

DCP 304 Draft Legal Text

Metering Works by Non-Appointed Meter Operator

Add the following new definitions in Clause 1:

Third Party Electricity Supplier

means, in relation to a Metering Point, the Supplier Party Registered for a different Metering Point where the two Metering Points have Proximate Metering Equipment (as further described in Clause 52M.2 or 52Q.2, as applicable).

Third Party Metering Point

means, in relation to a Metering Point, a different Metering Point where the two Metering Points have Proximate Metering Equipment.

Permitted Smart Metering Works

means, in respect of a Metering Point for which a Supplier Party is not Registered, works by (or on behalf of) that Supplier Party (being the Third Party Electricity Supplier) in respect of that Metering Point (being the Third Party Metering Point) where and to the extent that such works are reasonably necessary in relation to the installation or maintenance of a Smart Metering System for the Metering Point for which the Third Party Electricity Supplier is Registered; provided that those works shall be limited to the following:

- (a) minimal repositioning of the metering equipment relating to the Third Party Metering Point within a communal metering equipment space;
- (b) work on looped neutral(s) on the metering equipment relating to the Third Party Metering Point;
- (c) work on a shared supply used by the metering equipment relating to the Third Party Metering Point;

Commented [GWL1]: These definitions are key to how the legal drafting works, so please make sure they reflect your intent.

Commented [GWL2]: There is reference in the consultation to breaking seals. Does this need to be referred to expressly?

Commented [GWL3]: This does not have a precise meaning. For example, we could say – no more than x cm.

Commented [GWL4]: Is this well understood by those who need to understand?

Commented [GWL5]: Is this well understood by those who need to understand?

- (d) [investigation/remedial revenue protection work;]
and
- (e) installation of an isolator in respect of the metering
equipment relating to the Third Party Metering Point.

Commented [GWL6]: This does not seem to be necessary in order to install/maintain a SMS. Can you please better explain what is intended? Or shall we delete?

Commented [GWL7]: Is this well understood by those who need to understand?

Proximate Metering Equipment

means metering equipment relating to one or more Metering Points which is located near to metering equipment relating to one or more other Metering Points.

Amend the following definitions in Clause 1:

Company

has:

- (a) in respect of Section 2A, the meaning given to that term in Clause 15.1;
- (b) in respect of Section 2B, the meaning given to that term in Clause 36.1;
- (c) in respect of Section 2C, the meaning given to that term in Clause 52A.1; ~~and~~
- (d) in respect of Section 2D, the meaning given to that term in Clause 52G.4;
- (e) in respect of Section 2E, the meaning given to that term in Clause 52M.1; and
- (f) in respect of Section 2F, the meaning given to that term in Clause 52Q.4.

Connectee

means, in respect of:

- (a) Section 2A 2C~~or~~ 2D, 2E or 2F and a Customer Installation, the relevant Customer;

- (b) Section 2A and a Generation Installation, the relevant Generator;
- (c) Section 2A and a User Installation, the User; and
- (d) Section 2B, a person whose premises are connected to the Company's Distribution System or a person whose premises are connected to the User's System (as determined in accordance with Clause 36.4).

Customer

means:

- (a) in respect of Section 2A, a person to whom a User proposes to supply, or for the time being supplies, electricity through an Exit Point, or from whom a User, or any Relevant Exempt Supplier, is entitled to recover charges, compensation or an account of profits in respect of electricity supplied through an Exit Point; and
- (b) in respect of Section 2B 2C ~~or 2D~~ 2E or 2F, any owner or occupier of premises in Great Britain who is supplied or requires to be supplied with electricity, and includes an electricity supplier when acting on behalf of such a person.

