

12. LIMITATION OF CAPACITY

- 12.1 The Company shall only be obliged to allow the import of electricity from, and/or the export of electricity to, the Distribution System through the Connection Point at levels equal to or below the Maximum Import Capacity and/or the Maximum Export Capacity (respectively).
- 12.2 Subject to the other provisions of this Agreement, the Company shall use reasonable endeavours to:
- 12.2.1 ensure that the Maximum Import Capacity and the Maximum Export Capacity is available at the Connection Point at all times during the period of this Agreement; and
 - 12.2.2 maintain the connection characteristics at the Connection Point.
- 12.3 The Customer shall ensure that the import of electricity from, and/or the export of electricity to, the Distribution System through the Connection Point does not exceed the Maximum Import Capacity and/or the Maximum Export Capacity (respectively). Where the Customer is unsure of the Maximum Import Capacity and/or the Maximum Export Capacity, it shall contact the Company (and the Company will inform the Customer of the applicable capacities).
- 12.4 On each occasion that the Customer breaches Clause 12.3 (and without prejudice to the Company's other rights and remedies, including under Clause 5), the Customer shall:
- 12.4.1 upon written notice from the Company, take the necessary actions to reduce the import and/or export of electricity to within the Maximum Import Capacity and/or the Maximum Export Capacity within the period of time specified in the notice; and
 - 12.4.2 where it wishes to do so, propose a variation to the Maximum Import Capacity and/or the Maximum Export Capacity in accordance with Clause 12.6; or
 - 12.4.3 where it wishes to do so, submit a Modification Application to the Company in accordance with Clause 14.
- 12.5 Following the occurrence of a breach of Clause 12.3 (and without prejudice to the Company's other rights and remedies, including under Clause 5), the Company shall (to the extent it is unable to recover the relevant amounts from the Registrant) be entitled to charge the Customer (in which case the Customer shall pay forthwith upon demand) such sum as the Company may require for such import or export calculated in accordance with the Company's then current charges

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Under Utilisation of Capacity

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12.6 If at any time the Customer either imports no electricity from and/or exports no electricity to the Distribution System through the Connection Point for a continuous period exceeding 6 months then the Company may at anytime thereafter notify the Customer in writing of its intention to De-energise or Disconnect the Connection Point and reduce the Maximum Import Capacity and/or the Maximum Export Capacity to zero and terminate this Agreement.

12.7 If at any time the Customer either imports electricity from and/or exports electricity to the Distribution System through the Connection Point the maximum demand of which at no time during a continuous period of 12 months exceeds 75% of the Maximum Import Capacity and/or the Maximum Export Capacity then the Company may at anytime thereafter notify the Customer in writing of its intention to:

12.7.1 reduce the Maximum Import Capacity and/or the Maximum Export Capacity to such amount as the Company reasonably considers to be appropriate; and/or

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12.7.2 replace the Company's Equipment, or any part thereof with plant and/or apparatus of a lower rating sufficient to meet such reduced Maximum Import Capacity and/or the Maximum Export Capacity and recover any reasonable costs incurred from the Customer in so doing.

12.8 If after 30 days of the date of notice sent by the Company pursuant to Clause 12.6 or 12.7, the Customer fails to serve a counter notice to the Company, stating its requirement to maintain the Maximum Import Capacity and/or the Maximum Export Capacity and reasonable justification for it so doing, the Company shall be entitled to take the intended action stated in the notice.

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12.69 Except where a variation requires a Modification, either party may propose a variation to the Maximum Import Capacity and/or Maximum Export Capacity by notice in writing to the other Party. The Company and the Customer shall negotiate in good faith such a variation, but where it is not agreed section 23 of the Act may entitle the Customer to refer the matter to the Authority.

12.710 Any reduction in the Maximum Import Capacity or the Maximum Export Capacity pursuant to Clause 12.69 shall, where the Parties have within the preceding 12 months agreed the Maximum Import Capacity or the Maximum Export Capacity (as applicable), only take effect following the expiry of 12 months from the date of such previous agreement (unless the Company expressly agrees otherwise).