

DCP 078 – Negative UoS Charges**1. DEFINITIONS AND INTERPRETATION**

<u>Payee</u>	<u>means, in respect of any Charges payable pursuant to Section 2A, the Party to which those Charges are payable (ordinarily being the Company, but being the User in the case of negative Use of System Charges, as referred to in Clause 19.2.1).</u>
<u>Payor</u>	<u>means, in respect of any Charges payable pursuant to Section 2A, the Party obliged to pay those Charges (ordinarily being the User, but being the Company in the case of negative Use of System Charges, as referred to in Clause 19.2.1).</u>

19. CHARGES**Charges**

19.1 The User shall pay to the Company in respect of services provided under this Agreement (and under the agreements referred to in Clause 19.2) the charges set out in the Relevant Charging Statement (save where the Company is the Payor, in which case the Company shall pay such charges to the User). The Company may vary such charges at any time by giving the requisite period of written notice to the User (where the requisite period of notice is the period specified in the Company's Relevant Charging Statement or, where no such period is specified, 40 days). Notwithstanding that the Company may vary such charges at any time the Company shall use reasonable endeavours to: (1) vary such charges no more than two times per year: and (2) vary such charges with effect from 1st April or 1st October. Such charges and any variations are and will be calculated in accordance with the provisions of the Relevant Charging Statement.

19.2 The charges referred to in Clause 19.1 (the **Charges**) shall be:

19.2.1 the charges contained or referred to in the Company's Relevant Charging Statement for the time being in force pursuant to Condition 14 of its Distribution Licence (**Use of System Charges**), which Use of System Charges may either be stated in the Relevant Charging Statement as:

(A) a positive value, in which case they shall be payable by the User to the Company; or

(B) a negative value, in which case they shall be payable by the Company to the User;

19.2.2 the charges for (i) the provision of MPAS, (ii) (where applicable) the provision of Legacy Meter Asset Provision and of Data Services, and (iii) (where applicable) the provision of last resort supply payments (all pursuant to the Company's obligations under, respectively, Condition 18, Condition 36, and Condition 38 of its Distribution Licence);

19.2.3 (to the extent not captured within Clause 19.2.1) the charges for certain services ancillary to those for which Use of System Charges are levied and which are provided by the Company to the User pursuant to any of:

(A) the BSC and the CUSC; or

(B) the Master Registration Agreement; and

19.2.4 the charges for any other services provided by the Company to the User pursuant to:

(A) a provision of this Section 2A; or

(B) any other agreement between the Company and the User for the provision of such services which provides for payment pursuant to this Agreement.

Adjustment of Charges

19.3 On any occasion upon which the Charges payable by or to the User under Clause 19.1 have not been calculated strictly in accordance with the provisions of the Relevant

Charging Statement, an appropriate adjustment shall be made by the Company and submitted to the User.

19.4 Where an adjustment in accordance with Clause 19.3:

19.4.1 discloses an overcharge, the ~~PayeeCompany~~ shall repay to the ~~PayorUser~~ the amount by which the ~~PayorUser~~ has been overcharged together with interest thereon from the due date of the invoice containing the overcharge until the date of repayment. ~~Such interest shall accrue from day to day at the base lending rate during such period of Barclays Bank plc, compounded annually;~~
or

19.4.2 discloses an undercharge, the ~~PayorUser~~ shall pay to the ~~PayeeCompany~~ the amount by which the ~~PayorUser~~ has been undercharged together with interest thereon from the due date of the invoice which should have included the amount of the undercharge until the date of payment. ~~Such interest shall accrue from day to day at the base lending rate during such period of Barclays Bank plc, compounded annually,~~

and (in either case) such interest shall accrue from day to day at the base lending rate during such period of Barclays Bank plc, compounded annually. ~~W~~Where the User disputes the adjustment, the User and the Company shall attempt to resolve the dispute in good faith. Where the dispute remains unresolved after 20 Working Days, either of them may refer the dispute to arbitration in accordance with Clause 58 and the User or the Company (as applicable) shall pay the amount payable or repayable (if any) as so determined.

