SECTION 4

This Section 4 only applies to 'unmetered supplies' - see paragraph D of Section 1.

1. DEFINITIONS & INTERPRETATION

1.1 In this Section 4, except where the context otherwise requires, the following expressions shall have the meaning set out opposite them (and cognate expressions shall be construed accordingly):

"**Act**" means the Electricity Act 1989;

"**Affiliate**" means, in respect of a person, any company which is, from time to time, a subsidiary or holding company of that person or a subsidiary of any such holding company (and the terms "subsidiary" and "holding company" shall have the meanings given to them by section 1159 of the Companies Act 2006);

"**Agreed Codes**" means the ~~Categories of Unmetered Apparatus Codes (known as~~ Charge Codes~~)~~ and the Switch Regime Codes referred to in the Unmetered Supplies Procedure;

"**Agreement**" means the terms and conditions of Sections 1 and 4 of the National Terms of Connection, which the Customer has agreed with the Company to accept in respect of the Connection Points;

"**Application for a Modification**" means the Company's standard form for applying for a Modification, which is available from the Company on request;

"**Apparatus**" means all equipment in which electrical conductors are used, supported or of which they may form part;

"**Authorised Persons**" means persons authorised by the Company to undertake certain work on the Connection Equipment and the Monitoring Equipment;

"**Authority**" means the Gas and Electricity Markets Authority as established by section 1 of the Utilities Act 2000;

"**Balancing and Settlement Code**" or "BSC" means the Balancing and Settlement Code maintained pursuant to the NETSO Licence (including any and all subsidiary documents and procedures made under it);

"**Company**" means the holder of the Electricity Distribution Licence which applies to the Distribution System through which electricity is conveyed to, and from, the Connection Point;

"**Company's Equipment**" means the switchgear, metering or other equipment, lines or other parts of the Distribution System, and any other property or rights of the Company (including any Substation apparatus);

"**Company's Premises**" means any land or buildings of the Company in which any of the Customer's Installation is to be installed or is, from time to time, situated;

"**Competent Authority**" includes the Secretary of State, the Authority and any local or national agency, authority, court, department, inspectorate, minister, ministry, official or public or statutory person (whether autonomous or not) of (or of the government of) the United Kingdom or of the European Union, insofar (in each case) as it is acting within the limits of its proper authority;

"**Connect**" means the installation of the Connection Equipment in such a way that (subject to Energisation) the Customer may import electricity to, and/or export electricity from, the Customer's Installation over the Distribution System at the Connection Point;

"**Connection Equipment**" means that part of the Company's Equipment which has been provided and installed by the Company for the purposes of providing a connection at the Connection Point;

"**Connection Point**" means the point or points of connection at which electricity may (upon Energisation) flow between the Distribution System and the Customer's Installation, and is a reference to the point or points of connection at the Premises to which this Agreement applies;

"**Connection and Use of System Code**" or "**CUSC**" means the Connection and Use of System Code maintained pursuant to the NETSO Licence (including the framework agreement by which it is made contractually binding, and any supplementary agreement made under it);

~~"**Control Equipment**" means:~~

~~(a) the control equipment owned by the Customer or the Company, as applicable;~~

~~(b) installed on the Company's side of the supply terminals; and~~

~~(c) used for the purposes of controlling the actual pattern of consumption of electricity at the Connection Point (or at the Connection Point and other connection points) in lieu of the Customer providing its own control equipment within the Customer's Installation;~~

"**Customer**" means the person, other than the Company, to whom this Agreement applies;

"**Customer's Installation**" means any structures, equipment, lines, appliances or devices (not being the Company's Equipment) used, or to be used, at the Premises (whether or not owned or used by the Customer);

"**De-energisation**" means the deliberate movement of any switch or the removal of any fuse or the taking of any other step whereby no electrical current can flow between the Distribution System and the Customer's Installation at the Connection Point (and "De-energise(d)" shall be construed accordingly);

"**Detailed Inventory**" means a record of the Customer's Installation which contains in relation to each Item the information specified in Clause 7.1 (as such record is amended from time to time in accordance with this Agreement);

