by the local highway authority;

(c) such approvals or requirements of the local highway authority that are required by the provisions of paragraph 3 of this Part of this Schedule to be in place prior to the NLC highway works being undertaken, and which are not included in paragraph 3(1); and

(d) all aspects of the Construction (Design and Management) Regulations 2015 or any statutory amendment or variation of the same and in particular the undertaker as client shall ensure that all client duties (as defined in the said regulations) are undertaken to the satisfaction of the local highway authority.

(4) The undertaker must permit and require the contractor to permit at all reasonable times persons authorised by the local highway authority (whose identity must have been previously notified to the undertaker by the local highway authority) to gain access to the land upon which the NLC highway works are being carried out for the purposes of inspection and supervision and the undertaker must provide to the local highway authority contact details of the nominated persons with whom the local highway authority should liaise during the carrying out of the NLC highway works.

(5) At any time during the carrying out of the NLC highway works the nominated persons must act upon any reasonable request made by the local highway authority in relation to the carrying out of the NLC highway works as soon as practicable following such request being made to the nominated persons.

(6) If at any time the undertaker does not comply with any of the terms of this Part of this Schedule in respect of the NLC highway works having been given notice of an alleged breach and an adequate opportunity to remedy it by the local highway authority, the local highway authority, on giving the undertaker 14 days' notice in writing to that effect, is entitled to either—

(a) carry out and complete the NLC highway works and any maintenance works which the undertaker would have been responsible for on the undertaker's behalf; or

(b) carry out such necessary works of reinstatement of the highways and other land and premises of the local highway authority, and in either case the undertaker must within 28 days of receipt of the itemised costs pay to the local highway authority the costs so incurred by the local highway authority in undertaking this work.

(7) If at any time the undertaker, in carrying out the NLC highway works, causes any damage to the local road network not hereby authorised then the local highway authority is to give notice of such damage and allow the undertaker 14 days to remedy the damage. Should the undertaker fail to adequately remedy the damage to the satisfaction of the local highway authority, the local highway

authority, on giving the undertaker 7 days' notice in writing to that effect, is entitled to carry out such necessary works deemed appropriate to remedy the damage, and the undertaker must within 28 days of receipt of the itemised costs pay to the local highway authority the costs so incurred by the local highway authority in undertaking this work.

(8) Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking such action as deemed appropriate, without prior notice to the undertaker, in the event of an emergency or danger to the public. The cost to the local highway authority of such work or action being chargeable to and recoverable from the undertaker if the need for such action arises from the carrying out of the NLC highway works.

(9) The undertaker, in carrying out the NLC highway works, must at its own expense divert or protect all utilities as may be necessary to enable the NLC highway works to be properly carried out, and all agreed alterations to existing services must be carried out to the reasonable satisfaction of the local highway authority.

(10) In the event that the local highway authority incurs additional costs in the winter maintenance of the highway as a result of traffic management measures regulating the NLC highway works concerned (over and above the costs that would have been incurred in the absence of the NLC highway works being carried out), the undertaker must reimburse the local highway authority those additional costs, such costs to include any administration costs incurred.

(11) The undertaker must notify the local highway authority of the intended date of opening of the NLC highway works to public traffic not less than 14 days in advance of the intended date and the undertaker must notify the local highway authority of the actual date that such works are open to public traffic on each occasion within 14 days of that occurrence.

5. Payments

(1) The undertaker must fund the whole of the cost of the NLC highway works and all costs incidental to the NLC highway works and must also pay to the local highway authority in respect of the NLC highway works a sum equal to the whole of any costs and expenses which the local highway authority reasonably incur, including costs and expenses for using external staff and resources as well as costs and expenses of using in-house staff and resources in relation to the NLC highway works and arising out of them and their implementation, including —

(a) the checking and approval of all design work carried out by or on behalf of the undertaker;

(b) costs in relation to agreeing the programme of works;

(c) the carrying out of the inspection of the NLC highway works; and

(d) all administrative costs in relation to paragraphs (a), (b) and (c), together comprising "the estimated costs".

