

Section 2B – New Drafting

Definitions and Interpretation

The following new definitions will be added. A number of existing definitions have also been amended (see consequential changes document).

<u>Alternative Solution</u>	<u>means, in respect of a Connection Point, the means of data collection and provision (if any) agreed between the Company and the User (or determined by the Authority) pursuant to Clause 42.3, as an alternative to installing metering equipment at that Connection Point.</u>
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Bilateral Connection Agreement	<p>means an agreement entered into pursuant to Clause 38.1 which, unless agreed otherwise by the Company and the User, is substantially in the form set out in Schedule 143, and which together with this Agreement shall:</p> <ul style="list-style-type: none"> (a) govern the terms under which a User's Distribution System shall be entitled to be Connected and remain Connected to the Company's Distribution System at each relevant Connection Point; and (b) detail the ownership, operational and maintenance responsibilities and procedures in respect of the Connection Equipment at each relevant Connection Point.
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Connection Assets	means those assets, including the Company's Connection Equipment, that are operated and maintained by the Company, and which are provided for the sole use of the User in Connecting the User's Distribution System to the Company's Distribution System.
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Connect	means, in respect of Section 2B, to provide Connection Assets in such a way that, subject to Energisation and the terms of this Agreement and the relevant Bilateral Connection
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Agreement, electricity may flow between the Distribution System of the Company and the Distribution System of the User across the Connection Point, or series of related Connection Points (such related Connection Points to be identified in the relevant Bilateral Connection Agreement), and cognate expressions shall be construed accordingly.

Connection Equipment means any Electrical Plant and/or Electric Line which is provided and installed at the Connection Point for the purposes of providing a connection between the Company's Distribution System and the User's Distribution System, as specified in the relevant Bilateral Connection Agreement and (where appropriate) illustrated on the diagram annexed thereto.

Connection Point means a point at which the Distribution System of the Company Connects to the Distribution System of the User via the Connection Equipment, such point being specified in the relevant Bilateral Connection Agreement.

Disconnect means to permanently De-energise a Connection Point by the removal of all or part of the ~~{Company's}~~ Connection Equipment and Connection Assets.

Distribution Systems Connection Point has the meaning given to that term in the ~~Balancing and Settlement Code~~ [BSC](#).

Electric Line means any line which is used for carrying electricity to or from a Connection Point, Entry Point or Exit Point and includes, unless the context otherwise requires:

- (a) any support for such line, that is to say, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended;
- (b) any apparatus connected to such line for the purpose of

carrying electricity; and

- (c) any wire, cable, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line.

Electrical Plant

means any plant, equipment, apparatus or appliance used for or for purposes connected with the distribution of electricity (including any metering equipment) other than an Electric Line.

Interconnection

means, in respect of each relevant Bilateral Connection Agreement, to connect (or permit the connection of) the User's Distribution System (or any Electric Lines connected thereto) to:

- (a) the Company's Distribution System, at Connection Points other than those that are the subject of the Bilateral Connection Agreement; or
- (b) a Distribution System of any person other than the Company where that Distribution System is connected (directly or indirectly) to a source of energy,

in each case so that (subject to energisation) electricity may flow to or from the User's Distribution System.

Modification

means any actual or proposed replacement, renovation, modification, alteration or construction by or on behalf of the Company or the User to either the Company's Electrical Plant or Electric Lines (or the manner of their operation) or the User's Electrical Plant or Electric Lines (or the manner of their operation) which in either case has, or may have, a material effect on the User or the Company respectively.

Modification Application means an application for a Modification in the form set out in the relevant Bilateral Connection Agreement.

Modification Offer means an offer made pursuant to Clause 52 and in the form set out in the relevant Bilateral Connection Agreement setting out the terms for a Modification.

Small Scale Generator means any generator that is installed in accordance with, and complies with the requirements of, Regulation 22 (2) subparagraphs (a) to (c) of the Regulations.

SECTION 2B – DISTRIBUTOR TO DISTRIBUTOR RELATIONSHIPS

SCOPE OF SECTION 2B

This Section 2B and the Schedules referred to in it together with the relevant Bilateral Connection Agreement set out the terms and conditions under which a DNO Party or an IDNO Party shall allow Connection of the Distribution System of another DNO Party or IDNO Party and provide Use of Distribution System to that other DNO Party or IDNO Party.

36. INTERPRETATION OF SECTION 2B

Party Obligations

- 36.1 In this Section 2B, in the Schedules when applied pursuant to this Section 2B, and in the terms defined in Clause 1 when used in this Section 2B or those Schedules, a reference to a Company is a reference to each Party, separately and individually, that is either a DNO Party or an IDNO Party acting in the capacity of a Party who provides Connection and Use of Distribution System to another DNO Party or IDNO Party 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.
- 36.2 In this Section 2B, in the Schedules when applied pursuant to this Section 2B, and in the terms defined in Clause 1 when used in this Section 2B or those Schedules, a reference to a User is:
- 36.2.1 a reference to each Party, separately and individually, that is either a DNO Party or an IDNO Party acting in the capacity of a Party who receives Connection and Use of Distribution System from another DNO Party or IDNO Party, and where an obligation is imposed on, or a right granted to, a User, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and
- 36.2.2 when made in relation to a Company and any period of time, a reference to each User (separately, individually and to the relevant extent) who is (or was), during that period, Connected to that Company's Distribution System (provided that, in the case of Clauses 36, 37, 38, 39 and 47, it shall include those Users who are taking steps to be so Connected, and that, in the case of Clauses 36, ~~38~~, 47, 50 and 51, it shall include those Users who were once so Connected).
- 36.3 This Section 2B, and the Schedules when applied pursuant to it, shall, together with the relevant Bilateral Connection Agreement:

- 36.3.1 only create rights and obligations between DNO Parties/IDNO Parties and other DNO Parties/IDNO Parties, and shall not apply to Supplier Parties or DG Parties;
- 36.3.2 only create obligations between a Company and a User to the extent that, and in relation to those periods for which, the User is (or was) or is seeking to be Connected via a Connection Point to the Company's Distribution System; and
- 36.3.3 not impose any obligations between a Company and a User in relation to periods for which that User is (or was) not, and is not seeking to be, Connected via a Connection Point to the Company's Distribution System.

References in Relation to Companies and Users

- 36.4 In this Section 2B, in the Schedules when applied pursuant to this Section 2B, and in the relevant Bilateral Connection Agreement, references to:
 - 36.4.1 a Connection Point are references to a Connection Point between the Company's Distribution System and the User's Distribution System;
 - 36.4.2 a Connectee are, when made in relation to the Company or the Company's Distribution System, references to a Connectee to the Company's Distribution System, and, when made in relation to the User or the User's Distribution System, references to a Connectee to the User's Distribution System; and
 - 36.4.3 Use of System Charges are references to the Use of System Charges payable by the User to the Company for use of the Company's Distribution System.

Additional Interpretation

- 36.5 In this Section 2B, in the Schedules when applied pursuant to it, and in the relevant Bilateral Connection Agreement, any reference to a "charging period" is, subject to any contrary indication, a reference to the period specified in the Relevant Charging Statement (or, if no period is specified therein, a calendar month).

Disputes

36.6 Notwithstanding Clause 58, any dispute between the Company and the User arising under, out of, or in connection with this Section 2B or a relevant Bilateral Connection Agreement will not be referred to arbitration unless:

36.6.1 the relevant provision of this Section 2B expressly provides for arbitration;
or

36.6.2 the Company and the User agree to refer the dispute to arbitration.

37. CONDITIONS PRECEDENT

- 37.1 The rights and obligations of each Company as against each User (and of each User as against each Company) under the remaining Clauses of this Section 2B (save for Clauses 50 and 51) are conditional upon each of the following conditions precedent being fulfilled:
- 37.1.1 that the User holds a Distribution Licence;
 - 37.1.2 that the Company holds a Distribution Licence;
 - 37.1.3 that both the User and the Company are party to the Connection and Use of System Code and any necessary supplemental agreement pursuant to it;
 - 37.1.4 that both the User and the Company are party to the Master Registration Agreement and the Data Transfer Service Agreement; and
 - 37.1.5 that both the User and the Company are party to the ~~Balancing and Settlement Code~~BSC.
- 37.2 If the conditions precedent set out in Clause 37.1.1 to 37.1.5 (inclusive) are not fulfilled in respect of a Company or a User at the date this Agreement becomes effective in respect of that Party, that Party shall take all appropriate steps within its power to procure the fulfilment of those conditions relating to it which have not already been fulfilled.
- 37.3 Once each of the conditions precedent in Clause 37.1 has been fulfilled in respect of a Company or a User, that Party shall take all appropriate steps within its power to keep such conditions precedent relating to it fulfilled.

38. BILATERAL CONNECTION AGREEMENTS

New Bilateral Connection Agreements

- 38.1 Where requested by the User or its agent, the Company shall offer to enter into a Bilateral Connection Agreement with the User in respect of each relevant Connection Point or group of Connection Points. Such offer shall ~~not be delayed~~ ~~unreasonably~~ be made as soon as is practicable and within any period required by the Company's Distribution Licence or the Act.
- 38.2 Where either the Company or the User disputes the terms of the Bilateral Connection Agreement either of them shall be entitled to refer the dispute to the Authority in accordance with the provisions of Condition 4E of the Company's Distribution Licence.

38.3 In the event that:

38.3.1 the Distribution System of one DNO Party/IDNO Party is connected to the Distribution System of another DNO Party/IDNO Party (so that, subject to energisation, electricity may flow between the two); but

38.3.2 there is no written agreement between them regarding such connection,

either of them may, on notice to the other, require such other to (as applicable) enter into, or offer to enter into, a Bilateral Connection Agreement in respect of the point of such connection. Where no such Bilateral Connection Agreement can be agreed within a reasonable period of time, either of them may (save where pending determination of a dispute referred to the Authority in respect of such point of connection) de-energise or disconnect such point of connection.

Deemed Bilateral Connection Agreements

38.4 In the event that:

38.4.1 the Distribution System of one DNO Party/IDNO Party is connected to the Distribution System of another DNO Party/IDNO Party (so that, subject to energisation, electricity may flow between the two); but

38.4.2 there is no written agreement between them regarding such connection,

those two Parties agree that the limitations on liability set out in Clause 53 shall apply in relation to such connection.