"**DGNU Payment**" means the compensation mechanism (the Distributed Generation Network Unavailability Payment) created by the Authority to make compensation payments for network outages experienced by customers with distributed generation;

"**Directive**" includes any present or future directive, requirement, licence condition, instruction, direction or rule of any Competent Authority (but only, if not having the force of law, if compliance with the Directive is in accordance with the general practice of persons to whom the Directive is addressed) and includes any modification, extension or replacement thereof then in force;

"**Disconnection**" means the permanent electrical disconnection of all or any of the Connection Equipment (and "Disconnect" shall be construed accordingly);

"**Disconnection Notice**" means a notice sent by the Customer to the Company requesting that the Company Disconnect one or more of the Connection Points;

"**Distribution Code**" means the distribution code established pursuant to the Company's Electricity Distribution Licence;

"**Distribution Connection and Use of System Agreement**" or "DCUSA" means the Distribution Connection and Use of System Agreement established pursuant to the Electricity Distribution Licences;

"**Distribution System**" has the meaning given to that expression in the Electricity Distribution Licences, and (unless the context otherwise requires) is a reference to the Company's Distribution System (as defined in the Company's Electricity Distribution Licence);

"**DNO**" means the holder of an Electricity Distribution Licence in which Section B of the standard distribution licence conditions has effect;

"**EDNO**" means the holder of an Electricity Distribution Licence which is not a DNO (or is a DNO operating outside of its Distribution Services Area, as defined in its Electricity Distribution Licence) where its Distribution System is embedded within a DNO's GSP Group (as defined in the BSC);

"**Election**" means, where the Company is an EDNO, the notification (if any) by the Customer to the Company that the Customer wishes to combine data in respect of certain Items forming all or part of the Customer's Installation with data in respect of other items comprising installations connected to the Host Network (pursuant to which notification the Host DNO shall act as UMSO in respect of those Items);

"**Electricity Distribution Licence**" means an electricity distribution licence granted pursuant to section 6 (1) (c) of the Act;

"**Electricity Supplier**" means a person who is the holder of a licence to supply electricity under section 6 of the Act, or who is exempted from the requirement to hold such a licence under section 5 of the Act;

"**Energisation**" means the movement of any switch or the insertion of any fuse or the taking of any other step so as to enable an electrical current to flow between the Distribution System and the Customer's Installation at the Connection Point (and "Energise(d)" shall be construed accordingly);

~~"**Equivalent Meter**" means an equivalent half hourly meter as defined by the Unmetered Supplies Procedure;~~

~~"**Estimated Annual Consumption**" or "**EAC**" means a weather-normalised estimate of consumption over a calendar year, to be determined in accordance with the Unmetered Supplies Procedure;~~

"**Force Majeure**" means, in respect of a Party, any event or circumstance which is beyond the reasonable control of that Party and which results in or causes the failure of that Party to perform any of its obligations under this Agreement, which event of circumstance shall include: act of God, strike lockout or other industrial disturbance, act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, lack of water arising from weather or environmental problems, explosion, infrequent transient voltage variations (whether substantial or otherwise), and fault or failure of Plant and Apparatus (to the extent that any such event or circumstance could not have been prevented by Good Industry Practice); and shall also include: governmental restraint, any Act of Parliament, other legislation, or Directive (not being any order, regulation or direction under section 33, 34 or 35 of the Act); and (in respect of the Company) shall include: the failure of any generator or the NETSO to provide the Company with electricity (or any deficiency in the electricity provided) to the extent that such failure or deficiency or the consequences thereof could not have been prevented by the exercise of Good Industry Practice by the Company. Provided that a Party's lack of funds shall not be interpreted as a cause beyond that Party's reasonable control;

"**Generating Equipment**" means any electricity generating unit;

"**Good Industry Practice**" means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;

"**Grid Code**" means the code of that name established pursuant to the NETSO Licence;

~~"**Half-Hourly Trading**" means the trading for settlement purposes of Unmetered Supplies using an Equivalent Meter in accordance with the BSC;~~

"**Host DNO**" means, where the Company is an EDNO, the DNO for the GSP Group (as defined in the BSC) within which the Company's Distribution System is embedded;

"**Host Network**" means, where the Company is an EDNO, the network of the Host DNO;