De-energise

means:

- (a) in respect of Section 2A 2C ~~or 2D~~ 2E or 2F, deliberately to prevent the flow of electricity until Re-energised or Disconnected:
 - (i) in the case of an Exit Point, from the Distribution System through the relevant Exit Point (or, in the case of an Unmetered Supply, any one or more of the relevant Exit Points) to; and/or

(ii) in the case of an Entry Point, via the Distribution System through the relevant Entry Point (or, in the case of an Unmetered Supply, any one or more of the relevant Entry Points) from,

a Connected Installation, for any purpose other than a System Outage on the Company's Distribution System (and cognate expressions shall be construed accordingly); and

(b) in respect of Section 2B, deliberately to prevent the flow of electricity through a Connection Point for any purpose other than a System Outage on the Company's Distribution System until Re-energised or Disconnected (and cognate expressions shall be construed accordingly).

Electricity Supplier

(a) in respect of Section 2C and any Smart Metering Comms Hub Device, means the Supplier Party that is Registered from time to time for the Metering Point associated with the Premises to which that Smart Metering Comms Hub Device relates; ~~or~~

(b) in respect of Section 2D, has the meaning given to that expression in Clause 52G.1; ~~or~~

(c) in respect of Section 2F, has the meaning given to that expression in Clause 52Q.1.

Re-energise

means:

(a) in respect of Section 2A 2C ~~or~~ 2D, 2E or 2F, deliberately to allow the flow of electricity:

(i) in the case of an Exit Point, from the Distribution System through the relevant Exit Point (or, in the case of an Unmetered Supply, any one or more

- of the relevant Exit Points) to; and/or
- (ii) in the case of an Entry Point, to the Distribution System through the relevant Entry Point (or, in the case of an Unmetered Supply, any one or more of the relevant Entry Points) from,
- a Connected Installation, where such flow of electricity was previously prevented by De-energisation Works (and cognate expressions shall be construed accordingly); and
- (b) in respect of Section 2B, deliberately to allow the flow of electricity through a Connection Point, where such flow was previously prevented by De-energisation Works (and cognate expressions shall be construed accordingly).

Add the new Sections 2E and 2F set out on the following pages

**Gowling WLG (UK) LLP
6 December 2017**

**SECTION 2E – DISTRIBUTOR TO THIRD PARTY ELECTRICITY
SUPPLIER RELATIONSHIPS**

SCOPE OF SECTION 2E

This Section 2E and the Schedules referred to in it set out the terms and conditions pursuant to which a DNO/IDNO Party shall allow a Third Party Electricity Supplier to undertake Permitted Smart Metering Works.

52M INTERPRETATION OF SECTION 2E

Party Obligations

52M.1 In this Section 2E, in the Schedules when applied pursuant to this Section 2E, and in the terms defined in Clause 1 when used in this Section 2E or those Schedules, a reference to a "**Company**" is a reference to each Party that is either a DNO Party or an IDNO Party separately and individually and, where an obligation is imposed on, or a right granted to, a Company, that obligation is imposed on, and that right is granted to, each such Party separately and independently.

52M.2 In this Section 2E, in the Schedules when applied pursuant to this Section 2E, and in the terms defined in Clause 1 when used in this Section 2E or those Schedules, a reference to a Third Party Electricity Supplier is:

52M.2.1 a reference to each Party that is a Supplier Party separately and individually and, where an obligation is imposed on, or a right is granted to, a Third Party Electricity Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and

52M.2.2 when made in relation to a Company and any period of time, a reference to each Supplier Party (separately, individually and to the relevant extent) who is (or was), during that period, Registered for a Metering Point relating to an Entry Point or an Exit Point on that Company's Distribution System for which there is (or was) one or more Third Party Metering Points.