38.5 Where a party to a Bilateral Connection Agreement (a “**disposing party**”) disposes of the Distribution System (or relevant part thereof) relating to one or more of the Connection Points that are subject to that Bilateral Connection Agreement, the disposing party shall notify the other party to that Bilateral Connection Agreement (the “**continuing party**”).

38.6 Where the person (the “**acquiring party**”) who acquires such Distribution System (or part thereof) is a Party to this Agreement:

38.6.1 it shall notify the continuing party of such acquisition; and

38.6.2 it is agreed that (subject to any contrary agreement between the continuing party and the acquiring party) the continuing party and the acquiring party shall (with effect from the time of acquisition) have the benefit of, and be subject to, a Bilateral Connection Agreement on identical terms to that referred to in Clause 38.5 (insofar as applicable to the Connection Points referred to in Clause 38.5).

Breach of Bilateral Connection Agreements

38.7 Without prejudice to Clauses 39.1.1 and 40.1.2, a breach of a Bilateral Connection Agreement is not, of itself, a breach of this Agreement.

39. THE USER'S RIGHT TO BE ~~AND TO REMAIN~~ CONNECTED AND ENERGISED

39.1 The obligation of the Company to Connect ~~and keep Connected and to Energise and keep Energised~~ the relevant Connection Point or Connection Points to its Distribution System, and to Energise the relevant Connection Point or Connection Points, is subject to:

39.1.1 the User entering into a Bilateral Connection Agreement with the Company in respect of such Connection Points and such agreement being ~~and remaining~~ in full force and effect (and any conditions precedent therein being ~~and remaining~~ satisfied);

39.1.2 the User and the Company having exchanged such contact, invoicing and other similar information as the other reasonably requests and agreeing arrangements for the provision of Use of Distribution System information to the Company; and

39.1.3 where the Connection Point is a Distribution Systems Connection Point, such Connection Point being ~~(and remaining)~~ registered in accordance with the provisions of the BSC; ~~and~~ .

~~39.1.4 the User not being in material breach of this Section 2B.~~

39.2 Subject to the provisions of this Section 2B and the relevant Bilateral Connection Agreement, the Company shall Connect the User's Distribution System at each of the relevant Connection Points, and Energise each such Connection Point.

39.3 Subject to the provisions of this Section 2B and the relevant Bilateral Connection Agreement, the Company shall use its reasonable endeavours to:

39.3.1 ~~make~~ensure the Maximum Import Capacity and the Maximum Export Capacity is available to the User at all times; and

39.3.2 maintain the connection characteristics at the Connection Point in accordance with the provisions of the relevant Bilateral Connection Agreement.

Land Rights

- 39.4 In respect of each Connection Point, where either the Company has Connection Assets installed on property under the control of the User, or the User has Connection Equipment installed on the property of the Company then the Company and the User shall agree appropriate arrangements in respect of the rights to place such Connection Equipment or Connection Assets on the property of the other and to operate such Connection Assets or Connection Equipment. Such agreement will be part of the relevant Bilateral Connection Agreement or in an agreement pursuant to the relevant Bilateral Connection Agreement.

Access Rights

- 39.5 In respect of each Connection Point and subject to the other provisions of this Section 2B and the relevant Bilateral Connection Agreement, where the Company has Connection Assets installed on property under the control of the User, the User shall provide the Company, its invitees and any relevant employee, agent or contractor acting on behalf of the Company, with safe and unobstructed access at all times to such Connection Assets together with such facilities as the Company may reasonably request and the User may reasonably be expected to provide. The Company shall procure that any individuals to whom access is given pursuant to this Clause 39.5 shall comply with all reasonable directions given by the User as to general safety and site security arrangements.
- 39.6 In respect of each Connection Point and subject to the other provisions of this Section 2B and the relevant Bilateral Connection Agreement where the User has Connection Equipment installed on property under the control of the Company, the Company shall provide the User, its invitees and any relevant employee, agent or contractor acting on behalf of the User, with safe and unobstructed access at all times to such Connection Equipment together with such facilities as the User may reasonably request and the Company may reasonably be expected to provide. The User shall procure that any individuals to whom access is given pursuant to this Clause 39.6 shall comply with all reasonable directions given by the Company as to general safety and site security arrangements.

Maintenance of Assets

39.7 Subject to the terms of this Agreement and the relevant Bilateral Connection Agreement (and without prejudice to Company's rights to make Modifications) the Company and the User shall use all reasonable endeavours to maintain their respective Connection Equipment relating to the Connection Point in the condition necessary to render the Connection Point fit for the purpose of conveying electricity in accordance with this Agreement and the relevant Bilateral Connection Agreement.

39.8 Subject to the relevant Bilateral Connection Agreement, the Company and the User each acknowledges that the other may use, in relation to its Distribution System, whatever equipment of whatever nature it considers appropriate, provided the same complies with all Relevant Instruments, legislative requirements and Directives.

Maximum Import Capacity and Maximum Export Capacity

39.9 ~~39.8~~ The Maximum Import Capacity and Maximum Export Capacity shall be specified in the relevant Bilateral Connection Agreement and the User shall use its reasonable endeavours to ensure that the electricity imported and exported does not exceed the Maximum Import Capacity and the Maximum Export Capacity (respectively).

39.10 ~~39.9~~ The Company shall only be obliged to export or import electricity up to the Maximum Import Capacity and Maximum Export Capacity as specified in the relevant Bilateral Connection Agreement. ~~Any breach by~~ Where the User ~~of~~ exceeds the Maximum Import Capacity or the Maximum Export Capacity, it shall be a ~~material~~ breach of the relevant Bilateral Connection Agreement, but not of this Agreement.

39.11 ~~39.10~~ Where the User's import of electricity ~~breaches~~ exceeds the Maximum Import Capacity or the User's export of electricity ~~breaches~~ exceeds the Maximum Export Capacity (each ~~aan~~ "Breach Event"), the User shall:

39.11.1 ~~39.10.1~~ upon being notified by the Company, take reasonable actions to reduce the import or export of electricity to within the limits specified in the relevant Bilateral Connection Agreement; and

39.11.2 ~~39.10.2~~ if appropriate propose a variation to the relevant Bilateral Connection Agreement; and/or

39.11.3 ~~39.10.3~~ if appropriate, submit a Modification Application to the Company in accordance with the provisions of Clause 52.

39.12 ~~39.11 In the event of a Breach~~ Following the occurrence of an Event (as defined in Clause 39.11), the Company shall be entitled to:

39.12.1 ~~39.11.1~~ charge the User any additional Use of System Charges for Use of Distribution System that is in excess of the Maximum Import Capacity or Maximum Export Capacity in accordance with the Company's Relevant Charging Statement; ~~and/or~~

39.12.2 exercise any rights it may have under Clause 41; and/or

39.12.3 ~~39.11.2 where the User fails to promptly remedy the Breach following notice from the Company, De-energise~~ exercise any rights it may have under the relevant Bilateral Connection Points in accordance with the provisions of Clause 41 Agreement.

Phase Balance

39.13 ~~39.12~~ The User shall ensure, as far as is reasonably practicable, that the flow of electricity at each Connection Point is balanced between the phases.

Power Factor

39.14 ~~39.13~~ The User shall at all times and at its own expense take reasonable steps to maintain the power factor of any supply of electricity through each Connection Point is between unity and 0.95 lagging unless otherwise agreed with the Company in the relevant Bilateral Connection Agreement. Any capacitors or other devices provided by the User for power factor improvement purposes shall be controlled so as to ensure that (unless otherwise agreed between the Company and the User) the total capacitance connected to the User's Distribution System at any time is not greater than that required to produce a power factor of unity at that time.

39.15 Nothing in Clause 39.14 shall require the User to treat any Customer taking a supply of electricity from its Distribution System less favourably than equivalent Customers taking supplies of electricity from the Company's Distribution System are treated by the Company in equivalent circumstances.

Interference

39.16 Unless otherwise agreed, the Company and the User shall each ensure that it and its respective employees, contractors, agents and invitees do not alter or interfere in any way with the Connection Equipment of the other.

40. USE OF DISTRIBUTION SYSTEM

Provision of Use of Distribution System

- 40.1 Subject to the other provisions of this Agreement, the Company shall convey electricity through its Distribution System, for the User, to and from each Connection Point subject to:
- 40.1.1 the Company and the User being party to this Agreement and it being in full force and effect;
 - 40.1.2 there being a Bilateral Connection Agreement in full force and effect between the Company and the User in respect of such Connection Point (and any conditions precedent therein being and remaining satisfied);
 - 40.1.3 the Maximum Import Capacity (if any) or the Maximum Export Capacity (if any) set out in the relevant Bilateral Connection Agreement;
 - 40.1.4 where the Connection Point is a Distribution Systems Connection Point, a Meter Operator Agent being (and remaining) appointed; and
 - 40.1.5 such variations (if any) as may be permitted by the Regulations or as otherwise agreed in the relevant Bilateral Connection Agreement.

Provision of Loss Adjustment Factors

- 40.2 The Company shall provide loss adjustment factors to the User:
- 40.2.1 in respect of each Connection Point to the Company's Distribution System that is not a Distribution Systems Connection Point, 20 Working Days before the User has to provide loss adjustment factors to the BSCCo in accordance with provisions of the BSC; and
 - 40.2.2 in respect of each Connection Point to the Company's Distribution System that is a Distribution Systems Connection Point and where the User is the party responsible under the BSC for submitting the loss adjustment factors to BSCCo, 20 Working Days before the User has to provide loss adjustment factors to the BSCCo in accordance with provisions of the BSC.