"**Item**" means each piece of equipment, appliance or device to which a ~~charging~~ Charge ~~code~~ Code applies under the Unmetered Supplies Procedure and which forms part of the Customer's Installation;

"**kVA**" means kilovoltamperes;

"**kW**" means kilowatts;

"**Market Domain I.D.**" means the unique identifier for a market participant under the industry code known as the Data Transfer Services Agreement;

"**Maximum Export Capacity**" means, in respect of a Connection Point (or the Connection Points collectively), the maximum amount of electricity (expressed in kW or kVA) which is permitted by the Company to flow into the Distribution System through the Connection Point (or the Connection Points collectively). The Maximum Export Capacity of the Connection Point shall be zero unless otherwise agreed;

"**Maximum Import Capacity**" means, in respect of a Connection Point (or the Connection Points collectively), the maximum amount of electricity (expressed in kW or kVA) which is permitted by the Company to flow from the Distribution System through the Connection Point (or the Connection Points collectively);

~~"**Meter Administrator**" has the meaning given to that expression in the BSC, and is (unless the context otherwise requires) a reference to the person appointed to that role in relation to the Metering System by the Registrant (or, where applicable, by the Customer);~~

"**Metering Point**" has the meaning given to that expression in the BSC;

"**Metering System**" has the meaning given to that expression in the BSC, and is a reference (unless the context otherwise requires) to the metering system or systems associated with the Connection Point ~~(being either an Equivalent Meter or a Metering Point subject to Profiled Trading)~~;

"**Modification**" means, in respect of a Party, any actual or proposed replacement, renovation, modification, alteration or construction by or on behalf of that Party to either that Party's Plant

or Apparatus or the manner of its operation, which (in either case) has or will have an effect on the other Party;

"**Modification Notification**" means the Company's standard form of Modification notification from time to time applicable;

"**Modification Offer**" means an offer by the Company to the Customer made pursuant to Clause 15 of terms for connection in relation to any proposed Modification at or affecting one or more of the Connection Points, including any revision or extension of such offer;

"**Monitoring Equipment**" means any monitoring and metering equipment that may be used by the Company for the purposes of measuring or checking consumption otherwise than for settlement;

"**National Electricity Transmission System**" shall have the meaning given to that expression in the CUSC;

"**National Terms of Connection**" means these National Terms of Connection, of which this Section 4 forms part, as amended from time to time in accordance with Clause 23;

"**NETSO**" means the holder, from time to time, of the NETSO Licence;

"**NETSO Licence**" means the electricity transmission licence granted, or treated as granted, pursuant to Section 6(1)(b) of the Act and in which section C of the standard transmission licence conditions applies;

~~"**Non-Geographic Inventory**" means a Detailed Inventory of the Customer's Installation which does not contain the geographic information specified in Clause 7.1.1~~;

"**Party**" means each of the Company and the Customer (and "Parties" shall be construed accordingly);

~~"**PECU**" means a photo-electric cell unit;~~

~~"**PECU Array**" means a photo-electric cell unit array~~;

"**Plant**" means fixed and movable items used in the generation, supply and/or distribution of electricity (other than Apparatus);

"**Power Factor**" means the ratio of real power to apparent power;

"**Premises**" includes any land, building, or structure, and (unless the context requires otherwise) is a reference to the premises to which this Agreement applies;

~~"**Profile Class**" has the meaning given to that expression in the BSC;~~

~~"**Profiled Trading**" means trading for settlement purposes of Unmetered Supplies using an Estimated Annual Consumption and a Profile Class;~~

"**Property**" means the Premises to which this Agreement applies, together with any other premises of the Customer in which the Company's Equipment is installed from time to time (or to which the Company may require access for the purpose of accessing the Company's Equipment);

"**Property Documents**" means any and all of the agreements that create (or otherwise concern) property interests and/or rights (including all leases, wayleaves, easements, and servitudes) in favour of the Company, to which the Customer is also party or which relate to the Connection Equipment;

"**Re-energisation**" means the movement of any switch or the installation of any fuse or the taking of any other step whereby electrical current can flow between the Distribution System and the Customer's Installation at the Connection Point (and "Re-energise(d)" shall be construed accordingly);