52M.3 This Section 2E, and the Schedules when applied pursuant to it, shall:

52M.3.1 only create rights and obligations between DNO/IDNO Parties (on the one hand) and Supplier Parties (on the other), and shall not create rights or obligations between DNO/IDNO Parties and other DNO/IDNO Parties or between Supplier Parties and other Supplier Parties;

52M.3.2 not apply to the OTSO Party or to DG Parties or to Gas Supplier Parties;

52M.3.3 only create obligations between a Company and a Third Party Electricity Supplier to the extent that, and in relation to those periods for which, that Third Party Electricity Supplier is (or was) Registered for a Metering Point

relating to an Entry Point or an Exit Point on that Company's Distribution System for which there is (or was) one or more Third Party Metering Points; and

52M.3.4 not impose any obligations between a Company and a Third Party Electricity Supplier in relation to periods for which that Third Party Electricity Supplier is (or was) not Registered for a Metering Point relating to an Entry Point or an Exit Point on that Company's Distribution System for which there is (or was) one or more Third Party Metering Points.

References in Relation to Companies

52M.4 In this Section 2E, in the Schedules when applied pursuant to this Section 2E, and in the terms defined in Clause 1 when used in this Section 2E or those Schedules, references to:

52M.4.1 an Entry Point or Exit Point are, when made in relation to a Company, references to an Entry Point or Exit Point on that Company's Distribution System; and

52M.4.2 a Metering Point are, when made in relation to a Company, references to a Metering Point relating to an Entry Point or Exit Point on such Company's Distribution System.

Application Limited to Whole Current Metering at Exit Points

52M.5 This Section 2E shall only apply to Third Party Metering Points relating to Exit Points for which the supply of electricity is metered directly by putting the full electrical current through the meter (known as 'whole current metering').

Commented [GWL68]: I've taken out the interpretation for Supplier Parties, as we need to be clear in every case whether we are talking about a Supplier's own Metering Points or its Third Party Metering Systems. I've also limited the Company's to Entry/Exit/Metering Points as these are the only expressions used.

Commented [GWL69]: Is this right?

52N DE-ENERGISATION AND RE-ENERGISATION WORKS

Requirements for those undertaking Works

52N.1 De-energisation Works and Re-energisation Works carried out by or on behalf of the Third Party Electricity Supplier pursuant to this Clause 52B shall only be carried out by a person working on behalf of a Meter Operator Agent engaged by the Third Party Electricity Supplier.

Good Industry Practice

52N.2 The Third Party Electricity Supplier shall each act in accordance with Good Industry Practice when carrying out, or procuring the carrying out of, any De-energisation Works or Re-energisation Works.

Works Undertaken by the Third Party Electricity Supplier

52N.3 If the Third Party Electricity Supplier wishes to undertake Permitted Smart Metering Works in respect of a Third Party Metering Point, then the Third Party Electricity Supplier may (to the extent reasonably required in order to do so, and with no prior notice to the Company) De-energise the Exit Point to which the Third Party Metering Point relates in order to do so; provided that the Third Party Electricity Supplier Re-energises that Exit Point as soon as reasonably practicable thereafter.

Commented [GWL10]: So it can't de-energise Entry Points.

52N.4 If the Third Party Electricity Supplier resolves to De-energise and/or Re-energise an Exit Point pursuant to Clause 52N.3, then the Third Party Electricity Supplier shall:

52N.4.1 (subject to Clauses 52N.2 and 52O) decide on the extent and nature of the De-energisation Works and Re-energisation Works, and shall undertake such De-energisation Works and Re-energisation Works at its own cost; and

52N.4.2 comply with the Relevant Instruments and the Distribution Code in relation to the De-energisation Works and Re-energisation Works.

Other Matters

52N.5 For the avoidance of doubt, the Third Party Electricity Supplier shall only be entitled to Re-energise an Exit Point that has been De-energised by (or on behalf of) the Third Party Electricity Supplier pursuant to this Agreement.