41. ENERGISATION, DE-ENERGISATION AND RE-ENERGISATION**Company's Right to De-energise**

41.1 The Company may De-energise a Connection Point:

41.1.1 if the User is in material breach of the Bilateral Connection Agreement relating to such Connection Point and such breach results, or is likely to result, in the Company being in breach of the Regulations, the Company's Distribution Code, or any other relevant statutory requirement;

41.1.2 if the User is in breach of the Regulations, or is likely to be in material breach of the Regulations, or is likely to compromise the security, ~~integrity~~
~~or safety~~ of the Company's Distribution System or of any other Distribution System connected to the Company's Distribution System or of the supply of electricity to any Connectee of the Company's;

41.1.3 if the Company is required to do so to comply with its obligations under the Company's Distribution Code or any Relevant Instruments;

41.1.4 subject to the terms of a replacement agreement, if this Agreement or the relevant Bilateral Connection Agreement is terminated, or the User ceases to be a Party in accordance with the provisions of Clause 54;

41.1.5 if the rights of the User are suspended in accordance with Clause 54.2;

41.1.6 if requested to do so by the User;

41.1.7 if the Company is required to do so as part of a System Outage on its Distribution System carried out in accordance with its statutory rights and obligations and Good Industry Practice; or

~~41.1.8 if the requirements of Clause 39.1 cease to be satisfied in respect of that Connection Point;~~

~~41.1.9 in accordance with Clause 39.11.2; or~~

41.1.8 ~~41.1.10~~ if the Company is required to do so in an emergency and in accordance with Clause 41.~~34~~.

Notice Periods for De-energisation

41.2 Prior to De-energising a Connection Point pursuant to Clauses 41.1.1 to 41.1.3, the Company shall first give the User notice in writing, specifying:

41.2.1 the nature of the circumstances that have given rise to the right to De-energise;

41.2.2 the remedial works required to be carried out (as the Company reasonably determines) by the User or by the Company to remedy such circumstance; and

41.2.3 (where the User is to carry out such works) such reasonable period within which the User must carry out such works,

~~41.2 — Prior to De-energising a Connection Point pursuant to Clauses 41.1.1 to 41.1.3 the Company shall first give the User notice in writing, where appropriate specifying the nature of any breach and the remedial works required to be carried out by the User to remedy the breach within such reasonable period as may be specified in the notice. In and, in~~ the case of Clauses 41.1.1 to 41.1.3, the Company may only De-energise the Connection Point where the User fails to carry out ~~any~~the remedial works specified in such ~~a~~notice within the period specified in such notice.

41.3 In the case of Clause 41.1.1, the remedial works referred to in Clause 41.2.2 shall be undertaken at the cost of the User (who shall reimburse the Company where such works are undertaken by the Company). In the case of Clauses 41.1.2 and 41.1.3 and where the circumstance giving rise to the right to De-energise was caused by an act or omission of the User (or its employees, contractors or agents), the remedial works referred to in Clause 41.2.2 shall be undertaken at the cost of the User (who shall reimburse the Company where such works are undertaken by the Company). In the case of Clauses 41.1.2 and 41.1.3 and where the circumstance giving rise to the right to De-energise was caused otherwise than by an act or omission of the User (or its employees, contractors or agents), the remedial works referred to in Clause 41.2.2 shall be undertaken at the cost of the Company (who shall reimburse the User where such works are undertaken by the User).

Emergency De-energisation

41.4 ~~41.3~~ If, in the reasonable opinion of the Company, the condition or manner of operation of the Company's Distribution System or of the User's Distribution System poses an immediate threat of injury to any person or material damage to the Company's Distribution System or to the User's Distribution System the Company shall have the right to:

41.4.1 ~~41.3.1~~ without prior notice, De-energise the relevant Connection Point by undertaking De-Energisation Works on the Company's Distribution System; or

41.4.2 ~~41.3.2~~ request the User to immediately De-energise the Connection Point, or that part of the User's Distribution System connected to the Connection Point that has given rise to the Company's request under Clause ~~41.34~~ 41.34 (in which case the User shall promptly comply with such request); or

41.4.3 ~~41.3.3~~ where the Company has the appropriate authorisations from the User in writing or under the relevant Bilateral Connection Agreement, without prior notice, De-energise that part of the User's Distribution System.

41.5 ~~41.4~~ De-energisation Works undertaken under Clause ~~41.34~~ 41.34 shall be undertaken in accordance with the relevant provisions of the Regulations.

41.6 ~~41.5~~ Where the Company undertakes De-energisation Works pursuant to Clause ~~41.34.1~~ 41.34.1 or ~~41.34.3~~ 41.34.3, the Company shall give notice to the User, as soon as is reasonably practicable, of the fact that the Connection Point has been De-energised.

41.7 ~~41.6~~ Where the User undertakes De-energisation Works pursuant to Clause ~~41.34.2~~ 41.34.2, the User shall give notice to the Company, as soon as is reasonably practicable, of the fact that the Connection Point has been De-energised.

Post Emergency Re-energisation

41.8 ~~41.7~~ Where a Connection Point has been De-energised pursuant to Clause ~~41.34~~ 41.34:

41.8.1 ~~41.7.1~~ in the case where the Company has De-energised the Connection Point by undertaking De-energisation Works on its Distribution System, the

Company shall Re-energise the Connection Point as soon as is reasonably practicable after the circumstances leading to any De-energisation of the Connection Point under Clause 41.~~34~~ have ceased to exist and give notice to the User that such Re-energisation Works have been completed;

41.8.2 ~~41.7.2~~ in the case where the User has De-energised the Connection Point by undertaking De-energisation Works on its Distribution System, the Company shall advise the User as soon as is reasonably practicable after the circumstances leading to any De-energisation of the Connection Point under Clause 41.~~34~~ have ceased to exist and the User shall then be entitled to undertake Re-energisation Works on its Distribution System to Re-energise the Connection Point and shall, where applicable, give notice, as soon as reasonably practicable, to the Company that such Re-energisation Works have been completed; or

41.8.3 ~~41.7.3~~ in the case where the Company has De-energised the Connection Point by undertaking De-energisation Works on the User's Distribution System, the Company shall, as soon as is reasonably practicable after the circumstances leading to any De-energisation of the Connection Point under Clause 41.~~34~~ have ceased to exist:

- (A) advise the User; and
- (B) with the consent of the User, undertake Re-energisation Works on the User's Distribution System to Re-energise such Connection Point and advise the User when such Re-energisation Works have been completed; or
- (C) authorise the User to undertake such Re-energisation Works (in which case the User shall, as soon as reasonably practicable, notify the Company once such Re-Energisation Works have been completed).

Disputes on remedial works

41.9 ~~41.8~~ Where the User disputes the nature of the remedial works specified, or the period for undertaking such remedial works specified, in any notice issued by the Company pursuant to Clause 41.2, then the Company and the User shall negotiate in good faith to resolve such dispute. If such dispute remains unresolved after 20 Working Days either the Company or the User shall be entitled to refer such dispute for arbitration in accordance with the provisions of Clause 58.

41.10 ~~41.9~~ Where the Company requires remedial works to be undertaken prior to determination of the dispute, the User shall undertake ~~the~~any specified remedial works. ~~in accordance with the notice issued pursuant to Clause 41.2.~~ Where arbitration determines that remedial works ~~are~~were not required, or that a lower cost remedial solution would have ~~satisfied the breach~~remedied the circumstance giving rise to the right to De-Energise, the Company shall ~~compensate~~reimburse the User for those costs that are in excess of the determined solution (together with any applicable VAT).

De-energisation and Re-energisation Works

41.11 ~~41.10~~ If the Company resolves to De-energise a Connection Point pursuant to:

41.11.1 ~~41.10.1~~ Clause 41.1 or Clause 41.~~34~~, the Company shall decide on the extent and nature of the De-energisation Works reasonably required to De-energise the relevant Connection Point;

41.11.2 ~~41.10.2~~ Clause 41.1, the Company shall Re-energise the Connection Point as soon as is reasonably practicable after the circumstance giving rise to such De-energisation has ended; and

41.11.3 ~~41.10.3~~ Clause 41.1 or Clause 41.~~34~~, except where the Company resolves to De-energise a Connection Point pursuant to:

- (A) Clause 41.1.3;
- (B) Clause 41.1.7; or
- (C) Clause 41.1.~~408~~ (where the emergency is caused by one or more of
 - (i) the Company, (ii) the Company's Connectees, and (iii) persons

other than the User acting in relation to the Company's Distribution System),

the Company shall be entitled to undertake both the De-energisation Works and the subsequent Re-energisation Works at the cost of the User, and where required, the User shall pay to the Company the relevant Transactional Charges associated with both the De-energisation Works and the subsequent Re-energisation Works.

41.12 ~~41.11~~ Subject to Clauses 41.~~78~~3(c) and 41.~~123~~2, the User shall not be entitled to Re-energise a Connection Point which has previously been De-energised by the Company.

User's Right to Energise, De-energise or Re-energise a Connection Point

41.13 ~~41.12~~ The User may Energise, De-energise or Re-energise a Connection Point by undertaking Energisation Works, De-energisation Works or Re-energisation Works:

41.13.1 ~~41.12.1~~ (subject to Clause 41.~~11~~2) on the User's Distribution System at the Connection Point; or

41.13.2 ~~41.12.2~~ on the Company's Distribution System at the Connection Point where the User has agreed with the Company that the User may do so in that specific instance.

41.14 ~~41.13~~ Subject to Clause 41.~~123~~3, where the User undertakes Energisation Works, De-energisation Works or Re-energisation Works and such works involve works on the Company's Connection Equipment the User shall undertake such works in accordance with the provisions of this Agreement and the relevant Bilateral Connection Agreement.

Works Undertaken by the User

41.15 ~~41.14~~ Energisation Works, De-energisation Works and Re-energisation Works on the Company's Connection Equipment carried out by or on behalf of the User pursuant to this Clause 41 shall be carried out at the User's cost by a suitably competent

person who is either engaged by the User and authorised in writing to carry out such work or who:

[41.15.1](#) ~~41.14.1~~ is an Approved Contractor, in accordance with the procedure set out in Schedule 5;

[41.15.2](#) ~~41.14.2~~ is a Competent Person to whom a Permission has been issued, in accordance with the procedure set out in Schedule 5, to carry out the particular activities comprising the Energisation Works, De-energisation Works or Re-energisation Works in question; and

[41.15.3](#) ~~41.14.3~~ acts in accordance with the requirements set out in Schedule 5.