"**Registrant**" means the person registered in accordance with the BSC as responsible for the Metering System (which may be an Electricity Supplier, or any other party to the BSC);

"**Regulations**" means the Electricity Safety, Quality and Continuity Regulations 2002, the Electricity (Unmetered Supply) Regulations 2001, and/or the Electricity at Work Regulations 1989;

"**Small-Scale Generating Equipment**" means one or more items of Generating Equipment that have an aggregate rating of no greater than 16 amps per phase connected at low voltage;

"**Substation**" means an electricity substation (as defined in Regulation 1(5) of the Electricity Safety, Quality and Continuity Regulations 2002) of the Company;

"**Summary Inventory**" means a statement of the total number of Items (listed by reference to the applicable Agreed Codes), such statement to be extracted from the Detailed Inventory (as such statement is amended from time to time in accordance with this Agreement);

"**System Outage**" means the deliberate act by the Company, by whatever means it determines, to interrupt the flow of electrical current to a part or parts of its Distribution System, for the purposes of carrying on its activities;

"**UMSO**" means an Unmetered Supplies Operator (as defined in the BSC);

"**Unmetered Supplies**" means a supply of electricity the quantity of which the Company has authorised not to be measured by physical metering equipment by the issue of a Unmetered Supplies Certificate;

"**Unmetered Supply Certificate**" means a certificate issued by the Company under the Unmetered Supplies Procedure stating, among other things, the MSID(s) (as defined in the Unmetered Supplies Procedure) allocated to one or more Items;

"**Unmetered Supplies Procedure**" means Section S of the BSC, together with BSC Procedure BSCP 520 established under the BSC as amended from time to time (and any replacement or substitute BSC Procedure from time to time);

"**Working Day**" has the meaning given to that term in section 64 of the Act.

1.2 In this Agreement, unless the context otherwise requires:

1.2.1 a reference to a "person" includes a reference to an individual, a body corporate, an association or a partnership;

1.2.2 a reference to the singular includes the plural (and vice versa), and to a gender includes every gender;

1.2.3 a reference to a "Section" is a reference to a section of the National Terms of Connection, and to a "Clause" is to a clause of this Section 4;

1.2.4 the headings are for ease of reference only and shall not affect its interpretation;

1.2.5 the words “include”, “including” and “in particular” are to be construed without limitation to the generality of the preceding words;

1.2.6 a reference to any statute or statutory provision includes any subordinate legislation made under it, any provision which it has modified or re-enacted, and any provision which subsequently supersedes or re-enacts it (with or without modification);

1.2.7 a reference to any agreement, code, licence or other document is to such agreement, code, licence or other document as amended, supplemented, novated or replaced from time to time (and includes all subsidiary agreements entered into under it); and

1.2.8 the word “costs” shall include all overhead and financing charges, and a reasonable rate of return on the capital represented by such costs.

2. APPLICATION OF THIS AGREEMENT

2.1 The National Terms of Connection create separate legal agreements (each an Agreement) in respect of each Premises to which the National Terms of Connection apply.

2.2 Where, in respect of the Premises to which this Agreement applies, more than one legal entity falls within the definition of Customer, separate Agreements shall be created between the Company and each such Customer.

2.3 Where there is more than one Connection Point at the Premises to which this Agreement applies, and more than one Distribution System is used to convey electricity to, and from, the Connection Points, separate Agreements shall be created between the Customer and the Electricity Distribution Licence holder for each such Distribution System (each such Electricity Distribution Licence holder being the Company for the purposes of each such Agreement).

2.4 Where the Company is an EDNO and the Customer makes an Election, this Agreement creates additional rights for the Host DNO (as set out in Clause 25.4).

3. THE CUSTOMER'S RIGHT TO BE (AND REMAIN) CONNECTED

3.1 This Agreement shall govern the terms upon which the Customer's Installation shall be entitled to be (and remain) Connected to the Distribution System.

3.2 The Customer's Installation will be, and remain, Connected to the Company's Distribution System in accordance with the provisions of the Act, any other legal requirements that apply from time to time, and the terms of this Agreement.