Invoicing of Charges

19.5 The Company shall invoice Use of System Charges (but excluding any Transactional Charges) payable by or to the User by reference to Settlement Class using aggregated data obtained from the Supercustomer DUoS Report, except in relation to Metering Points or Metering Systems where:

19.5.1 the electricity imported via an Exit Point or exported via an Entry Point is measured by Half-Hourly Metering Equipment (as defined in the Balancing

and Settlement Code) or by an Equivalent Meter for the purposes of Settlement; and/or

19.5.2 the Use of System Charge is not comprised solely of one or more standing charges and/or one or more Unit Rates; and/or

19.5.3 the Use of System Charge is specified in the Relevant Charging Statement as not being billed by Settlement Class; and/or

19.5.4 Use of System Charges are to be determined as a result of an Extra-Settlement Determination.

19.6 All Charges payable by or to the User pursuant to this Clause 19 and Clauses 20, 21 ~~and/or~~ 22:

19.6.1 are exclusive of Value Added Tax, and the Company shall include with~~may add to~~ such Charges~~amounts~~ (and the Payor~~User~~ shall, subject to a valid invoice having been issued, pay) Value Added Tax (if any) at the rate applicable thereto from time to time, and any such Value Added Tax shall be payable at the same time and in the same manner as the amounts to which it relates; ~~and~~

19.6.2 shall be without prejudice to any claims or rights which the Payor~~User~~ may have against the Payee~~Company~~, and except as expressly permitted by Clause 19.6.3 or Schedule 4 shall be made without any set-off or deduction in respect of any claims or disputes or otherwise; and

19.6.3 shall, only where the Company submits on the same day one or more accounts for which the User is Payor and one or more accounts for which the User is Payee, be set-off against one another so that the User or the Company (as applicable) shall make a payment of the net value of those accounts.

19.7 The Company may calculate~~charge~~ the ~~User~~-Use of System Charges ~~calculated~~-by reference to electricity discovered or reasonably and properly assessed to have been exported onto, or imported from, the Distribution System at an Entry Point or Exit Point relating to a Metering Point or a Metering System for which the User is

Registered but not recorded at the time of such export or import (for whatever reason) by the metering equipment installed pursuant to Clause 29.1. At any time when the Company ~~calculates~~~~charges~~ the ~~User~~ Use of System Charges under this Clause 19.7, it shall explain to the User the calculation of those charges and the basis of that calculation.

Revision of Charges

- 19.8 Without prejudice to Clause 19.1, where the Company is intending to revise any of its Use of System Charges, it shall serve a copy of any notice it sends to the Authority pursuant to paragraph 20 of Condition 14 of its Distribution Licence on the User as soon as is reasonably practicable after such notice is sent to the Authority.

Other Matters

- 19.9 Notwithstanding Clause 15.3, the Company may charge the User Use of System Charges calculated by reference to electricity assessed to have been supplied to a Customer while a customer of the User during a period in which the User was supplying electricity to that Customer in accordance with a last resort supply direction issued by the Authority in accordance with Condition 8 of the User's Supply Licence from the time that the direction takes effect. This right subsists from the date on which the last resort supply direction takes effect, and continues regardless of whether the Metering Point applying to the Customer is registered to the User in accordance with the Master Registration Agreement, until such time as the relevant Metering Point is registered to another supplier in accordance with the terms of the Master Registration Agreement.
- 19.10 For the avoidance of doubt, nothing in this Clause 19 precludes the Company and the User, at the request of either of them, from negotiating Use of System Charges arising from or pursuant to an Extra-Settlement Determination.
- 19.11 Where any dispute arises under Clause 19.10, either of the Company or the User shall be entitled to refer the matter to the Authority as if it were a dispute falling within Condition 7 of the Company's Distribution Licence.

20. BILLING AND PAYMENT BY SETTLEMENT CLASS

- 20.1 This Clause 20 applies in respect of those ~~services falling within the scope of Clause 19.1 for which the e~~Charges to be levied ~~are invoiced~~ by reference to Settlement Class in accordance with Clause 19.5.

Initial Account

- 20.2 Following its receipt of each Supercustomer DUoS Report in accordance with the timetable for Settlement after each Settlement Run relating to each Settlement Day, the Company shall deliver Daily Statements to the User as soon as is reasonably practicable.
- 20.3 The Company shall submit to the User as soon as is reasonably practicable after the end of each charging period an account or accounts (the **Initial Account**) specifying the Use of System Charges payable by or to the User in respect of each Initial Settlement Run in respect of which a Daily Statement has been produced and which has not previously been included in an Initial Account. Such Initial Accounts shall be based on the Daily Statements provided pursuant to Clause 20.2.

