

**DATED 8 October 2021**

**(1) EAST SUFFOLK COUNCIL**

**(2) SUFFOLK COUNTY COUNCIL**

**(3) NNB GENERATION COMPANY (SZC) LIMITED**

---

**SUFFOLK ENVIRONMENT CHARITY DEED**

pursuant to section 1 of the Localism Act 2011  
and section 111 of the Local Government Act 1972  
relating to the Sizewell Environment Trust Body

---

THIS DEED is made on

8<sup>th</sup> October

2021

**BETWEEN:**

- (1) **EAST SUFFOLK COUNCIL** of East Suffolk House, Station Road, Melton, Woodbridge, England IP12 1RT ("**East Suffolk Council**");
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("**Suffolk County Council**"); and
- (3) **NNB GENERATION COMPANY (SZC) LIMITED** whose registered office is at 90 Whitfield Street, London, England W1T 4EZ (Company Number 09284825) ("**SZC Co**"),

(each a "**Party**" and together, the "**Parties**").

**RECITALS:**

- (A) East Suffolk Council and Suffolk County Council are both local authorities for the area in which the Project is situated and are two of the organisations that make up the Suffolk Coast & Heaths AONB Partnership, which has legal duties in relation to areas of outstanding natural beauty under the Countryside and Rights of Way Act 2000.
- (B) SZC Co intends to construct, operate and maintain the Project as authorised by the Development Consent Order.
- (C) This Deed sets out the terms on which the Suffolk Environment Charity will be established and funded by SZC Co.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this Deed (which includes the Recitals to it) the following words and expressions have the following meanings unless the context otherwise requires:

"Application"	means the application for a development consent order under section 37 of the Planning Act 2008 submitted to the Planning Inspectorate by SZC Co on 27 May 2020 and given reference number EN010012;
"CIO"	means a charitable incorporated organisation ('CIO') as defined in the Charities Act 2011;
"Commencement"	has the meaning given in the Deed of Obligation;
"Construction Period"	means the period between (i) Commencement; and (ii) the date of receipt of fuel for the second nuclear reactor unit (unit 2) authorised by the Development Consent Order;
"Councils"	means East Suffolk Council and Suffolk County Council (and "Council" shall mean either one of them as the context may require);
"CPIH"	means the consumer prices index including owner-occupiers' housing costs excluding indirect taxes published by the Office for National Statistics or any official publication substituted for it;

"Deed of Obligation"	has the meaning given in the Development Consent Order;
"Development Consent Order"	means the development consent order to be made pursuant to the Application (including any non-material or material change that may be made to any development consent order);
"Dispute"	means any dispute, claim, controversy or difference arising out of or in connection with this Deed, including any question regarding its existence, validity, subject matter, interpretation, negotiation, termination or enforceability, and any dispute, claim, controversy or difference regarding any non-contractual obligations arising out of or in connection with it;
"First Annual Contribution"	means the unrestricted donation in the sum of £1,500,000;
"Index"	means the CPIH for the United Kingdom or in default of publication thereof such substitute index as the Parties may agree;
"Interest Rate"	means 2% above the Bank of England base rate applicable at the Payment Date;
"Natural Beauty"	means the definition in accordance with the Natural Beauty Criterion (used in the Countryside and Rights of Way Act 2000) with regard to Areas of Outstanding Natural Beauty;
"Operational Period"	means the period during which the Sizewell C nuclear power station authorised by the Development Consent Order is operational, prior to commencement of its decommissioning;
"Payment Date"	means the date when donations are due to be paid by SZC Co to the Suffolk Environment Charity pursuant to this Deed;
"Project"	means the authorised development as defined in and authorised by the Development Consent Order;
"Suffolk Environment Charity"	means a CIO with the objects set out in the Schedule to this Deed;
"Second Annual Contribution"	means the donation in the sum of £750,000;



"Trustee"	means a trustee of the Suffolk Environment Charity;
"Undertaking"	has the meaning given in the Deed of Obligation; and
"Working Day"	means any day apart from Saturday, Sunday and any statutory bank holiday on which clearing banks are open in England for the transaction of ordinary business.