~~3.3 The Company may refuse to Connect the Customer's Installation (or any part of it) where it is not appropriate (in accordance with the Regulations and the Unmetered Supplies Procedure) for a particular Item (or a particular type of Item) to receive Unmetered Supplies, and the Company may require the Customer to remove that Item (or that type of Item) from the Customer's Installation so that it does not receive Unmetered Supplies.~~

~~3.4~~3.3 The Company may refuse to Connect the Customer's Installation (or any part of it) where it is not appropriate (in accordance with the Regulations and the Unmetered Supplies Procedure) for a particular piece or type of equipment, appliance or device to receive Unmetered Supplies (or to be connected to an Item that would otherwise receive Unmetered Supplies), and the Company may require the Customer to remove that equipment, appliance or device from the Customer's Installation so that it does not receive Unmetered Supplies (or continue to be connected to an Item receiving Unmetered Supplies).

~~3.5~~3.4 The right to be (and remain) Connected does not include the right to be (and remain) Energised.

4. THE CUSTOMER'S RIGHT TO BE (AND REMAIN) ENERGISED

4.1 The Customer's right to be (and remain) Energised is subject to the Company's right to De-energise the Connection Point in accordance with Clause 5, and is conditional upon:

4.1.1 the Customer having the ability to perform and comply with all of its obligations under this Agreement;

4.1.2 the Customer or an Electricity Supplier being registered, in accordance with the BSC, as responsible for the Metering System;

4.1.3 the Customer~~in respect of Unmetered Supplies to~~ ~~be the subject~~complying with the Unmetered Supplies Procedure~~of Half-Hourly Trading, a Meter Administrator being appointed in relation to the Metering System~~;

4.1.4 the Customer and the Company having agreed the information required to be included in the Detailed Inventory;

4.1.5 either:

(A) the Company; or

(B) where the Company is an EDNO and the Customer has made an Election, the Host DNO,

having issued an Unmetered Supplies Certificate to the Customer in respect of the Items comprising the Customer's Installation (and that certificate coming into, and continuing in, full force and effect);

4.1.6 where there is any Generating Equipment at the Premises, the Customer (or, if the Customer is not the owner or operator of the Generating Equipment, the owner or operator of the Generating Equipment):

(A) not being within any category of person that is required in accordance with the provisions of the CUSC to be a party to the CUSC (or to be a party to any supplementary agreement under the CUSC); or

(B) (to the extent that it is within any such category) being a party to the CUSC (and/or to the relevant supplementary agreement under the CUSC); and

4.1.7 where there is any Generating Equipment at the Premises, the Customer (or, if the Customer is not the owner or operator of the Generating Equipment, the owner or operator of the Generating Equipment) holding a licence to generate electricity under section 6 of the Act, or being exempted from the requirement to hold such a licence under section 5 of the Act.

4.2 The Customer represents and undertakes to the Company that, at the date this Agreement comes into effect and for so long as it remains in effect, all of the conditions set out in Clause 4.1 are (and will remain) satisfied. The Customer shall notify the Company as soon as reasonably practicable if any of the conditions in Clause 4.1 cease to be satisfied. The Customer shall indemnify the Company against all actions, proceedings, claims or demands brought or threatened against the Company as a result of any of the conditions set out in Clause 4.1 not being (or ceasing to be) satisfied.

4.3 This Agreement shall not give the Customer any right to:

4.3.1 receive a supply of electricity to the Premises;

4.3.2 sell electricity exported from the Premises; and/or

4.3.3 use the Distribution System for the purposes of providing a supply of electricity (or to otherwise have electricity transported through the Distribution System),

and the Company therefore makes no warranty to the Customer in relation thereto. Where the Customer is not the Registrant, the Customer must contract with the Registrant for the matters outlined in Clauses 4.3.1 and 4.3.2, and the Registrant will contract with the Company for the matters outlined in Clause 4.3.3. Where the Customer is the Registrant, it must contract for the matters outlined in Clauses 4.3.1 and 4.3.2 pursuant to the BSC, and must contract separately with the Company for the matters outlined in Clause 4.3.3.