Commented [GWL11]: The distributor doesn't need rights to de-energise an Entry/Exit Point, as it already has these rights under Section 2A

Non-Interference

- 52N.6 The Company shall ensure that the Third Party Electricity Supplier (and its Meter Operator Agent when acting in its capacity as such) is entitled to interfere with the Distribution System to the extent it is necessary to do so in exercising the Third Party Electricity Supplier's rights or complying with its obligations under this Clause 52N or Clause 52O. The Third Party Electricity Supplier shall not (and shall ensure that its Meter Operator Agent when acting in its capacity as such shall not) otherwise interfere with the Distribution System (subject to any contrary agreement between the Third Party Electricity Supplier and the Company, including as set out in Section 2A of this Agreement).
- 52N.7 The Third Party Electricity Supplier shall indemnify the Company against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising directly from physical damage to the property of any person caused by the Third Party Electricity Supplier's Meter Operator Agent in exercising the Third Party Electricity Supplier's rights under this Clause 52N (but excluding liability for any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill, and subject to a cap of £1 million per incident or series of related incidents).

Commented [GWL12]: Is this indemnity necessary/justified?
When a Supplier undertakes works in respect of a Metering Point for which it is registered, there is no indemnity (but there is the ability to sue for breach of contract if good industry practice obligation has been breached).

52O METER OPERATION CODE OF PRACTICE AGREEMENT

52O.1 The Third Party Electricity Supplier shall procure that the Meter Operator Agent which carries out De-energisation Works and/or Re-energisation Works in respect of an Exit Point pursuant to Clause 52N shall be party to the Meter Operation Code of Practice Agreement, and shall comply with the Meter Operation Code of Practice Agreement in relation to those works.

52P PROVISION OF INFORMATION

Interference

- 52P.1 Without prejudice to the Third Party Electricity Supplier's obligations under Clause 30 (Provision of Information), the Third Party Electricity Supplier shall (and shall ensure that its contractors and agents shall) in a prompt and appropriate manner having regard to the nature of the incident, inform the Company where the Third Party Electricity Supplier has (or in the case of the Third Party Electricity Supplier's contractors and agents, such contractors and agents have) reason to believe that there has been interference with any electricity metering equipment relating to Third Party Metering Points that has prevented such metering equipment from correctly registering the quantity of electricity supplied unless the Third Party Electricity Supplier believes that the damage or interference was caused by the Company.
- 52P.2 Where the Third Party Electricity Supplier has reason to believe that any damage or interference reported by it (or by its contractors or agents) under Clause 52P.1 has been caused by a criminal act, it shall provide the Company with such information as is reasonably required for investigating the incident and resolving any safety concerns arising out of it.

Commented [GWL13]: Dangerous Incidents and damage to distribution network are already covered under Section 2A.

Commented [GWL14]: Damage to

Commented [GWL15]: The confidentiality provisions in clauses 34 and 35 apply in respect of information disclosed to one another by virtue of the Agreement, which will apply to information exchanged under Section 2E.

**SECTION 2F – ELECTRICITY SUPPLIER TO THIRD PARTY
ELECTRICITY SUPPLIER RELATIONSHIPS**

SCOPE OF SECTION 2F

This Section 2F and the Schedules referred to in it set out the terms and conditions pursuant to which a Supplier Party shall allow a Third Party Electricity Supplier to undertake Permitted Smart Metering Works.

52Q INTERPRETATION OF SECTION 2F

Party Obligations

52Q.1 In this Section 2F, in the Schedules when applied pursuant to this Section 2F, and in the terms defined in Clause 1 when used in this Section 2F or those Schedules, a reference to an "**Electricity Supplier**" is:

52Q.1.1 a reference to each Party that is a Supplier Party separately and individually and, where an obligation is imposed on, or a right granted to, an Electricity Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently;

52Q.1.2 when made in relation to a Metering Point and any period of time, a reference to the Supplier Party who is (or was), during that period, Registered in respect of the Metering Point; and

52Q.1.3 when made in relation to a Third Party Electricity Supplier and any period of time, a reference to the Supplier Party who is (or was), during that period, Registered in respect of the Metering Point for which the Third Party Electricity Supplier is (or was) a Third Party Electricity Supplier during that period.