Works Undertaken by the Company

[41.16](#) ~~41.15~~ Where:

[41.16.1](#) ~~41.15.1~~ neither the User nor any of its contractors is an Approved Contractor; or

[41.16.2](#) ~~41.15.2~~ no employee of the User or any of its contractors (if Approved Contractors) holds a Permission; or

[41.16.3](#) ~~41.15.3~~ the User does not have the rights of access required to undertake such Energisation Works, De-energisation Works or Re-energisation Works; or,

[41.16.4](#) ~~41.15.4~~ where the Company and the User so agree,

the Company shall, subject to the provisions of this Agreement and the relevant Bilateral Connection Agreement, to the extent that it may lawfully do so, carry out Energisation Works, De-energisation Works and Re-energisation Works at the relevant Connection Point. Such works will be at the cost of the User and carried out within a reasonable time or, in circumstances of urgency, as soon as is reasonably practicable. The Company shall on request by the User inform the User of its reasonable requirements for the details by reference to which Connection Points to be Energised, De-energised or Re-energised are to be identified.

Good Industry Practice

41.17 ~~41.16~~ The Company and the User shall both act in accordance with Good Industry Practice when carrying out, or procuring the carrying out of, any Energisation Works, De-energisation Works or Re-energisation Works.

Duty to Indemnify

41.18 ~~41.17~~ Where the Company carries out works on behalf of the User pursuant to Clause 41.1~~5~~6:

41.18.1 ~~41.17.1~~ the Company shall indemnify the User against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising from, or incurred by the User as a consequence of, physical damage to the property of the User, its officers, employees or agents, and in respect of the liability of the User to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of the Company (or its employees, contractors or agents) acting contrary to an accurate and appropriate instruction to Energise, De-energise or Re-energise a Connection Point; and

41.18.2 ~~41.17.2~~ the User shall indemnify the Company against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising from, or incurred by the Company as a consequence of, physical damage to the property of the Company, its officers, employees or agents, and in respect of the liability of the Company to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of the Company (or its employees, contractors or agents) acting in reliance on any instructions given by the User to the Company which are materially inaccurate or misleading.

41.19 ~~41.18~~ Where the User carries out works on the Company's Distribution System pursuant to Clause 41.1~~2~~3 or Clause 41.1~~4~~5:

41.19.1 ~~41.18.1~~ the User shall indemnify the Company against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage

arising from, or incurred by the Company as a consequence of, physical damage to the property of the Company, its officers, employees or agents, and in respect of the liability of the Company to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of the User (or its employees, contractors or agents) acting contrary to an accurate and appropriate instruction to Energise, De-energise or Re-energise a Connection Point; and

~~41.18.2~~ 41.19.2 the Company shall indemnify the User against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising from, or incurred by the User as a consequence of, physical damage to the property of the User, its officers, employees or agents, and in respect of the liability of the User to any other person for loss in respect of physical damage to the property of any person, in each case as a consequence of the User (or its employees, contractors or agents) acting in reliance on any instructions given by the Company to the User which are materially inaccurate or misleading.

Disconnection Procedure

~~41.19~~ 41.20 In respect of a Connection Point, the User shall be entitled to send to the Company a notice requesting the Company to Disconnect a Connection Point. In respect of any notice sent to the Company pursuant to this Clause 41.~~19~~20, the User shall specify the Connection Point, the location of the Connection Point and the date on which the Disconnection is required.

~~41.20~~ 41.21 Unless agreed otherwise and in respect of the relevant Connection Point, following the receipt of a notice under Clause 41.~~19~~20 the User shall remove its Connection Equipment from the Company's premises and the Company shall remove its Connection Equipment from the User's premises (in each case at the User's cost).

42. PROVISION OF DATA AND METERING EQUIPMENT

~~42.1—The User shall provide to the Company without charge:~~

42.1 ~~42.1.1 such data~~The User shall procure the provision to the Company of (without charge) such data (from the metering equipment installed in accordance with this Clause, or as prescribed by the Alternative Solution) as the Company may reasonably require for:

42.1.1 ~~(A)~~ the calculation of Use of System Charges;

42.1.2 ~~(B)~~ the operation, design and planning of its Distribution System; and

42.1.3 ~~(C)~~ validation that the electricity that is imported or exported across a Connection Point is no greater than the Maximum ~~Export Capacity or the Maximum~~ Import Capacity or the Maximum Export Capacity described in the relevant Bilateral Connection Agreement; ~~and,~~

~~42.1.2 such other data as the Company may reasonably require,~~data to be provided in accordance with the timescale specified in the Company's Relevant Charging Statement or, where no timescale is specified, as soon as reasonably practical after the charging period.

Requirement for Metering at the Connection Point

~~42.2—Subject to Clause 42.3:~~

42.2 ~~42.2.1 Subject to Clause 42.4, the User shall (at its own cost) procure the installation and maintenance of~~ metering equipment ~~shall be installed~~ at each Connection Point, or as close as is reasonably practical to each Connection Point, for the purpose of recording data including all relevant registers required pursuant to Clause 42.1, unless an ~~alternative solution to metering of the Connection Point is agreed between the Company and the User (such alternative solution must include a mechanism for resolution of data disputes, and for the outcome of such disputes to be recognised in subsequent invoices, in each case, as soon as reasonably practicable); and~~Alternative Solution applies in respect of the Connection Point.

42.3 ~~42.2.2 the User may propose an alternative solution to metering~~An Alternative Solution must allow for the accurate provision of that data referred to in Clause 42.1, and must include a mechanism for resolution of data disputes, and for the outcome of such disputes to be recognised in subsequent invoices. The User may propose an Alternative Solution in respect of the Connection Point ~~for the purpose of providing data pursuant to Clause 42.1.~~ The Company and the User shall negotiate in good faith the terms of any such proposal. If agreement has not been reached within ~~28 days~~0 Working Days, either of the Company or the User shall be entitled to refer the matter to the Authority, pursuant to Condition ~~4CE~~4 of the Company's Distribution Licence. The Company and the User shall give effect to the determination of the Authority.

42.4 ~~42.3~~ Where the Connection Point is also a Distribution Systems Connection Point, the User shall (at its own cost) procure that:

42.4.1 ~~42.3.1~~ metering equipment ~~shall be~~is installed, operated and maintained;
~~and~~

42.4.2 ~~42.3.2~~ meter technical details ~~shall be~~are registered; and

42.4.3 ~~42.3.3~~ meter aggregation rules ~~shall be~~are registered,

in each case in accordance with the provisions of the ~~Balancing and Settlement Code~~BSC.

42.5 ~~42.4~~ Where the Connection Point is not a Distribution Systems Connection Point, any metering equipment installed at the Connection Point pursuant to Clause 42.2.~~1~~, shall be installed, operated and maintained with an accuracy equivalent or better than that specified in ~~the relevant Bilateral Connection Agreement~~Schedule 6.

~~42.5 The User shall at its own cost install and maintain or procure the installation and maintenance of metering equipment installed pursuant to Clause 42.3 or Clause 42.4.~~

42.6 Where metering equipment is required in accordance with Clause 42.2.~~1~~ or Clause 42.~~3~~4, the Company shall not be obliged to convey electricity across its Distribution System to or from the relevant Connection Point unless ~~and until~~ the necessary metering equipment ~~has been~~is installed.

Interconnection and Generation

- 42.7 ~~Where metering is required such metering equipment shall be capable of providing the relevant metering data required by the Company for the calculation of Use of System Charges and shall comply with the requirements detailed in the Relevant Charging Statement.~~ Without prejudice to Clause 52, the User shall (unless expressly agreed in the relevant Bilateral Connection Agreement) use all reasonable endeavours to ensure that no Interconnection occurs. The User shall immediately notify the Company where it becomes aware of:

Consents and Reporting

- 42.7.1 any Interconnection not expressly provided for in the relevant Bilateral Connection Agreement; or
- 42.7.2 the connection of the User's Distribution System (or any Electric Lines connected thereto) to a Distribution System of any person other than the Company so that (subject to energisation) electricity may flow to or from the User's Distribution System.
- 42.8 The User shall (to the extent the User is aware of the same):
- 42.8.1 notify the Company of any changes in the number of Small Scale Generators connected in parallel with the User's Distribution System, such notification to be made within 20 Working Days of the User becoming aware of such change; and
- 42.8.2 in respect of generation to be connected in parallel with the User's Distribution System that does not fall under the definition of a Small Scale Generator, ~~notify the Company of the maximum export capacity of each such generator prior to connection of that generator, obtain the Company's consent to connection of that generator (such consent not to be unreasonably withheld), and notify the Company if any such generator ceases to be so connected or if its export capacity changes.;~~
- (A) notify the Company of such generation prior to connection of that generation (providing such information as the Company may

reasonably request in order to allow compliance with a Relevant Instrument);

(B) obtain the Company's consent to connection of that generation (such consent not to be unreasonably withheld); and

(C) notify the Company if any such generation ceases to be so connected or if its generation characteristics change.

Rights of Inspection

42.9 The Company shall be entitled to inspect, test and if necessary require the User to correct any metering equipment installed and maintained pursuant to Clause 42.2.~~1~~ or Clause 42.~~3~~4. The User shall use its reasonable endeavours to procure that the employees, agents, sub-contractors and invitees of the Company shall at all reasonable times have safe and unobstructed access to such metering equipment. The Company shall procure that any individuals to whom access is given pursuant to this Clause 42.9 shall comply with all reasonable directions given by the User as to general safety and site security arrangements. Where the Company disputes the accuracy of the metering equipment so installed, the provisions of Schedule 6 shall apply.

Operational Metering Equipment

42.10 The Company shall be entitled to install Operational Metering Equipment at or as close as reasonably practicable to any Connection Point in addition to any metering equipment installed and maintained pursuant to Clause 42.2.~~1~~ or Clause 42.~~3~~4 to collect data for the operation, design and planning of its Distribution System, but if it exercises this right it shall make no additional charge to the User in respect of such Operational Metering Equipment and shall not (except in the case of the failure of metering equipment installed and maintained pursuant to Clause 42.2.~~1~~ or Clause 42.~~3~~4, the failure to install metering equipment pursuant to Clause 42.2.~~1~~ or Clause 42.~~3~~4, or the failure of the User to provide data pursuant to the ~~alternative solution agreed or determined in accordance with Clause 42.2~~Alternative Solution) use data from the Operational Metering Equipment for the calculation of Use of System Charges.