- 1.2 In this Deed, unless otherwise indicated, reference to any:-
- 1.2.1 words importing the singular meaning include the plural meaning and vice versa;
  - 1.2.2 words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, other corporate bodies, firms or legal entities and all such words shall be construed interchangeably in that manner;
  - 1.2.3 Acts of Parliament shall include any amendment, modification, extension, consolidation or re-enactment of that Act for the time being in force and in each case shall include all statutory instruments, orders, regulations and directions for the time being made, issued or given under that Act or deriving validity from it;
  - 1.2.4 references to East Suffolk Council shall include the successors to East Suffolk Council's statutory functions as local planning authority;
  - 1.2.5 references to Suffolk County Council shall include the successors to Suffolk County Council's statutory and other functions as a local planning authority, local education authority, the lead local flood authority, fire and rescue authority, local highway authority and local authority; and
  - 1.2.6 words denoting an obligation on a party to do any act, matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause, permit or suffer any infringement of the restriction.
- 1.3 The Schedule forms part of this Deed and shall have effect as if set out in the full body of this Deed. Any reference to this Deed includes the Schedule.
- 1.4 Headings where they are included are for convenience only and are not intended to influence the construction and interpretation of this Deed.
- 1.5 Any notice, notification, consent, approval, agreement, request or statement or details to be made, given or submitted under or in connection with this Deed shall be made or confirmed in writing.
- 2. LEGAL EFFECT**
- 2.1 This Deed is made pursuant to Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other powers so enabling.
- 2.2 Nothing in this Deed shall restrict nor inhibit either Council from properly exercising its statutory role.
- 3. SZC CO'S OBLIGATIONS**
- 3.1 SZC Co covenants with the Councils to perform the obligations on its part set out in the Schedule to this Deed.



- 3.2 Unless otherwise agreed with both Councils, SZC Co covenants that it will require any person to whom the Undertaking is transferred pursuant to the Secretary of State's consent under the Development Consent Order to enter into a deed with the Councils in like terms to this Deed (including this clause 3) ('Novation Agreement') prior to the consenting of such transfer by the Secretary of State PROVIDED THAT such Novation Agreement shall only take effect after such consent has been granted by the Secretary of State.
- 3.3 The Councils will, within 10 Working Days of request by SZC Co, enter into the Novation Agreement with any person to whom the Undertaking is transferred pursuant to the Secretary of State's consent under the Development Consent Order.
- 3.4 SZC Co shall upon completion of the Novation Agreement and the granting of Secretary of State's consent for the transfer of the Undertaking be released from all obligations in this Deed but without prejudice to the rights of the Parties in relation to any antecedent breaches of those obligations.

#### 4. **THE COUNCILS' OBLIGATIONS**

Without prejudice to the proper performance of their statutory functions and legal obligations, the Councils covenant with SZC Co to perform the obligations on their parts set out in the Schedule to this Deed.

#### 5. **VARIATION**

No variation of this Deed shall be effective unless it is made in writing and executed as a deed by, or on behalf of, each of the Parties.

#### 6. **CONFIDENTIALITY AND FREEDOM OF INFORMATION**

- 6.1 This clause 6 shall not affect either Council's duty to disclose information where it is required by law to do so following a Freedom of Information or Environmental Information Regulations request for information held by the relevant Council and nothing in this Deed (including its Schedule) shall require the Councils to do anything that would be or that the relevant Council is properly advised by its legal advisors would be contrary to data protection, confidentiality and/or any other applicable legal requirements or otherwise unlawful for any reason.
- 6.2 Subject to Clause 6.1, where either Council receives any requests under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 for any information concerning the Project or this Deed, it shall notify SZC Co prior to release of any requested information and shall take into account any representations made by SZC Co which are received before the relevant Council is required to respond to any such requests.

#### 7. **THIRD PARTY RIGHTS**

Any person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed and this Deed may be amended by the Parties without the consent of any third party.

#### 8. **INDEXATION AND INTEREST**

- 9.1 Unless otherwise indicated in this Deed, all payments and financial contributions to be paid, provided or made available pursuant to this Deed will be increased by reference to the amount of the increase in the Index from the date of this Deed until the date payment is due in accordance with the following formula (where the Index at Payment Date / Index at today's date is equal to or greater than one (1)):

*Amount Payable = Sum x (Index at Payment Date / Index at today's date)*

where:

"Amount Payable" is the amount of money required to be paid;

"Sum" is the amount of the financial contribution or other sum of money stated in this Deed;



"Index at Payment Date" is the Index published two months before the Payment Date; and

"Index at today's date" is the relevant Index published two months prior to the date the Development Consent Order for the Project is made.