4.4 When the Connection Point is Energised in accordance with this Agreement, the characteristics of any supply of electricity delivered shall be subject to such variations as may be permitted by the Regulations. The Company does not guarantee that the supply of electricity will be free from transient variations in voltage and frequency or voltage pulses or harmonic frequencies, and the Customer must take its own protective measures if it requires a higher standard of supply.

5. DE-ENERGISATION

Emergency De-energisation

5.1 If, in the reasonable opinion of:

5.1.1 the Company, the condition or manner of operation of the Customer's Installation or other equipment, and/or the condition or manner of operation of the Distribution System, poses an immediate threat of injury or material damage to any person or property (including the Customer's Installation, the Distribution System, the National Electricity Transmission System, and the electrical systems and installations connected (directly or indirectly) to the Distribution System and/or the National Electricity Transmission System), then the Company shall have the right to immediately De-energise the Connection Point if it is necessary or expedient to do so to avoid the occurrence of such injury or damage; or

5.1.2 the Customer, the condition or manner of operation of the Distribution System or the Connection Equipment poses an immediate threat of injury or material damage to any person or property (including the Customer's Installation), then the Customer shall have the right to safely De-energise the Customer's Installation if it is necessary or expedient to do so to avoid the occurrence of such injury or damage, and shall promptly afterwards inform the Company of the incident.

<u>De-energisation on Request</u>

5.2 The Company shall De-energise the Connection Point within a reasonable time (or, in circumstances of urgency, as soon as is reasonably practicable) after being instructed to do so by either the Customer or the Registrant. Where the instruction has been given by the Registrant, the Company need not give the Customer notice of the intention to De-energise.

<u>De-energisation Generally</u>

5.3 Where the circumstances referred to in Clause 5.1.1 exist but with the proviso that the threat is not immediate, the Company may nevertheless De-energise the Connection Point, in which case the Company shall give the Customer as much advance notice of the De-energisation as is reasonably practicable in the circumstances.

5.4 The Company may De-energise the Connection Point pursuant to the Regulations (including where it is not appropriate for a particular Item, or a particular type of Item,

to receive Unmetered Supplies), in which case the De-energisation shall be undertaken in accordance with any applicable requirements under the Regulations.

5.5 The Company may De-energise the Connection Point:

5.5.1 if it is necessary or reasonable for the Company to do so as part of a System Outage carried out in accordance with its statutory rights and obligations and Good Industry Practice; and

5.5.2 in order to permit other persons to connect to the Distribution System,

in which case, the Company shall give the Customer such notice of the De-Energisation as is required by law (and shall use its reasonable endeavours to provide as long a notice as is practicable).

5.6 The Company may, at any time without the need to give prior notice to the Customer, De-energise the Connection Point if:

5.6.1 the Company is instructed or required to do so pursuant to the Act, its Electricity Distribution Licence, any Directive, the CUSC, the BSC, the DCUSA and/or the Electricity Supply Emergency Code (being the code of that name designated by the Secretary of State);

5.6.2 the Company reasonably considers it necessary to do so for safety reasons or for the security of the Distribution System or any other electrical system (including in order to avoid interference with the regularity or efficiency of the Distribution System);

5.6.3 the Company reasonably believes that the Customer has made unauthorised use of electricity or committed theft of electricity;

5.6.4 if any of the conditions in Clause 4.1 cease to be satisfied, or the Customer breaches any of the provisions of this Agreement (including Clauses 8, 11, 13.3, 14 and 17);

5.6.5 the Customer's acts, omissions and/or continued Connection cause the Company to breach this Agreement or any law or Directive;

5.6.6 the Company is entitled to De-energise the Connection Point in accordance with any other connection agreement relating to that Connection Point (provided the Company acts reasonably in exercising such right); and/or

5.6.7 the Company is otherwise permitted to do so under the provisions of this Agreement (including under Clause 8.5).

Miscellaneous

5.7 If the Company De-energises the Connection Point at the request of the Customer, or as a result of the acts, omissions or breaches of the Customer, then the Customer shall pay to the Company on demand any costs incurred by the Company as a result of such De-energisation and any subsequent Re-energisation.