Reconciliation Account

- 20.4 Where a subsequent Daily Statement for any Settlement Day indicates that, as a result of a subsequent Reconciliation Run or Post-Final Settlement Run, the Use of System Charges in respect of that Settlement Day are different from those included in an Initial Account~~previously billed~~, the Company shall calculate such difference and the interest thereon and shall submit an account (the **Reconciliation Account**) in respect of such difference to the User as soon as is reasonably practicable after the end of each charging period. Such interest shall be calculated in accordance with the provisions of Schedule 3.
- 20.5 Within 14 days of the date of an Initial Account or Reconciliation Account submitted in accordance with Clause 20.3 or 20.4, the ~~Payor~~User shall (subject to Clause 19.6) pay to the ~~Payee~~Company all sums due in respect of such Initial Account or Reconciliation Account in pounds sterling by electronic transfer of funds to such bank

account (located in the United Kingdom) as is specified in the Initial Account or Reconciliation Account (or, where the Company is the Payor, such bank account as is notified to the Company by the User from time to time), quoting the Initial Account or Reconciliation Account number against which payment is made and/or such other details as the ~~Payee~~~~Company~~ may reasonably require.

Disputes

- 20.6 Where any sum included in an Initial Account or Reconciliation Account submitted in accordance with Clause 20.3 or 20.4 is disputed by the User, the provisions of Schedule 4 shall apply.

21. SITE-SPECIFIC BILLING AND PAYMENT

- 21.1 This Clause 21 applies in respect of those ~~services falling within the scope of Clause 19.1 for which the e~~Charges ~~to be levied~~that relate to Metering Points or Metering Systems that fall within Clauses 19.5.1 to 19.5.3 (inclusive).

Submission of Account

- 21.2 As soon as is reasonably practicable after the end of each charging period, the Company shall submit to the User an account specifying the Use of System Charges payable by or to the User for the whole or any part of that charging period. Such account shall be based on:

- 21.2.1 data from metering equipment or any Equivalent Meter provided by the User in accordance with Clause 29.3 or, where actual data are not available, estimated data prepared in accordance with methods of estimation established under the Balancing and Settlement Code by the relevant Data Collector; and
- 21.2.2 other data as specified in the Relevant Charging Statement and/or the relevant Connection Agreement, provided that the Company may use estimated data prepared by the Company where the User fails to provide the data under Clause 21.2.1 and 21.2.2, and, where an account is based on

estimated data, the account shall be subject to any adjustment which may be necessary following the receipt of actual data from the User.

Obligation to Pay

21.3 Within 14 days of the date of an account submitted in accordance with Clause 21.2, the ~~Payor~~User shall (subject to Clause 19.6) pay to the ~~Payee~~Company all sums due in respect of such account by electronic transfer of cleared funds to such bank account (located in the United Kingdom) as is specified in the account (or, where the Company is the Payor, such bank account as is notified to the Company by the User from time to time), quoting the account number against which payment is made and/or such other details as the ~~Payee~~Company may reasonably require.

Disputes

21.4 Where any sum included in an account submitted in accordance with Clause 21.2 is disputed by the User, the provisions of Schedule 4 shall apply.

22. TRANSACTIONAL CHARGES

22.1 This Clause 22 applies in respect of those ~~services falling within the scope of Clause 19.1 for which the e~~Charges to be ~~levied are not billed in accordance with Clause 20 or 21 and, instead, are~~ calculated by reference to the number or frequency of specific transactions (**Transactional Charges**), except where the billing and payment arrangements ~~in respect of such services~~ are otherwise provided for under the Master Registration Agreement, the BSC, or the CUSC.

Submission of Account

22.2 Within 30 days after the end of each calendar month, the Company shall submit to the User an account specifying:

22.2.1 the payment due from the User in respect of services performed during that month for which Transactional Charges are payable; and

22.2.2 any Value Added Tax payable thereon.

Obligation to Pay

- 22.3 Within 30 days of the date of an account submitted in accordance with Clause 22.2, the User shall pay to the Company all sums due in respect of such account in pounds sterling by electronic transfer of cleared funds to such bank account (located in the United Kingdom) as is specified in the statement, quoting the invoice number against which payment is made.

Disputes

- 22.4 Where any sum included in an account submitted in accordance with Clause 22.2 is disputed by the User, the provisions of Schedule 4 shall apply.

23. PAYMENT DEFAULT

- 23.1 Subject to Clause 20.6, Clause 21.4 and Clause 22.4, failure by the Payor~~User~~ to pay any sum due as cleared funds by the due date for payment in accordance with Clause 20.5, Clause 21.3, or Clause 22.3 shall be a **Payment Default**.
- 23.2 Where the Payor~~User~~ so defaults, the Payee~~Company~~ shall send a notice (a **Late Payment Notice**) to the ~~User~~Payor:
- 23.2.1 setting out the amount owed by the Payor~~User~~ to the Payee~~Company~~, and identifying the specific account to which the Payment Default relates;
 - 23.2.2 stating to whom payment should be made;
 - 23.2.3 specifying the method of payment; and
 - 23.2.4 where the Payee~~Company~~ intends to exercise its rights under Clause 23.3 and/or Clause 23.4, advising the Payor~~User~~ of ~~its~~such intention.