9.2 Where any obligation in this Deed is expressed to require SZC Co to pay any sum of money, interest at the Interest Rate shall be payable in addition to the sum of money itself calculated from the due date to the date on which the sum of money is actually paid.

9. **REASONABLENESS**

Unless expressly stated otherwise where under this Deed any approval, agreement or action is required to be given by, reached or taken by any Party or any response is requested by any such approval, agreement or action, it will not be unreasonably withheld or delayed and the Parties will act reasonably at all times.

10. **NOTICES AND NOTIFICATIONS**

10.1 Any notice or notification under this Deed shall be in writing and shall be served on the following persons at the address set out below or as otherwise specified by the relevant party by notice in writing:

<b>SZC Co</b>	<b>East Suffolk Council</b>	<b>Suffolk County Council</b>
Address: NNB Generation Company (SZC) Limited, 90 Whitfield Street, London, England W1T 4EZ Relevant addressee: Chief Planning Officer	Address: Riverside, 4 Canning Road, Lowestoft, England NR33 0EQ Relevant addressee:  Head of Planning and Coastal Management	Address: Endeavour House, 8 Russell Road, Ipswich, Suffolk, England IP1 2BX Relevant addressee: Executive Director of Growth, Highways and Infrastructure

10.2 Any notice or other communication shall be deemed to have been duly received:

10.2.1 if delivered by hand, when left at the address and for the contact referred to in this clause;

10.2.2 if sent by pre-paid first class post or recorded delivery, by 9.00am on the second Working Day after posting; or

10.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

10.3 A copy of any notice or notification may also be sent by e-mail to the relevant party's authorised representative(s), but for the avoidance of doubt a notice or notification given under this Deed is not valid if served by e-mail.

10.4 These provisions shall not apply to the service of any proceedings or other documents in any legal action.

11. **SEVERABILITY**

If any provision of this Deed shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be deemed

thereby to be affected, impaired or called into question and shall remain in full force and effect.

**12. GOOD FAITH**

The Parties agree with one another to act reasonably and in good faith in the fulfilment of their respective obligations under this Deed.

**13. DISPUTE RESOLUTION**

- 13.1 Any Dispute shall be resolved in accordance with the procedure in this clause 13.
- 13.2 This Deed and any Dispute shall be governed by, and construed in accordance with, English law.
- 13.3 The Party raising any Dispute shall first serve written notification of the Dispute to the other Party (a "Dispute Notice"). Within 30 days of the service of a Dispute Notice, senior representatives of each Party shall meet to seek to resolve the Dispute in good faith. If within 30 days of service of the Dispute Notice no meeting has taken place or the Dispute has not been resolved, either Party shall be entitled to commence litigation.
- 13.4 Each Party irrevocably agrees that the Courts of England shall have exclusive jurisdiction in relation to any Dispute.
- 13.5 Each Party irrevocably waives any right that it may have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.

**14. COUNTERPARTS**

This Deed may be executed in any number of counterparts, each of which is an original and all of which may together evidence the same agreement.

**15. DATE OF DELIVERY**

This Deed is delivered on the date of this Deed.



## SCHEDULE

### 1. ESTABLISHMENT OF THE SUFFOLK ENVIRONMENT CHARITY

- 1.1 SZC Co shall use all reasonable endeavours to set up the Suffolk Environment Charity, in consultation with and to the satisfaction of East Suffolk Council and Suffolk County Council, prior to Commencement.
- 1.2 The Parties shall cooperate in good faith when preparing the Charity Commission application for the Suffolk Environment Charity and when responding to any queries from the Charity Commission in relation to the application, including any queries which require changes to any of the matters set out in this Deed.
- 1.3 If for any reason the Charity Commission determines that the objects set out in paragraph 2.1 below (or any amended objects agreed between the Parties that are submitted) are not charitable with the result that the Suffolk Environment Charity cannot be incorporated as a CIO or other incorporated charity, the Parties will negotiate in good faith with a view to establishing an alternative incorporated body on terms broadly similar to those set out in this Deed to discharge the objects and into which the financial contributions set out in paragraph 3 below will be paid.
- 1.4 The constitution of the Suffolk Environment Charity shall reflect the principles set out in paragraph 2.