(2) The undertaker must pay to the local highway authority upon demand and prior to such costs being incurred the total costs that the local highway authority believe will be properly and necessarily incurred by the local highway authority in under-taking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the

NLC highway works provided that this sub-paragraph does not apply to the making of any orders which duplicate orders contained in this Order.

(3) The undertaker and the local highway authority must agree a schedule of the estimated costs to be incurred pursuant to sub-paragraph (1) in respect of the NLC highway works prior to the commencement of those works.

(4) The undertaker must make the payments referred to in sub-paragraph (1) as follows—

(a) the undertaker must pay a sum equal to the agreed estimated costs to the local highway authority prior to the local highway authority undertaking those tasks in respect of the NLC highway works;

(b) if at any time or times after the payment referred to in paragraph (a) has become payable, the local highway authority reasonably estimates that the costs referred to in sub-paragraph (1) above will exceed the estimated costs, it may, provided that such excess has been agreed by variation to the schedule referred to in sub-paragraph (3), give notice to the undertaker of the excess and the undertaker must pay to the local highway authority within 28 days of the date of that notice a sum equal to the excess.

(5) Within 91 days of the issue of the final certificate for the NLC highway works the local highway authority must give the undertaker a final account of the costs referred to in sub-paragraph (1) and within 28 days from the expiry of the 91 day period —

(a) if the account shows a further sum as due to the local highway authority the undertaker must pay to the local highway authority the sum shown due to it in that final account; and

(b) if the account shows that the payment or payments previously made have exceeded those costs the local highway authority must refund the difference to the undertaker.

(6) If any payment due under any of the provisions of this Part of this Schedule is not made on or before the date on which it falls due the party from whom it was due must at the same time as making the payment pay to the party to whom it was due interest at 1% above the rate payable in respect of compensation under section 32 (rate of interest after entry on land) of the 1961 Act for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.

6. Provisional certificate and defects and maintenance period

(1) Following completion of the NLC highway works and provided—

(c) the local highway authority and the undertaker have jointly inspected the NLC highway works, the local highway authority have provided the undertaker with a definitive list of any further works to be carried out (which will include any defects in or damage to the road surface water drainage system) and those works have been completed without unreasonable delay to NLC's reasonable satisfaction;

(d) the undertaker has provided a plan clearly identifying the extent of any land which is to become highway maintainable at public expense by the local highway authority upon the issue of the final certificate referred to in paragraph 7 of this Part of this Schedule;

(e) the undertaker has provided confirmation that any additional land which is to be dedicated as highway maintainable at public expense is so dedicated; and

(f) the as built information has been provided to the local highway authority,

the local highway authority must issue a provisional certificate of completion in respect of the NLC highway works, such certificate not to be unreasonably withheld or delayed.

(2) Subject to sub-paragraph (3) the undertaker must at its own expense remedy any and all defects attributable to the defecting construction of the NLC highway works as reasonably required to be remedied by the local highway authority and identified by the local highway authority during a period of 12 months from the date of the provisional certificate.

(3) The local highway authority will provide to the undertaker all information on any accident or incident resulting in damage to the highway which occurs in any phase of the NLC highway works during the period of 12 months referred to in sub-paragraph (2).

(4) The undertaker must submit Stage 4 Road Safety Audits for each phase of the NLC highway works as required by and in line with the timescales stipulated in the Road Safety Audit Standard. The undertaker must comply with the findings of the Stage 4 Road Safety Audits and be responsible for all costs of and incidental to such audits.

7. Final certificate

(1) The undertaker must apply to the local highway authority for the issue of the final certificate in respect of the NLC highway works at the expiration of the 12 month period referred to in paragraph 6(2) of this Part of this Schedule or, if later, on the date on which any defects or damage arising during that period which are the responsibility of the undertaker under the provisions of paragraph 6 of this Part of this Schedule have been made good to the reasonable satisfaction of the local highway authority.

(2) If the provisions of sub-paragraph (1) are satisfied the local highway authority must issue a final certificate for the NLC highway works concerned, such certificate not to be unreasonably withheld or delayed.

8. Security

The NLC highway works must not commence until the undertaker secures a bond from a bondsman first approved by the local highway authority drafted substantially as detailed in Form [1] contained in paragraph [16] of this Part of this Schedule, or such other form that may be agreed between the undertaker and the local high-way authority, to indemnify the local highway authority against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the NLC highway works under the provisions of this Part of this Schedule, provided that the maximum liability of the bond does not exceed the bond sum.