52Q.2 In this Section 2F, in the Schedules when applied pursuant to this Section 2F, and in the terms defined in Clause 1 when used in this Section 2F or those Schedules, a reference to a Third Party Electricity Supplier is:

52Q.2.1 a reference to each Party that is a Supplier Party separately and individually and, where an obligation is imposed on, or a right is granted to, a Third Party Electricity Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and

52Q.2.2 when made in relation to an Electricity Supplier and any period of time, a reference to each Supplier Party (separately, individually and to the relevant extent) who is (or was), during that period, Registered for a Metering Point which is (or was) a Third Party Metering Point for a Metering Point for which the Electricity Supplier is (or was) Registered during that period.

52Q.3 This Section 2F, and the Schedules when applied pursuant to it, shall:

52Q.3.1 only create rights and obligations between Supplier Parties (on the one hand) and other Supplier Parties (on the other);

52Q.3.2 not apply to the OTSO Party or to DNO/IDNO Parties or to Gas Supplier Parties; and

52Q.3.3 only create right and obligations between Supplier Parties to the extent that, and in relation to those periods for which, the two Supplier Parties are (or were) Registered in respect of Metering Points which are Proximate Metering Points (and not otherwise).

Application Limited to Whole Current Metering at Exit Points

52Q.4 This Section 2F shall only apply to Third Party Metering Points relating to Exit Points for which the supply of electricity is metered directly by putting the full electrical current through the meter (known as ‘whole current metering’).

Commented [GWL16]: I've taken out the interpretation for Supplier Parties, as we need to be clear in every case whether we are talking about a Supplier's own Metering Points or its Third Party Metering Systems. I've also limited the Company's to Entry/Exit/Metering Points as these are the only expressions used.

Commented [GWL17]: Is this right?

52R PERMITTED SMART METERING WORKS AND DE-ENERGISATION AND RE-ENERGISATION WORKS

Requirements for those undertaking Works

52R.1 All works carried out by or on behalf of the Third Party Electricity Supplier pursuant to this Clause 52R shall only be carried out by a person working on behalf of a Meter Operator Agent engaged by the Third Party Electricity Supplier.

Commented [GWL18]: We need to cover the actual Permitted Smart Metering Works, as well as the de/re-energisation works.

Good Industry Practice

52R.2 The Third Party Electricity Supplier shall each act in accordance with Good Industry Practice when carrying out, or procuring the carrying out of, any and all works pursuant to this Clause 52R.

De-Energisation and Re-Energisation Works

52R.3 If the Third Party Electricity Supplier wishes to undertake Permitted Smart Metering Works in respect of a Third Party Metering Point, then the Third Party Electricity Supplier may (to the extent reasonably required in order to do so, and with no prior notice to the Electricity Supplier) De-energise the Exit Point to which the Third Party Metering Point relates in order to do so; provided that the Third Party Electricity Supplier Re-energises that Exit Point as soon as reasonably practicable thereafter.

Commented [GWL19]: So it can't de-energise Entry Points.

52R.4 If the Third Party Electricity Supplier resolves to De-energise and/or Re-energise an Exit Point pursuant to Clause 52R.3, then the Third Party Electricity Supplier shall:

52R.4.1 (subject to Clauses 52R.2 and 52S) decide on the extent and nature of the De-energisation Works and Re-energisation Works, and shall undertake such De-energisation Works and Re-energisation Works at its own cost; and

52R.4.2 comply with the Relevant Instruments and the Distribution Code in relation to the De-energisation Works and Re-energisation Works.

Commented [GWL20]: The Electricity Supplier does not need a right to de-energise its own equipment, and will itself be a TPES when de-energising the other supplier's equipment.

52R.5 For the avoidance of doubt, the Third Party Electricity Supplier shall only be entitled to Re-energise an Exit Point that has been De-energised by (or on behalf of) the Third Party Electricity Supplier pursuant to this Agreement.