42.11 Where the Company installs Operational Metering Equipment in accordance with Clause 42.10, the User shall:

42.11.1 ensure that the employees, agents and invitees of the User will not interfere with such equipment or the immediate connections to such equipment without the prior written consent of the Company, except to the extent that emergency action has to be taken to protect the health and safety of persons or to prevent serious damage to property proximate to the Operational Metering Equipment; and

42.11.2 use its reasonable endeavours to procure that the employees, agents, sub-contractors and invitees of the Company shall at all reasonable times have safe and unobstructed access to the Operational Metering Equipment. The Company agrees to procure that any individuals to whom access is given pursuant to this Clause 42.11.2 shall comply with all reasonable directions given by the User and its appropriately authorised employees and agents as to general safety and site security arrangements.

43. CHARGES

Use of System Charges

- 43.1 The User shall pay to the Company charges (**Use of System Charges**) for use of the Company's Distribution System. Such ~~Charges~~charges shall be calculated in accordance with the Company's Relevant Charging Statement and, where appropriate, the provisions of the relevant Bilateral Connection Agreement.
- 43.2 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). The Company shall use reasonable endeavours to vary such charges no more than two times per year, such variations to apply 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.

Adjustment of Charges

- 43.3 On any occasion upon which the charges payable by the User under Clause 43.1 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.
- 43.4 Where an adjustment in accordance with Clause 43.3:
- 43.4.1 discloses an overcharge, the Company shall repay to the User the amount by which the User 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
- 43.4.2 discloses an undercharge, the User shall pay to the Company the amount by which the User 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.

- 43.5 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 the Company or the User 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

- 43.6 The Company shall invoice Use of System Charges (but excluding any Transactional Charges) to the User by reference to:

43.6.1 data provided from metering equipment where it is fitted in respect of a Connection Point pursuant to Clause 42.2 ~~or 42.4~~;

43.6.2 where the Company and the User agree that metering equipment is not required to record Use of Distribution System at the Connection Point, data provided in accordance with the provisions of an ~~alternative solution agreed under Clause 42.2.2~~ Alternative Solution; or

43.6.3 data obtained from Operational Metering Equipment in the circumstances provided by Clause 42.10.

- 43.7 All charges payable by the User pursuant to this Clause 43, Clause 44 and Clause 45:

43.7.1 are exclusive of Value Added Tax and the Company may add to such amounts (and the User shall pay) Value Added Tax (if any) at the rate applicable thereto from time to time and Value Added Tax shall be payable at the same time and in the same manner as the amounts to which it relates; and

43.7.2 shall be without prejudice to any claims or rights which the User may have against the Company and except as expressly permitted by Schedule 4 shall be made without any set-off or deduction in respect of any claims or disputes or otherwise.

- 43.8 The Company may charge the User Use of System Charges calculated by reference to electricity discovered or reasonably and properly assessed to have been exported to, or imported from, the Company's Distribution System at a Connection Point but not recorded at the time of such export or import (for whatever reason). At any time when the Company charges the User Use of System Charges under this Clause 43.8, it shall explain to the User the calculation of those charges and the basis of that calculation.

Revision of Charges

- 43.9 Without prejudice to Clause 43.1, where the Company is intending to revise any of its Use of System Charges (including the Transactional Charges), it shall serve a copy of any notice it sends to the Authority pursuant to paragraph 5 of Condition 4A of its Distribution Licence on the User as soon as is reasonably practicable after such notice is sent to the Authority.

44. BILLING AND PAYMENT

- 44.1 This Clause 44 applies in respect of Use of System Charges falling within the scope of Clause 43. 1 that are not Transactional Charges.

Submission of Account

- 44.2 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 for the whole or any part of that charging period. Such account shall be based on data provided in accordance with Clause ~~42.3.6~~43.6.
- 44.3 Where the ~~User fails to provide the data under~~referred to in Clause ~~42.13.6 is not available.~~ the Company may use estimated data prepared by the Company to determine an account. 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

- 44.4 Within 14 days of the date of an account submitted in accordance with Clause 44.2 or Clause 44.3, 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 account, quoting the account number against which payment is made and/or such other details as the Company may reasonably require.

Disputes

- 44.5 Where any sum included in an account submitted in accordance with Clause 44.2 or Clause 44.3 is disputed by the User, the provisions of Schedule 4 shall apply.

45. TRANSACTIONAL CHARGES

- 45.1 This Clause 45 applies in respect of those services falling within the scope of Clause 43.1 for which the charges to be levied are not billed in accordance with Clause 44 and, instead, are calculated by reference to the number or frequency of specific transactions (**Transactional Charges**).

Submission of Account

- 45.2 Within 30 days after the end of each calendar month, the Company shall submit to the User an account specifying:
- 45.2.1 the payment due from the User in respect of services performed during that month for which Transactional Charges are payable, and
- 45.2.2 any Value Added Tax payable thereon.

Obligation to Pay

- 45.3 Within 30 days of the date of an account submitted in accordance with Clause 45.2, 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~~account, quoting the ~~invoice~~account number against which payment is made, or by other methods as the Company and the User may agree.

Disputes

- 45.4 Where any sum included in an account submitted in accordance with Clause 45.2 is disputed by the User, the provisions of Schedule 4 shall apply.

46. PAYMENT DEFAULT

- 46.1 Subject to Clause 44.5 and Clause 45.4, failure by the User to pay any sum due as cleared funds by the due date for payment in accordance with Clause 44.4, or Clause 45.3 shall be a **Payment Default**.
- 46.2 Where the User so defaults, the Company shall send a notice (a **Late Payment Notice**) to the User:
- 46.2.1 setting out the amount owed by the User to the Company, and identifying the specific account to which the Payment Default relates;
 - 46.2.2 stating to whom payment should be made;
 - 46.2.3 specifying the method of payment; and
 - 46.2.4 where the Company intends to exercise its rights under Clause 46.3 and/or Clause 46.4, advising the User of its intention.

Interest

- 46.3 The 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 44.4, or Clause 45.3 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 an administration charge as notified by the Company to the User from time to time.

Material Breach

- 46.4 Failure to remedy a Payment Default within four Working Days of receipt of a Late Payment Notice shall be a material breach of this Agreement for the purposes of Clause 54.1.1 and the Company shall be entitled to suspend the right to make any further ~~connections~~[Connections](#) to the Company's Distribution System. Where the Company takes such action it shall send a notice to the User.

47. SECURITY COVER

- 47.1 The User shall provide Cover to the Company in accordance with the provisions of Schedule 1. ~~A failure to provide Cover in accordance with Schedule 1 shall be a material breach of this Agreement. For the avoidance of doubt, where the Company or the User refers a purported breach of Schedule 1 to the Authority as a dispute under paragraph 8 of Schedule 1, such purported breach shall not constitute a breach pending determination by the Authority.~~

48. COMPLIANCE WITH CODES**General Compliance with Codes**

48.1 The Company and the User each undertake to comply with the Company's Distribution Code, the User's Distribution Code, the CUSC, the Grid Code and the Electricity Supply Emergency Code (in each case) as appropriate and as applicable to them in respect of each Connection Point.

48.2 Each of the Company and the User shall cooperate with the other to facilitate compliance by them both with their obligations under Clause 48.1.

CUSC and Grid Code

48.3 ~~48.2 The~~ Each of the Company and the User ("Distributor A") undertakes ~~to the Company~~ not ~~[deliberately]~~ to do ~~any thing or omit to do any thing~~ anything (or allow anything to occur) in relation to ~~the User's~~ its Distribution System that causes, ~~for~~ is likely to cause, ~~the Company~~ other ("Distributor B") to breach the CUSC, ~~or the Grid Code or the Electricity Supply Emergency Code.~~

48.4 ~~48.3~~ Where ~~the User~~ Distributor B could not, in compliance with the Grid Code and the CUSC, do ~~a thing~~ something (or allow ~~a thing~~ something to occur) in relation to its Distribution System if its Distribution System was directly connected to the GB Transmission System at the Connection Point (rather than to ~~the Company~~ Distributor A's Distribution System) without undertaking an Action or obtaining an NGET Action, then ~~the User~~ Distributor B shall not do that thing (or allow that thing to occur) without undertaking or obtaining the Equivalent Action.

Conflict

48.5 ~~48.4~~ In the event of any conflict between this Section 2B or the relevant Bilateral Connection Agreement (on the one hand) and a code specified in Clause 48.1 (on the other), then the provisions of the relevant code shall prevail.

Definitions

48.6 ~~48.5~~ In this Clause:

Action means any request, submission, notification or other action by (or to be procured by) ~~the User of, to, or in respect of~~ a person other than the GB System Operator ~~(or such other person as is specified in~~ under or pursuant to the CUSC or the Grid Code).

<u>Distributor A</u>	<u>has the meaning given to that expression in Clause 48.3.</u>
<u>Distributor B</u>	<u>has the meaning given to that expression in Clause 48.3.</u>

Electricity Supply Emergency Code means the code of that name designated as such by the Secretary of State from time to time.

Equivalent Action means:

- (a) in respect of an Action, the equivalent request, submission, notification or other action by (or to be procured by) ~~the User of, to, or in respect of the Company (or such person as the Company may specify)~~ Distributor B; and
- (b) in respect of an NGET Action, the equivalent confirmation, consent, approval or other action of ~~the Company~~ Distributor A (or a confirmation by ~~the Company~~ Distributor A that the GB System Operator has undertaken that NGET Action).

GB Transmission System has the meaning given to that expression in the CUSC.

NGET Action

means any confirmation, consent, approval or other action of the GB System Operator (including entry by the GB System Operator into a contract).

