

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) at any time. 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:~~ Company may service a written notice to the Customer specifying the circumstances of the breach and the courses of action available to the Customer under Clauses 12.5.1 to 12.5.3.

~~12.5 12.4.1 —upon written notice from the Company;~~ The Customer shall, on receipt of such a written notice (or, where the Customer disputes the content of the notice in accordance with Clause 12.6, following resolution of such dispute in favour of 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 within 30 Working Days either:

~~12.5.1~~~~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.~~96~~; or

~~12.4.3~~ ~~where it wishes to do so, submit a Modification Application to the Company in accordance with Clause 14.~~

12.5.2 provide the Company with an explanation as to why the Customer does not wish to submit a variation at this time; or

12.5.3 propose to the Company an alternative timescale for the Customer to take one of the courses of action referred to in Clause 12.5.1 and Clause 12.5.2, such timescale to be subject to the Company's approval (such approval not to be unreasonably withheld or delayed).

12.6 If the Customer disputes the Maximum Import Capacity and/or Maximum Export Capacity (as applicable) specified in the notice given by the Company under Clause 12.4 or otherwise disputes that a breach of Clause 12.3 has occurred, the Customer and the Company shall attempt to resolve the dispute in good faith. Where the disputes remains unresolved after 20 Working Days, the provisions of Clause 21 shall apply.

~~12.7~~~~12.5~~ ~~Following the occurrence of a breach of Clause 12.3~~ Subject to Clause 12.6 (and without prejudice to the Company's other rights and remedies, including under Clause 5), where the Customer:-

12.7.1 fails 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 required by Clause 12.5;

12.7.2 proposes a variation pursuant to Clause 12.5.1, but no variation is agreed within a reasonable period thereafter (save where the variation has been referred to the Authority and pending determination by the Authority);

12.7.3 provides an explanation referred to in Clause 12.5.2, but the Customer continually or repeatedly breaches Clause 12.3; or

12.7.4 proposes an alternative timescale pursuant to Clause 12.5.3, but that timescale is rejected by the Company (acting reasonably) or the Customer fails to comply with the alternative timescale,

then 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 be entitled to:~~

12.7.5 propose a variation to the Maximum Import Capacity and/or Maximum Export Capacity (as applicable) in accordance with Clause 12.9; or

12.7.6 provide the Customer with a Modification Offer as if the Customer had submitted an Application for a Modification requesting a Modification incorporating an increase in the Maximum Import Capacity and/or the Maximum Export Capacity (as applicable); and

12.7.7 where such variation or Modification Offer has not been accepted in accordance with its terms (save where such variation or Modification Offer has been referred to the Authority and pending determination be the Authority), install additional equipment at the Connection Point designed to limit the import and/or export of electricity from or to the Distribution System to an amount equal to the Maximum Import Capacity and/or the Maximum Export Capacity (as applicable).

12.8 Provided (and to the extent) the installation of additional equipment in accordance with Clause 12.7.8 is reasonably necessary to prevent danger or interference with the Distribution System or to avoid costs being borne by the Company or another customer in the case of future breaches of Clause 12.3, the Customer shall pay to the Company forthwith upon demand an amount equal to the reasonable costs and expenses incurred by the Company in installing and maintaining such equipment.

General

12.96 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.~~107~~ Any reduction in the Maximum Import Capacity or the Maximum Export Capacity pursuant to Clause 12.~~96~~ 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).

12.11 For the avoidance of doubt, all notices under this Clause 12 shall be sent, and shall be deemed to be served and received, in accordance with Clause 23.

End of Clause 12

NB: clause numbers in the above will need to be adjusted if DCP 115 is implemented before DCP 114.