Permitted Smart Metering Works

52R.6 The Electricity Supplier consents to the Third Party Electricity Supplier (and its Meter Operator Agent when acting in its capacity as such) undertaking the Permitted Smart Meter Works.

52R.7 [In undertaking Permitted Smart Metering Works, the Third Party Electricity Supplier may reposition the electricity metering equipment (or any part of it) on the meter board (but may not otherwise alter the position of the electricity metering equipment).]

Commented [GWL621]: Is this right? Is it consistent with (a) of the definition of Permitted Smart Metering Works?

Commented [GWL622]: Do you want to expressly refer to ensuring that WAN/HAN coverage is not materially reduced?

Non-Interference

52R.8 The Electricity Supplier consents to the Third Party Electricity Supplier (and its Meter Operator Agent when acting in its capacity as such) interfering with the electricity metering equipment for the Metering Point for which the Electricity Supplier is Registered to the extent it is necessary to do so in exercising the Third Party Electricity Supplier's rights or complying with its obligations under this Clause 52E or 52S. The Third Party Electricity Supplier shall not (and shall ensure that its Meter Operator Agent when acting in its capacity as such shall not) otherwise interfere with the electricity metering equipment for the Metering Point for which the Electricity Supplier is Registered (subject to any contrary agreement between the Third Party Electricity Supplier and the Electricity Supplier).

52R.9 Notwithstanding the consent given by the Electricity Supplier under Clause 52R.8, the Third Party Electricity Supplier shall indemnify the Electricity Supplier against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising:

52R.9.1 directly from physical damage to the property of any person caused by the Third Party Electricity Supplier's Meter Operator Agent in exercising the Third Party Electricity Supplier's rights under this Clause 52R (but excluding liability for any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill, and subject to a cap of £1 million per incident or series of related incidents); and/or

52R.9.2 directly or indirectly from any claim, by the owner of the electricity metering

equipment or the Meter Operator Agent for (in each case) the Metering Point for which the Electricity Supplier is Registered, that the Electricity Supplier is in breach of its contracts with such persons in providing consent under Clause 52R.8 (but only to the extent such contracts were entered into prior to [1 October 2013], and subject to a cap of £1 million per contract).

Commented [GWL23]: Are suppliers confident that they have permission from their MAPs to allow the MOA's of other suppliers to interfere with the MAP's assets?

Should this date now be changed to 2018?

52S METER OPERATION CODE OF PRACTICE AGREEMENT

52S.1 The Third Party Electricity Supplier shall procure that the Meter Operator Agent which carries out any and all works in respect of a Third Party Metering Point pursuant to Clause 52R shall be party to the Meter Operation Code of Practice Agreement, and shall comply with the Meter Operation Code of Practice Agreement in relation to those works.

52T PROVISION OF INFORMATION

Danger, Damage or Interference

52T.1 The Third Party Electricity Supplier shall (and shall ensure that its contractors and agents shall) in a prompt and appropriate manner having regard to the nature of the incident, inform the Electricity Supplier where the Third Party Electricity Supplier has (or in the case of the Third Party Electricity Supplier's contractors and agents, such contractors and agents have) reason to believe that:

52T.1.1 the flow of electricity through the Exit Point to which the Third Party Metering Point relates has been interrupted (and remains interrupted);

52T.1.2 there has been interference with any electricity metering equipment for the Third Party Metering Point that has prevented such metering equipment from correctly registering the quantity of electricity supplied; and/or

52T.1.3 the electricity metering equipment for the Third Party Metering Point otherwise presents a danger,

unless the Third Party Electricity Supplier believes that the Electricity Supplier has caused such circumstance to arise.

52T.2 For the purposes of giving notice under Clause 52T.1, the Third Party Electricity Supplier shall use its reasonable endeavours to establish the identity of the Electricity Supplier to whom notice should be given. Where the Third Party Electricity Supplier is unable to establish the identity of the person to whom notice should be given, it shall give such notice to the United Kingdom Revenue Protection Association.