49. GUARANTEED PERFORMANCE STANDARDS

- 49.1 Where the Company or the User (the “**Proximate Distributor**”) is liable to make a payment, pursuant to any provision of regulation 5, 6, 7, 9 or 12 of the ESPR, to a Customer, and that liability arises wholly or partly from a failure, act or omission on the part of the other of them (the “**Remote Distributor**”), the Remote Distributor shall make (as appropriate) all or part of an equivalent compensation payment directly to the Proximate Distributor for the benefit of the Customer.
- 49.2 For the purpose of this Clause “**equivalent compensation payment**” means:
- 49.2.1 the prescribed sum (as such term is defined in the ESPR); plus
- 49.2.2 the Proximate Distributor’s reasonable costs incurred in facilitating such payment.
- 49.3 Where the Proximate Distributor is of the opinion that the Remote Distributor is liable for making an equivalent compensation payment to the Proximate Distributor under Clause 49.1, the Proximate Distributor shall prepare a report specifying the equivalent compensation payments required and submit such report to the Remote Distributor. Such report shall be of sufficient detail to enable the Remote Distributor to reasonably validate such claim for the equivalent compensation payment.
- 49.4 On receipt of a report provided by the Proximate Distributor under Clause 49.3, the Remote Distributor shall advise the Proximate Distributor whether the Remote Distributor considers itself wholly or partly liable for the failure. The Proximate Distributor and the Remote Distributor shall endeavour to agree the extent of responsibility of each part (where relevant) in relation to the failure to meet the prescribed level of performance pursuant to the ESPR, and the proportion of compensation payable by the Remote Distributor in each case.
- 49.5 For the purpose of this Clause 49 an act or omission by the Remote Distributor shall include, but shall not be restricted to:
- 49.5.1 such act or omission by the Remote Distributor in respect of its Distribution System that compromises the ability of the Proximate Distributor to meet

performance standards defined in the ESPR in respect of Customers connected to the Proximate Distributor's Distribution System; or

- 49.5.2 failure of the Remote Distributor to provide timely information to the Proximate Distributor in respect of the operation of the Remote Distributor's Distribution System to enable the Proximate Distributor to prevent failure of the standards prescribed in the ESPR.
- 49.6 If a Customer connected to the Proximate Distributor's Distribution System contacts the Remote Distributor in relation to a matter which might form the basis of a claim under the ESPR, then the Remote Distributor shall diligently record the details of the Customer's complaint and shall pass on the details of the Customer's complaint to the Proximate Distributor as soon as reasonably practicable together with details of the Customer's name and address. If any compensation payment becomes payable by the Proximate Distributor as a consequence of the Remote Distributor's failure to pass on details of the Customer's complaint, the Remote Distributor shall be liable to the Proximate Distributor for such payment.
- 49.7 When the Proximate Distributor has received a payment from the Remote Distributor pursuant to Clause 49.1, then the Proximate Distributor shall pass such payment to the Customer or to the Customer's supplier for the benefit of the Customer as soon as reasonably practicable and if, due to the Proximate Distributor's delay, an additional payment becomes due pursuant to ESPR regulation 19 then this additional payment shall be the liability of the Proximate Distributor.
- 49.8 Neither the Remote Distributor nor the Proximate Distributor shall lead a Customer to believe that he has a valid claim for a guaranteed standard payment by reason of the action or default of the other. Where, however, a Customer does have a valid claim, a breach of the provisions of this Clause 49.8 shall not excuse the person against whom the claim lies from making the relevant payment.
- 49.9 In the event of a dispute between the Remote Distributor and the Proximate Distributor as to which of them is liable to pay compensation, or as to the extent of responsibility in relation to any failure to meet a prescribed level of performance pursuant to any provision of the ESPR, in each case in respect of a Customer connected to the Proximate Distributor's Distribution System, then in the first

instance the Proximate Distributor shall make the compensation payment for the benefit of the Customer and then the dispute shall be deemed to be a dispute which may be referred to the Authority by either the Company or the User in accordance with Section 39B of the Act and ESPR regulation 18 and the provisions as to practice and procedure contained in ESPR Schedule 2 shall be deemed to apply to any such dispute. If the Authority determines that the Remote Distributor is liable to pay the Proximate Distributor the compensation payments (or a proportion of the compensation payments) then the Remote Distributor shall pay to the Proximate Distributor the equivalent compensation payments as soon as is reasonably practicable.

- 49.10 If a Customer connected to the Proximate Distributor's Distribution System refers to the Authority, under Section 39B of the Act, a dispute between the Customer and the Remote Distributor as to whether the Customer is entitled to compensation under the ESPR (rather than as to which of the Proximate Distributor and the Remote Distributor is liable, which shall be subject to Clause 49.9), the Proximate Distributor shall (unless otherwise agreed with the Remote Distributor) have conduct and management of such dispute (in which case, provided the Proximate Distributor agrees to reimburse the Remote Distributor's costs, the Remote Distributor shall use its best endeavours to comply with the Proximate Distributor's directions in relation to such dispute).

49.11 The Company and the User shall each cooperate with the other, and exchange information with the other, regarding System Outages on its Distribution System that may give rise to claims under this Clause 49.

50. CONFIDENTIALITY RESTRICTIONS ON THE COMPANY

Confidential Information

50.1 In this Clause 50, **Confidential Information** means any information which the Company or any Affiliate or Related Undertaking of the Company:

50.1.1 receives from the User under this Agreement; or

50.1.2 holds in respect of a Connectee and is information which it has acquired in its capacity as the operator of the Distribution Business of the Company; or

50.1.3 receives from any Connectee, which, if received from the User, would fall within Clause 50.1.1; or

50.1.4 receives from the User in error, but which would usually be considered to be confidential,

and the provisions of this Clause 50 shall apply to such Confidential Information, save where the User notifies or otherwise gives prior written agreement to the Company that such Confidential Information need not be treated as confidential.

Restrictions on Use and Disclosure

50.2 Where the Company or any Affiliate or Related Undertaking of the Company receives or acquires Confidential Information, the Company shall (and shall procure that such Affiliate or Related Undertaking shall):

50.2.1 not use the Confidential Information for any purpose other than as required or expressly permitted under this Agreement, the relevant Bilateral Connection Agreement or any other agreement entered into between the Company and the User for the provision of services by the Distribution Business of the Company;

50.2.2 without prejudice to Clause 50.2.1, not use the Confidential Information in a manner which may obtain for the Company or any Affiliate or Related

Undertaking of the Company (as the case may be) any commercial advantage in the operation of an Affiliate;

50.2.3 not authorise access to nor disclose any Confidential Information other than:

- (A) to such of the employees of the Company or any Affiliate or Related Undertaking of the Company as require to be informed thereof for the effective performance of the Company's obligations under this Section 2B, the relevant Bilateral Connection Agreement and any other agreement entered into between the Company and the User for the provision of services by the Distribution Business of the Company or for the effective operation of such Distribution Business;
- (B) to such agents, consultants, professional or other advisors, and contractors as require to be informed thereof or to provide advice which is in connection with the operation of the Distribution Business of the Company;
- (C) to the Authority;
- (D) information which the Company or any Affiliate or Related Undertaking of the Company (as the case may be) is required or permitted to make disclosure of:
 - (i) in compliance with the duties of the Company or any Affiliate or Related Undertaking of the Company (as the case may be) under the Act or any other requirement of a Competent Authority;
 - (ii) in compliance with the provisions of any Relevant Instruments;
 - (iii) in compliance with any other requirement of law;

- (iv) 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
- (v) pursuant to the arbitration rules of the Electricity Arbitration Association or pursuant to any judicial or other arbitral process or tribunal of competent jurisdiction; and

50.2.4 take all reasonable steps to ensure that any such person as is referred to in sub-clauses 50.2.3(A) and (B) to whom the Company or any Affiliate or Related Undertaking of the Company (as the case may be) discloses Confidential Information does not use that Confidential Information for any purpose other than that for which it was provided and does not disclose that Confidential Information otherwise than in accordance with the provisions of this Clause 50.

Other Matters

- 50.3 The Company 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 Agreement. The Company undertakes to comply with the Data Protection Act in the performance of this Agreement.
- 50.4 The User agrees that where the Company uses or discloses Confidential Information in accordance with this Clause 50, such Confidential Information need not be treated as confidential for the purposes of Condition 39 of the Company's Distribution Licence to the extent of such use or disclosure.
- 50.5 The Company undertakes that, in any case where information to be disclosed by it under this Agreement may lawfully be disclosed only with the prior consent of the person to whom the information relates, it will use its reasonable endeavours to obtain such prior consent so as to enable it, or the User as the case may be, promptly to perform its obligations under this Section 2B and the relevant Bilateral Connection Agreement, provided that where the consent of the User's Connectee is required to be obtained for the purposes of this Section 2B and the relevant Bilateral

Connection Agreement, the User (and not the Company) shall have the obligation to obtain such consent under Clause 51.6.

51. CONFIDENTIALITY RESTRICTIONS ON THE USER

Confidential Information

51.1 In this Clause 51, **Confidential Information** means:

51.1.1 any information (whether in writing, in disc or electronic form, or otherwise) which has been properly disclosed by the Company under this Agreement but which would usually be considered to be confidential; and

51.1.2 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 User is in possession of Confidential Information, the User shall procure that such Affiliate or Related Undertaking observes the restrictions in Clauses 51.2 to 51.4 (inclusive) as if in each such Clause there was substituted for the User the name of the Affiliate or Related Undertaking.

Restrictions on Use and Disclosure

51.2 The User hereby undertakes to the Company 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:

51.2.1 in the circumstances set out in Clause 51.3;

51.2.2 to the extent otherwise required or expressly permitted by this Agreement, the relevant Bilateral Connection Agreement, or any other agreement entered into between the Company and the User for the provision of services by the Distribution Business of the Company; or

51.2.3 with the prior consent in writing of the Company.

51.3 The circumstances set out in this Clause 51.3 are:

51.3.1 where the Confidential Information, before it is furnished to the User, is in the public domain;

51.3.2 where the Confidential Information:

- (A) is acquired by the User in circumstances in which this Clause 51 does not apply;
- (B) is acquired by the User in circumstances in which this Clause 51 does apply and thereafter ceases to be subject to the restrictions imposed by this Clause 51; or
- (C) (after it is furnished to the User) enters the public domain,

otherwise (in any such case) than as a result of (i) a breach by the User of its obligations in this Clause 51; or (ii) a breach by the person who disclosed that Confidential Information of that person's confidentiality obligation, and the User is aware of such breach;

51.3.3 if the User is required or permitted to make disclosure of the Confidential Information to any person:

- (A) in compliance with the duties of the User under the Act or any other 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;

51.3.4 to any Affiliate or Related Undertaking of the User, to the employees, directors, agents, consultants and professional advisers of the User or any Affiliate or Related Undertaking of the User, in each case on the basis set out in Clause 51.4; or

51.3.5 to the extent that the Confidential Information is required to be disclosed by the User for the purposes of providing billing information to suppliers and Connectees.

51.4 The User shall take all reasonable steps to ensure that any such person as is referred to in Clause 51.3.4 to whom the User 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 51.