Interest

- 23.3 The Payee~~Company~~ shall be entitled, without prejudice to any other right or remedy, to receive interest on any payment not duly made pursuant to the terms of Clause 20.5, Clause 21.3, or Clause 22.3 calculated from day to day at a rate per annum equal

to the Default Interest Rate from the day after the date on which payment was due up to and including the date of payment, together with any reasonable administration charge ~~as~~ notified by the Payee~~Company~~ to the Payor~~User~~ from time to time.

Material Breach

- 23.4 Failure by the User to remedy a Payment Default within four Working Days of receipt of a Late Payment Notice from the Company shall be a material breach of this Agreement by the User for the purposes of Clause 54.1.1, and the Company shall be entitled to take actions to suspend registration services in accordance with the provisions of the Master Registration Agreement. Where the Company takes such action, it shall send a copy of any notice that it is required to issue pursuant to those provisions to the User and the Panel (care of the Secretariat).

SCHEDULE 4 – BILLING AND PAYMENT DISPUTES

1 Billing and Payment Disputes under Section 2A

- 1.1 Subject to Clause 19.11, this Paragraph 1 of Schedule 4 applies to disputes in relation to ~~e~~Charges payable by or to the User pursuant to any of the provisions of Section 2A.
- 1.2 Where the User disputes an account issued under any of Clauses 20, 21 or 22 and the dispute is a Designated Dispute (as defined in Paragraph 1.3):
- (a) the Payor~~User~~ shall pay such amount of the ~~e~~Charges due as are not in dispute and shall be entitled to withhold the balance pending resolution of the dispute;
 - (b) the User and Company shall use reasonable endeavours to resolve the dispute in good faith;
 - (c) where the dispute remains unresolved after 20 Working Days, either of the User or the Company may refer the dispute to arbitration in accordance with Clause 58; and
 - (d) following resolution of the dispute, any amount agreed or determined to be payable shall be paid within 20 Working Days after such agreement or

determination, and interest shall accrue on such amount plus Value Added Tax (if any) from the date on which such amount was originally due until the date of payment at the rate of 1% per annum above the base rate during such period of Barclays Bank plc, compounded annually.

1.3 A dispute shall be a **Designated Dispute** for the purposes of this Paragraph 1 where, within 14 days of receiving the relevant account~~a request for payment~~, the User in good faith (i) notifies the Company that one or more of the circumstances mentioned in Paragraph 1.3(a) and (b) applies to the request, and (ii) provides the Company with a statement and explanation of the amount in dispute. Those circumstances are:

- (a) that, in the calculation by the Company of the ~~e~~Charges in question, there is a **manifest error**, being either (i) an error in the information used for, or (ii) an arithmetical error in, that calculation which is apparent on the face of the relevant account, or (iii) an error which, not being apparent thereon, the User nevertheless in good faith believes will be shown to be present in the calculation upon investigation; and/or
- (b) that, for a Metering Point or Metering System within Clause 19.5.1, the Company has chosen not to use the half-hourly data (whether actual or estimated) provided by the Data Collector for the purposes of Settlement in calculating Use of System Charges, and the User disputes the accuracy or validity of the data actually used.

1.4 Disputes about the matters listed at Paragraph 1.4(a) and (b) are not Designated Disputes and Paragraph 1.2 shall not apply (except in the case of a manifest error) where:

- (a) the Company has invoiced Use of System Charges in accordance with Clause 19.5; or
- (b) the Company has used estimated data in accordance with Clause 21.2.1.

1.5 Where, other than in the case of a Designated Dispute, within 14 days of receiving the relevant account~~a request for payment~~, the User in good faith provides the Company with a statement and explanation of the amount of the ~~e~~Charges in dispute:

- (a) the ~~Payor~~User shall pay the total amount of such ~~e~~Charges as they fall due in accordance with Clause 19.6;
- (b) the Company and the User shall use reasonable endeavours to resolve the dispute in good faith;
- (c) where the dispute remains unresolved after 20 Working Days, either the Company or the User may refer the dispute to arbitration in accordance with Clause 58; and
- (d) following resolution of the dispute, any amount agreed or determined to be payable or repayable (including where appropriate any interest paid pursuant to Clause 23.3) by the Company shall be paid within 20 Working Days after such agreement or determination, and interest shall accrue on such amount from the date on which such amount was originally paid by the User until the date of repayment at 1% per annum above the base rate during such period of Barclays Bank plc, compounded annually.

Wragge & Co LLP

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