(2) Each bond sum is to be progressively reduced as follows(a) on receipt of written confirmation (including receipt of receipted invoices evidencing payments made by the undertaker to the contractors) from the undertaker of the payments made from time to time to the contractor ("the submission"), the local highway authority may in writing authorise the reduction of the bond sum by such proportion of the bond sum as amounts to 75% of those payments provided that —

(ii) an evaluation of the NLC highway works completed and remaining has been carried out by the undertaker and audited and agreed by the local highway authority to ensure that the stage of completion of the works is relative to the payments made by the undertaker to the contractors (the local highway authority will only be required to

provide the said authorisation if it is satisfied that the monies remaining secured by the bond sum will be sufficient to cover all remaining costs and liabilities anticipated to be incurred in completing the NLC highway works plus an additional 10%); and

(iii) the operation of paragraph (a) will not enable the overall reduction of the bond to be greater than 75% of the original bond sum;

(b) within 20 working days of completion of the NLC highway works (as evidenced by the issuing of the provisional certificate pursuant to paragraph 6(1) of this Part of this Schedule) the local highway authority must in writing release the bond provider from its obligations in respect of 75% of the bond sum save insofar as any claim or claims have been made against the bond and/or liability on its part has arisen prior to that date; and

(c) within 20 working days of the issue of the final certificate for the NLC highway works referred to in paragraph 7 of this Part of this Schedule the local highway authority must in writing release the bond provider from all its obligations in respect of the bond save insofar as any claim or claims have been made against the bond or liability on its part has arisen prior to that date.

9. Commuted sums

(1) Prior to the issue of the final certificate in respect of any NLC highway works the undertaker must pay to the local highway authority any commuted sums payable in respect of those works calculated as provided for in sub-paragraph (2).

(2) The rates to be applied in calculating the commuted sums payable must be calculated in accordance with the North Lincolnshire Council's commuted sum methodology prior to commencement of the NLC highway works.

10. Insurance

The undertaker must prior to commencement of the NLC highway works effect public liability insurance with an insurer in the minimum sum of £10,000,000.00 (ten million pounds) for any one claim against any legal liability for damage loss or injury to any property or any person arising out of or in connection with the execution of the NLC highway works or any part thereof by the undertaker.

11. Indemnity

(1) The undertaker must in relation to the carrying out of the NLC highway works take such precautions for the protection of the public and private interest as would be incumbent upon it if it were the local highway authority and must indemnify the local highway authority from and against all costs, expenses, damages, losses and liabilities arising from or in connection with or ancillary to any claim demand action or proceedings resulting from the design and carrying out of the NLC highway works, provided that —

(a) the foregoing indemnity shall not extend to any costs, expenses, liabilities and damages caused by or arising out of the neglect or default of the local highway authority or its officers, servants, agents or contractors or any person or body for whom it is responsible;

(b) the local highway authority must notify the undertaker upon receipt of any claim specifying the nature of the indemnity liability in reasonable detail;

(c) the local highway authority must not make any admission of liability, settlement or compromise without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand provided that –

(i) if the undertaker does not respond to a written request for consent within 14 days of that request, consent is deemed to have been granted;

(ii) if the undertaker withholds consent and has sole conduct of any settlement or compromise or of any proceedings, the undertaker must pursue the matter diligently and must indemnify the local highway authority against any costs, expenses, damages, losses or liabilities incurred by the local highway authority as a result of that conduct, including any increase in the amount of the claim attributable to the undertaker's conduct.

(2) The local highway authority must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands and penalties to which the indemnity under this paragraph applies where it is within the local highway authority's reasonable gift and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of the local highway authority's control.

12. Road Safety Audits

(1) The undertaker must not engage or permit the engagement of any audit team unless that audit team has first been approved by the local highway authority as suitable to undertake Road Safety Audits in accordance with the Road Safety Audit Standard.

(2) At any time during the detailed design stages the local highway authority may require that an interim Road Safety Audit be carried out in accordance with the Road Safety Audit Standard and be submitted to the local highway authority and if so required by the local highway authority any recommendations in such interim report must be implemented to the local highway authority's satisfaction.