Other Matters

51.5 The User 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 Agreement. The User undertakes to comply with the Data Protection Act in the performance of this Agreement.

51.6 The User undertakes that, in any case where information to be disclosed under this Agreement may lawfully be disclosed only with the prior consent of the person to whom the information relates, it will use its reasonable endeavours to obtain such prior consent so as to enable it or (as the case may be) the Company promptly to perform its obligations under this Section 2B.

52. MODIFICATIONS

- 52.1 Unless agreed otherwise by the Company and the User in the relevant Bilateral Connection Agreement, no Modification may be made by or on behalf of the Company or the User otherwise than in accordance with the provisions of this Clause 52.

Modifications Proposed by Users

- 52.2 If the User wishes to make a Modification it shall complete and submit to the Company in advance of the Modification a Modification Application in the form shown in the relevant Bilateral Connection Agreement and comply with the terms thereof.
- 52.3 As soon as reasonably practicable (but not later than the date required by the Company's Distribution Licence) after receipt by the Company of the Modification Application, (save where the Authority consents to a longer period) the Company shall make a Modification Offer to the User. The Modification Offer shall include the form of any variations the Company requires to the relevant Bilateral Connection Agreement and its schedules. During such period the Company and the User shall discuss in good faith the implications of the proposed Modification(s).
- 52.4 The Modification Offer will be open for acceptance in accordance with its terms for [up to](#) 3 calendar months from the date upon which the Modification Offer is sent to the User (unless either the Company or the User makes an application to the Authority under Condition 4E of the Company's Distribution Licence in which case the Modification Offer shall remain open for acceptance until the date 14 days after any determination by the Authority pursuant to such application). If the Modification Offer is accepted by the User the Modification shall proceed according to the terms of this Agreement, and the relevant Bilateral Connection Agreement shall be varied to reflect the terms of the Modification.

Modifications proposed by the Company

- 52.5 If the Company wishes to make a Modification to the Company's Distribution System, whether at or remote from the Connection Point, the Company shall

complete and submit to the User a notification of the Modification and shall advise the User of any works which the Company reasonably believes that the User may have to carry out as a result. ~~[In formulating any such Modification, the Company shall take into account, and have due regard and consideration for, the costs likely to be incurred by the User in carrying out such works in the context of developing and maintaining efficient, co-ordinated and economical Distribution Networks.]~~

- 52.6 The User may, as soon as practicable after any notice by the Company under Clause 52.5, consult with it over the proposed Modification ~~and~~ The User may, (save where the Authority consents to a longer period) within the period stated therein (which shall be sufficient to enable the User reasonably to assess the implications of the proposed Modification), make an application to the Authority under Condition 4E of the Company's Distribution Licence.
- 52.7 As soon as practicable after the receipt of notification of the Modification pursuant to Clause 52.5 or, if an application to the Authority has been made by the User, the determination by the Authority, and in any event within 2 calendar months thereof, the User shall submit to the Company a Modification Application and shall comply with the terms thereof.
- 52.8 Subject to the payment of its reasonable charges, if any, as provided in this Clause 52.8 the Company will provide advice and assistance reasonably requested by the User to enable the User to assess the implications, including the feasibility, of making a Modification to the User's Distribution System. If the Modification under consideration by the User is or may be required as a result of a Modification required by the Company, then the Company shall provide such reasonable advice and assistance free of charge. If the proposed Modification is or may be proposed by the User, the Company may charge the User such amount as is reasonable in all the circumstances for such advice and assistance. The provision of such advice and assistance shall be subject to the terms of the relevant Bilateral Connection Agreement.

52.9 ~~[The Company shall have no obligation to compensate the User for the cost and expense of any modification required to be made by the User as a result of any Modification by the Company where the Company:]~~ [Option 1]

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~~52.9.1 is entitled to recover an equivalent amount from a third party; or~~

~~52.9.2 makes such Modification at its own volition (not including, for the avoidance of doubt, where the Modification is required as a consequence of any legislative requirement or a Directive),~~

~~and to the extent that such~~52.9 ~~{Where a~~ Modification by the Company alters the technical characteristics of the Connection Point (as set out in the relevant Bilateral Connection Agreement), but not otherwise. ~~Any dispute as to whether,~~ the Company ~~is obliged to compensate the User may be referred to arbitration in accordance with the provisions of Clause 58.}~~shall compensate the User for the reasonable cost and expense of any modification required to be made by the User as a result of such Modification provided that the company shall not be obliged to compensate the User where such Modification is required as a consequence of any Relevant Instrument, legislative requirement or Directive. Any dispute as to whether to Company is obliged to compensate the User or as to the amount of any such compensation may be referred to arbitration in accordance with the provisions of Clause 58.} ~~[Option 2]~~

The following new ~~schedules~~schedule 13 ~~and 14~~ shall also be added.

SCHEDULE 13 – Party DETAILS FOR DNO/IDNO PARTIES*[Comments on exact form are invited.]*

The following information is to be provided by DNO Parties and IDNO Parties only:

Specific requirements for notices and other communications in relation to Section 2B and the relevant Bilateral Connection Agreement should be addressed as set out below. Where no other requirements are specified, the communication should be addressed to the Party's Contract Manager.

For Control, Maintenance and Operation activities between Control Engineers/Authorised Persons a specific contact format may be required, e.g.

Control Contact Point	Telephone	Faeximile
Control Room:	Company Tel: [●]	Company Fax: [●]
	User Tel: [●]	User Fax: [●]
Control Room (LV or 11kV connections) (if different from above):	Company Tel: [●]	Company Fax: [●]
	User Tel: [●]	User Fax: [●]
Control Emergencies:	Company Emergency Telephone (24 hours): [●]	
	User's Emergency Telephone (24 hours): [●]	
Operational and Outage Planning: —	Company Tel: [●]	and ask for [●]
	User Tel: [●]	and ask for [●]
Control/Planning —	Company Tel: [●]	and ask for [●]
	User Tel: [●]	and ask for [●]

Control Contact Point	Telephone	Faeximile
'No Supply' Calls from User in respect of Connection Points	Company Tel: [●] (Emergency Service Centre) User Tel: [●]	Company Fax: [●] User Fax: [●]
Redirection to the User or the Company of 'No Supply' Calls from Connectees received by the Company or User respectively.	Company Tel: [●] (Emergency Service Centre)	Company Fax: [●]
	User Tel: [●]	User Fax: [●]
Network Operations:	Company Tel: [●] and ask for [●]	Company Fax: [●]
	User Tel: [●] and ask for [●]	User Fax: [●]
Maintenance	Company Tel: [●] and ask for [●]	Company Fax:
	User Tel: [●] and ask for [●]	User Fax: [●]
New User Connection Requests	Company Tel: [●] and ask for [●]	Company Fax:
	User Tel: [●] and ask for [●]	User Fax: [●]
Increases in User's Maximum Import Capacities and/or Maximum Export Capacities	Company Tel: [●] and ask for [●]	Company Fax:
	User Tel: [●] and ask for [●]	User Fax: [●]
Decreases in User's Maximum Import Capacities and/or Maximum Export Capacities	Company Tel: [●] and ask for [●]	Company Fax:
	User Tel: [●] and ask for [●]	User Fax: [●]
Disconnection Requests in respect of User's connection to Company's Distribution System	Company Tel: [●] and ask for [●]	Company Fax:
	User Tel: [●] and ask for [●]	User Fax: [●]
Notices of Termination from the User or from the Company in respect of User's connection to Company's Distribution System	Company Tel: [●] and ask for [●]	Company Fax:
	User Tel: [●] and ask for [●]	User Fax: [●]

~~DUoS Invoicing/ Payments received Contact Points~~

~~Proxy Data flows and Settlement enquires.~~

~~Miscellaneous Customer enquiries.~~

~~User's Contact Telephone Numbers which may be passed to Customers who may contact the Company in error from time to time for:~~

~~events of No Supply, Cable Damage, Network Safety Issues or Metering Faults on the User's Network; and,~~

~~other Customer Enquiries regarding Load Increases, Service Alterations to the User's network or system the relevant Contact point is:~~

SCHEDULE 14—BILATERAL CONNECTION AGREEMENT

DATED []

[] (1)

And

[] (2)

**BILATERAL CONNECTION AGREEMENT
FOR
A DIRECTLY CONNECTED DISTRIBUTION SYSTEM
OF ANOTHER LICENSED DISTRIBUTOR
AT**

[]

Reference: []

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THIS BILATERAL CONNECTION AGREEMENT is made on the [] day of [] 200[]

BETWEEN

- (1) [] a company registered in [] with number [] whose registered office is at [] (the “**Company**”, which expression shall include its successors and/or permitted assigns); and
- (2) [] a company registered in [] with number [] whose registered office is at [] (the “**User**”, which expression shall include its successors and/or permitted assigns).

WHEREAS

- (A) The User has applied for Connection to and use of the Company’s Distribution System and pursuant to the Company’s Distribution Licence the Company is required to offer terms in this respect.
- (B) The Company and the User are parties to the Distribution Connection and Use of System Agreement (the “**DCUSA**”) as referred to in Condition 9B of their distribution licences granted, or treated as granted, under the Electricity Act 1989.
- (C) This Bilateral Connection Agreement including its schedules (this “**BCA**”) is entered into pursuant to the DCUSA and shall be read as being governed by it.
- (D) For the purposes of this BCA, the Company is the person providing Connection and Use of Distribution System (and so is the Company for the purposes of the DCUSA) and the User is the person receiving Connection and Use of Distribution System (and so is the User for the purposes of the DCUSA).

NOW IT IS HEREBY AGREED as follows:

1 DEFINITIONS, INTERPRETATION AND CONSTRUCTION

- 1.1 Unless the subject matter or context otherwise requires or is inconsistent therewith, terms and expressions defined in the DCUSA have the same meanings in this BCA. Where terms and expressions have different meanings in respect of Sections 2A and

2B of the DCUSA, the meanings given in respect of Section 2B of the DCUSA shall apply.

1.2 The following terms and expressions shall have the meaning set out below:-

[Term]	[Meaning]
.....
.....