### 2. CONSTITUTIONAL MATTERS

#### Objects

- 2.1 Subject to the approval of the Charity Commission, the Suffolk Environment Charity will be a CIO and its objects will be to promote, for the benefit of the public, the conservation, protection and improvement of the physical and natural environment, including the protection and enhancement of Natural Beauty and the advancement of the education of the public in the conservation, protection and improvement of the physical and natural environment in and around East Suffolk.

#### Appointment of Trustees

- 2.2 At inception of the Suffolk Environment Charity:
  - 2.2.1 each Party to this Deed shall appoint two Trustees ("Party Appointed Trustees"); and
  - 2.2.2 the Party Appointed Trustees shall appoint a further two Trustees ("Third Party Trustees"). The Parties shall collaborate and consult one another in relation to the Party Appointed Trustees.
- 2.3 The Parties agree that the Suffolk Environment Charity's constitution shall provide that:
  - 2.3.1 the minimum number of Trustees shall be six and the maximum number of Trustees shall be eight;
  - 2.3.2 each Party to this Deed shall have the right to appoint up to two Party Appointed Trustees;
  - 2.3.3 the board of Trustees shall have the right to appoint up to two Third Party Trustees;
  - 2.3.4 in the event a Party Appointed Trustee ceases to hold office, the relevant Party shall have the right to appoint a replacement; and
  - 2.3.5 in the event a Third Party Trustee ceases to hold office, the board of Trustees shall have the right to appoint a replacement.



### **Decision-making and administrative matters**

- 2.4 The Parties agree that the Suffolk Environment Charity's constitution shall, in the first instance, provide that any meeting will be quorate if at least three Trustees are present, provided that the quorum includes one Party Appointed Trustee appointed by each of the Parties. The Parties shall collaborate and consult one another in relation to how conflicts of interest might affect the quorum, and negotiate in good faith to ensure that an appropriate mechanism is included in the Suffolk Environment Charity's constitution.

### **Advisory Committee**

- 2.5 The Parties' intention is that the Trustees will establish an advisory committee ("Advisory Committee") which shall exist for the lifetime of the Suffolk Environment Charity and with whom the Trustees may consult in relation to all matters on which the Trustees take decisions.
- 2.6 The Parties' intention is that the Advisory Committee will include at least two representatives from SZC Co, at least one from Suffolk County Council and at least one from East Suffolk Council (unless otherwise agreed by these Parties).
- 2.7 The Parties' intention is that the Advisory Committee may include representatives from local interest groups, statutory and non-statutory organisations, and individuals with expertise and experience in matters relating to the Suffolk Environment Charity's objects.

### **Raising of further funds**

- 2.8 Notwithstanding the contributions made to the Suffolk Environment Charity by SZC Co pursuant to this Deed, the Parties' intention is that the Suffolk Environment Charity shall seek to supplement its funds through third party donations and grants.

## **3. FINANCIAL CONTRIBUTIONS**

- 3.1 SZC Co shall make an initial unrestricted donation in the amount of the First Annual Contribution to the Suffolk Environment Charity by the later of 10 Working Days after: (i) Commencement; or (ii) registration of the Suffolk Environment Charity as a CIO by the Charity Commission.
- 3.2 On each anniversary of Commencement until twenty (20) years from the end of the Construction Period thereafter, SZC Co shall pay the Suffolk Environment Charity the First Annual Contribution and shall provide written confirmation of each donation to the Councils at the time the relevant donation is made.
- 3.3 Upon the twenty-first anniversary of the end of the Construction Period and on each anniversary of that date until the end of the Operational Period SZC Co shall pay the Suffolk Environment Charity the Second Annual Contribution and shall provide written confirmation of each donation to the Councils at the time the relevant donation is made.

IN WITNESS WHEREOF THIS DEED HAS BEEN DULY EXECUTED BY THE PARTIES TO THIS DEED ON THE DATE WHICH APPEARS AT THE HEAD OF THIS DOCUMENT

The **COMMON SEAL** of **EAST SUFFOLK COUNCIL** was hereunto affixed in the presence of: )  
)  
)



597



Authorised signatory



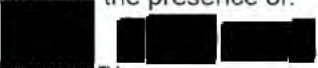
The **COMMON SEAL** of **SUFFOLK COUNTY COUNCIL** was hereunto affixed in the presence of: )  
)  
)



65123



Authorised signatory



Executed as a Deed by **NNB GENERATION COMPANY (SZC) LIMITED** acting by Humphrey Cadoux-Hudson in the presence of