(3) Prior to the approval of the detailed design information for any NLC highway works, a Stage 2 Road Safety Audit must be carried out in respect of those works in accordance with the Road Safety Audit Standard and must be submitted to the local highway authority and if so required by the local highway authority any recommendations made in the Stage 2 report must be implemented to the local highway authority's satisfaction.

(4) Prior to the issue of the provisional certificate in respect of any NLC highway works, a Stage 3 Road Safety Audit must be carried out for those works in accordance with the Road Safety Audit Standard and must be submitted to the local highway authority and if so required by the local highway authority any recommendations made in the Stage 3 report must be implemented to the local highway authority's satisfaction.

(5) A Stage 4 11-month monitoring report carried out in accordance with the Road Safety Audit Standard in respect of each phase of the NLC highway works must be submitted to the local highway authority no sooner than 8 weeks and no later than 12 weeks from the date when a complete year of accident data is available following the first anniversary of the opening of that phase for public use and if so required by the local highway authority any recommendations made in the 11-month report must be implemented to the local highway authority's satisfaction.

(6) Following receipt of the 11-month report in respect of a phase the local high-way authority may require that a Stage 4 36-month monitoring report be submitted for that phase in accordance with the Road Safety Audit Standard no sooner than 8 weeks and no later than 12 weeks from the date when three complete years of accident data is available following the third anniversary of the opening of that phase of the NLC highway works for public use and if so required by the local highway authority any recommendations in the 36-month report must be implemented to the satisfaction of the local highway authority and the undertaker must secure by the deposit of a bond with the local highway authority a sum equivalent to the local highway authority's reasonable estimate of the cost of the potential liability of the undertaker in respect of works arising from the 36-month report prior to the issue of the final certificate.

13. Approvals

(1) Any approvals, certificates, consents or agreements required or sought from or with the local highway authority pursuant to the provisions of this Part of this Schedule must not be unreasonably withheld or delayed and must be given in writing.

14. Street lighting

Notwithstanding any other provision of this Order, the design and installation of any street lighting must be carried out by the local highway authority at the cost of the undertaker.

Form [1] – form of bond

BY THIS BOND DATED [●] of [●]

RWE Renewables UK Solar and Storage Limited incorporated and registered in England and Wales with company number 14539260whose registered office is at Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, England, SN5 6PB ("the undertaker")

[XXX] (Company Registration Number **[XXX]**) whose registered office is at **[XXX]** (the "Surety"),

are held and firmly bound to:

NORTH LINCOLNSHIRE COUNCIL of Church Square House, 30-40 High Street, Scunthorpe, North Lincolnshire, DN15 6NL ("the Council")

in the maximum aggregate total sum of £[●] pounds to be paid to the Council for the payment of which sum the undertaker and the Surety bind themselves their successors and assigns.

1. The undertaker has agreed Protective Provisions with the Council which are included in Part **[x]** (for the protection of highway authorities) of Schedule **[xx]** (protective provisions) to the Tween Bridge Solar Farm Order 202[●] in which the undertaker was given the right at its own expense and subject to conditions to carry out temporary and permanent works, operations and activities in order to facilitate the construction, operation and maintenance of the Tween Bridge Solar Farm DCO Project (the "Highway Works").

2. This Bond is required under the said Protective Provisions.

NOW THE CONDITION of the above-written Bond is such that if the undertaker shall fail to duly perform and observe all the terms, provisions conditions and stipulations of the said Protective Provisions on the undertaker's part to be performed and observed according to the true intent and meaning thereof the Surety shall promptly, subject to the provisions of this Bond, pay to the Council a sum or sums demanded by them upon receipt by the Surety of a demand from the Council, in writing, stating that the undertaker is in breach of the Protective Provisions and stating the nature of the breach up to the amount of the above-written Bond PROVIDED ALWAYS that the giving by the Council of any extension of time for performing the said Protective Provisions or any stipulations therein contained and on the part of the undertaker to be performed or any other forgiveness or forbearance on the part of the Council or its successors or assigns shall not in any way release the Surety from any liability under the above-written Bond.