1.3 Unless the subject matter or context otherwise requires or is inconsistent therewith, the rules of interpretation applying in the DCUSA shall apply equally to this BCA, and accordingly clause 1.2 of the DCUSA shall apply to this BCA as if it was set out herein and referred to this BCA (rather than “the Agreement”). Where different rules of interpretation apply in respect of Sections 2A and 2B of the DCUSA, the rules of interpretation applying in respect of Section 2B of the DCUSA shall apply.

2 COMMENCEMENT, DURATION AND CONNECTION

2.1 This BCA shall take effect on the date hereof and shall continue in force until terminated in accordance with Clause 7.

2.2 The DCUSA and this BCA shall ~~govern the terms upon which the User’s Distribution System shall be entitled to be and remain Connected to the Company’s Distribution System at the Connection Points specified herein and shall~~ supersede any prior agreements or arrangements between the Company and the User in respect of ~~such~~ Connection at the Connection Points specified herein.

3 THE USER’S RIGHT TO BE AND TO REMAIN CONNECTED TO THE COMPANY’S DISTRIBUTION SYSTEM

3.1 Subject to the terms and conditions of the DCUSA and this BCA, the User shall have the right for the User’s Distribution System to be ~~Connected~~, and to remain Connected, to the Company’s Distribution System at the Connection Points specified herein, and (subject to the DCUSA) the right to be and remain Energised.

3.2 The rights referred to in Clause 3.1 are conditional upon:

3.2.1 ~~the User complying~~ ['Completion'] of the relevant Connection Assets under and in accordance with any agreement ~~between the parties~~ for the construction or modification of the Connection Assets ~~(the "Construction Agreement")~~ so that they may be energised;

3.2.2 the Company having procured, or the User having procured or granted to the Company in respect of land under its control, the land rights and interests for the Connection Assets as specified in Schedule 3 (and those land rights and interests remaining in force) [or the User having provided an indemnity to the Company (on terms reasonably acceptable to the Company) in respect of the absence of such rights]; and

3.2.3 [ANY FURTHER SITE SPECIFIC CONDITIONS TO BE AGREED].

3.3 If the conditions set out in Clause 3.2 are not fulfilled at the date hereof each party shall use reasonable endeavours to procure the fulfilment of those conditions relating to it which have not already been fulfilled. If the conditions have not been fulfilled within three months of the date hereof, the Company shall have the right to terminate this BCA.

3.4 Once each of the conditions in Clause 3.2 has been fulfilled, each party shall use reasonable endeavours to keep such conditions relating to it fulfilled throughout the term of this BCA.

3.5 The User and the Company undertake to each other that they shall forthwith notify the other of any change of circumstances occurring hereafter as a result of which any of the above conditions ceases to apply and the User and the Company shall indemnify each other against all actions, proceedings, claims or demands brought or threatened against them by a third party as a result of any breach of the undertakings contained in Clause 3.

4 THE CONNECTION POINTS, CONNECTION EQUIPMENT AND CONNECTION ASSETS

- 4.1 The Connection Points, Connection Equipment and Connection Assets to which this BCA relates are more particularly described in Schedules 1 and 3.

5 MAXIMUM CAPACITY

- 5.1 The Maximum Import Capacity and the Maximum Export Capacity for this ~~Bilateral Connection Agreement~~BCA are specified at Schedule 1.

6 COMPLIANCE WITH SITE SPECIFIC CONDITIONS AND OPERATIONAL ARRANGEMENTS

- 6.1 The site specific conditions and operational arrangements are specified in Schedule 3. As appropriate the Company and or the User shall use reasonable endeavours to comply with them.

7 TERM

- 7.1 Subject to Clause 3.3 ~~and the provisions for earlier termination set out in the DCUSA, this BCA shall continue until the User's Connection Equipment is Disconnected from the Company's Distribution System at the Connection Point in accordance with the DCUSA. 7.2~~ This, this BCA shall continue in full force and effect until :

7.1.1 ~~terminated; 7.2.1~~ by the User giving the Company 3 months' notice in writing (or such lesser period as may be agreed between the parties); ~~or~~

~~7.2.1.2~~ terminated by the Company giving the User 3 months' notice in writing (or such lesser period as may be agreed between the parties) save that for so long as the Company is required to offer terms for Connection and Use of Distribution System to the User in respect of the Company's Distribution System pursuant to the Company's Distribution Licence, such termination shall only be effective if the User does not notify the Company within 14 days of the date of the Company's notice that the User requires replacement terms to be entered into pursuant to Condition 4D of the Company's Distribution Licence;

~~7.3.1.3~~ terminated in accordance with Clause 7.3; or

7.1.4 (subject to contrary agreement between the parties) Disconnection of the Connection Point.

7.2 For the purpose of this BCA it shall be an event of default if:

7.32.1 the User ceases to be a Party to the DCUSA; ~~or~~

7.32.2 the User ~~fails~~breaches in any material respect ~~to perform or comply with~~ any of its obligations under this BCA and (if it is capable of remedy) it is not remedied within 30 days of receiving written notice from the Company of the occurrence thereof; ~~or~~ or

7.42.3 any of the conditions precedent set out in Clause 3.2 and relating to the User cease to be satisfied.

7.3 Upon an event of default pursuant to Clause 7.32, the Company (without prejudice to its other rights and remedies) shall have the following rights:

7.43.1 to terminate this BCA;

~~7.4.2 to payment by the User to the Company of an amount equal to the damages incurred by the Company and resulting from such event of default;~~7.4.33.2
to an injunction or equitable relief, or to make restitution of amounts improperly received; and

7.43.43 to set off any amounts then due and owing by the User to the Company against amount payable by the Company to the User.

7.54 Upon termination of this BCA the User shall allow the Company at its sole option to Disconnect, and to enter the User's Premises in order to Disconnect, the Connection Point and shall pay to the Company all sums then due and payable or accrued due under this BCA and any costs incurred by the Company in Disconnecting ~~at the~~ Connection Point and removing the Company's Connection Equipment and/or the User's Connection Equipment and re-instating the Company's Premises or those of any Affiliate.

7.65 Termination of this BCA shall not affect any rights or obligations which may have accrued prior to termination or resulting from the event giving rise to the right to terminate and shall not affect any continuing obligations which survive termination.

7.76 Clauses 7.43, 7.54, 7.5, 7.6, 7.7, ~~7.8~~ and 9 shall survive termination of this BCA.

7.87 Upon termination of this BCA for any reason whatsoever, the User shall pay to the Company the charges due or owing to the Company under the DCUSA and this BCA (or such other agreements as may be in place) together with any, costs, fees and expenses properly incurred by the Company as a result of such termination, and the User shall pay the same within 28 days of the date of an invoice submitted by the Company.

8 VARIATIONS

8.1 Subject to Clause 8.2, and 8.3 below, no variation to this BCA shall be effective unless made in writing and signed by or on behalf of both parties.

8.2 Either party shall at any time be entitled to propose variations to this BCA by notice in writing to the other party (including variations to the Maximum ~~Export~~Import Capacity and the Maximum ~~Import~~Export Capacity). The Company and the User shall negotiate in good faith the terms of any such variation, but if a variation to this BCA has not been agreed and put into effect within ~~one month~~20 Working Days after it has been proposed, either party shall be entitled to refer the matter to the Authority, pursuant to Section 23 of the Act, as if the variation were a new connection as referred to in that Section. The parties shall give effect to the determination of the Authority and shall enter into any agreement supplemental to this BCA as shall be necessary to give effect to any variation agreed or so determined.

8.3 The parties shall use reasonable endeavours to ensure the BCA is maintained (or varied) in line with the DCUSA and other Relevant Instruments.

9 GENERAL

9.1 ~~The~~For the purposes of this BCA and the provisions of the DCUSA referred to in Clause 9.2.1, the figure of “£1 million” referred to in that provision of the DCUSA

shall [remain unchanged] / [be replaced with “£5 million”] [DELETE AS APPROPRIATE].

9.2 Subject to Clause 9.1, the provisions of the DCUSA under the following headings shall apply to this BCA as if they were set out herein and referred to this BCA (rather than “the Agreement”):

9.~~1~~2.1 Limitation of Liability;

9.~~1~~2.2 Force Majeure;

9.~~1~~2.3 Disputes;

9.~~1~~2.4 Notices;

9.~~1~~2.5 Entire Agreement;

9.2.6 Severability;

9.2.7 Waivers;

9.~~1~~2.~~6~~8 Third Party Rights;

9.~~1~~2.~~7~~9 Assignment and Sub-contracting; and

9.~~1~~2.~~8~~10 Law and Jurisdiction.

IN WITNESS WHEREOF the hands of the duly authorised representatives of the parties hereto at the date first above written:

Signed by: Designation:

for and on behalf of the User Date:

Signed by: Designation:

for and on behalf of the Company Date:

SCHEDULE 1 - CONNECTION CHARACTERISTICS

NAMING AND DEFINITION OF THE CONNECTION

Including commencement date and geographic plans where appropriate.

DECLARATION OF CAPACITY REQUIREMENTS

SCHEDULE 2 - USE OF SYSTEM METERING AND DATA ~~CHARGES~~PROVISION

USE OF SYSTEM

Tariff for the Connection Point (by reference to ~~the Relevant Charging Statement~~)

METERING~~-ACCURACY AND~~

Including type of meter, functionality, registers if applicable. If no meter is required state that this is the case.

DATA PROVISION

Including ~~Metering, type of Metering,~~ unique references, data formats, frequency, type of LAF (generic/specific).

SCHEDULE 3 - SITE SPECIFIC CONDITIONS

OPERATIONAL ARRANGEMENTS AND DIAGRAMMS

ASSET OWNERSHIP AND RESPONSIBILITY SCHEDULES

TECHNICAL CONDITIONS AND DEROGATIONS

CONNECTION ASSETS

LAND RIGHTS

SCHEDULE 4 - GENERATION

DISTRIBUTED GENERATION CONNECTED TO USER'S DISTRIBUTION SYSTEM

EXCLUSION AND LIMITATIONS OF LIABILITY FOR DISTRIBUTED GENERATION

UNAVAILABILITY PAYMENT

SCHEDULE 5 - APPLICATION FOR MODIFICATION

Document comparison by Workshare Professional on 06 December 2007 18:13:38

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Document 2 ID	interwovenSite://worksite/Legal01/10219082/2
Description	#10219082v2<Legal01> - Section 2B (for CP)
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Split/Merged cell	
Padding cell	

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