Commented [GWLG24]: This is notification of problems identified. It is not notification of the Permitted Smart Metering Works. Should there be an obligation on the TPES to notify the ES of the works having been undertaken?

52U CONFIDENTIALITY RESTRICTIONS FOR SECTION 2F

Confidential Information

52U.1 In this Clause 52U, "**Confidential Information**" means:

52U.1.1 any information (whether in writing, in disc or electronic form, or otherwise) which has been properly disclosed to a Supplier Party under this Section 2F but which would usually be considered to be confidential; and

52U.1.2 any information which is marked as confidential or which is provided together with a covering letter or fax indicating its confidential nature,

and, to the extent that any Affiliate or Related Undertaking of the Supplier Party is in possession of Confidential Information, the Supplier Party shall procure that such Affiliate or Related Undertaking observes the restrictions in Clauses 52U.2 to 52U.4 (inclusive) as if in each such Clause there was substituted for the Supplier Party the name of the Affiliate or Related Undertaking.

Restrictions on Use and Disclosure

52U.2 Each Supplier Party undertakes that it will preserve the confidentiality of, and not directly or indirectly reveal, report, publish, disclose or transfer or use for its own purposes, Confidential Information except:

52U.2.1 in the circumstances set out in Clause 52U.3;

52U.2.2 to the extent otherwise required or expressly permitted by this Agreement or any other agreement entered into between the Supplier Parties; or

52U.2.3 with the prior consent in writing of the other Supplier Party.

52U.3 The circumstances set out in this Clause 52U.3 are:

52U.3.1 where the Confidential Information, before it is furnished to the Supplier Party, is in the public domain;

52U.3.2 where the Confidential Information:

(A) is acquired by the Supplier Party in circumstances in which this

Commented [GWL625]: We just need one clause that can apply to both Supplier Parties (as Electricity Supplier and Third Party Electricity Supplier).

Clause 52U does not apply;

(B) is acquired by the Supplier Party in circumstances in which this Clause 52U does apply, and thereafter ceases to be subject to the restrictions imposed by this Clause 52U; or

(C) after it is furnished to the Supplier Party, enters the public domain,

otherwise (in any such case) than as a result of (i) a breach by the Supplier Party of its obligations in this Clause 52U; or (ii) a breach by the person who disclosed that Confidential Information of that person's confidentiality obligation, and the Supplier Party is aware of such breach;

52U.3.3 if the Supplier Party is required or permitted to make disclosure of the Confidential Information to any person:

(A) in compliance with any requirement of a Competent Authority;

(B) in compliance with the provisions of any Relevant Instrument;

(C) in compliance with any other law or regulation;

(D) in response to a requirement of any Stock Exchange or the Panel on Takeovers and Mergers or any other regulatory authority (whether or not similar to those bodies); or

(E) pursuant to the rules of the Electricity Arbitration Association or pursuant to any judicial or arbitral process or tribunal of competent jurisdiction; or

52U.3.4 the disclosure of Confidential Information to any Affiliate or Related Undertaking of the Supplier Party, to the employees, directors, agents, consultants and professional advisers of the Supplier Party or any Affiliate or Related Undertaking of the Supplier Party, in each case on the basis set out in Clause 52U.4.

52U.4 The Supplier Party shall take all reasonable steps to ensure that any such person as is referred to in Clause 52U.3.4 to whom the Supplier Party discloses Confidential

Information does not use that Confidential Information for any purpose other than that for which it is provided and does not disclose that Confidential Information otherwise than in accordance with this Clause 52U.

Other Matters

52U.5 The Supplier Party warrants that it has effected, and undertakes that it will during the term of this Agreement effect and maintain, all such registrations as it is required to effect and maintain under the Data Protection Act to enable it lawfully to perform the obligations imposed on it by this Section 2F. The Supplier Party undertakes to comply with the Data Protection Act in the performance of this Section 2F.