5.8 If the Company De-energises the Connection Point at the request of the Customer, the Company shall Re-energise the Connection Point as soon as reasonably practicable after being instructed to do so by the Customer or the Registrant. If the Company De-energises the Connection Point at the request of the Registrant, the Company shall Re-energise the Connection Point as soon as reasonably practicable after being instructed to do so by the Registrant.

5.9 Where the Connection Point is De-energised otherwise than pursuant to Clause 5.2, the Company shall Re-energise the Connection Point as quickly as reasonably practicable after the circumstances leading to the De-energisation have ceased to exist.

5.10 In undertaking work relating to Energisation, De-energisation and any subsequent Re-energisation, the Company shall act in accordance with Good Industry Practice (and, subject thereto, shall decide on the extent and nature of the work required).

5.11 If at any time when the Customer does not have a right for a Connection Point to be (and remain) Energised but nevertheless imports electricity from, or exports electricity to, the Distribution System through that Connection Point, then the Customer shall (to the extent the Company is unable to recover the relevant amounts from the Registrant) pay to the Company forthwith upon demand such sum as the Company may require for such import or export calculated in accordance with the Company's then current

charges, together with such other reasonable and proper costs, losses and expenses as the Company may incur as a result thereof.

6. DISCONNECTION

6.1 The Customer shall be entitled to send to the Company a Disconnection Notice providing an explanation for why there is no reasonably foreseeable future use for the Connection Point, and specifying the date on which the Disconnection is required.

6.2 Unless agreed otherwise following the receipt of a Disconnection Notice in accordance with Clause 6.1, the Company shall (on, or as soon as reasonably practicable after, the date specified in the Disconnection Notice) remove the Connection Equipment from the Property. The Customer acknowledges that it may not be practicable to remove the equipment on the date specified, or for some time thereafter. The Customer shall pay to the Company forthwith upon demand an amount equal to the reasonable costs and expenses incurred by the Company in removing the Connection Equipment.

6.3 The Company shall be entitled to Disconnect the Connection Point if the Company reasonably considers it necessary to do so for safety reasons. Where such safety reasons were the result of the Customer's acts or omissions, the Customer shall pay to the Company forthwith upon demand an amount equal to the reasonable costs and expenses incurred by the Company in undertaking the Disconnection.

6.4 The Company shall be entitled to Disconnect the Connection Point on 20 Working Days prior notice where the Connection Point is De-energised for a continuous period of 3 months or more. Where such De-energisation was the result of the Customer's acts or omissions, the Customer shall pay to the Company forthwith upon demand an amount equal to the reasonable costs and expenses incurred by the Company in undertaking the Disconnection.

7. INFORMATION

7.1 The Customer shall (except to the extent that the Company otherwise agrees) provide, to the Company (and, where the Customer has made an Election, to the Host DNO), the minimum information required by the Unmetered Supplies Procedure and (without

duplication) the following information (together constituting the Detailed Inventory), which information shall be set out separately for each Item:

7.1.1 *Location* ~~(subject to Clause 7.2)~~:

(A) the grid reference for the Item, to seven digits easting and seven digits northing (0.1m resolution), using the current edition from time to time of Ordnance Survey scale 1:500;

(B) the address for the Item (to include road/street name, parish or village name and post code) or adjacent address for the Item (such as x metres north/south/east/west from firm map detail outside or opposite a house number); and

(C) (where applicable) the reference number displayed on the Item.

7.1.2 *Detail:* information sufficient to allow the calculation of the annual electricity consumption, and the pattern of electricity consumption for the Item (preferably by reference to the applicable Agreed Codes), to include:

(A) the type, description and wattage of the Item;

(B) (if applicable) the type of control gear installed (e.g. low loss, optimal electronic or high frequency as used in street lighting); and

(C) where the equipment is not operating continuously, the type of switch control (e.g. central management system (CMS) node, photo electric control unit (PECU), timeswitch, etc.) and the associated settings of the controller (e.g. dusk to dawn, part night times, 70/35 lux). ~~and~~

~~7.1.3 *Remote Connection Point:* whether the Connection Point is remote from the Item or groups of Items connected to the Connection Point, and if so the Connection Point location.~~

7.1A Where the Customer has made an Election in respect of the Premises that are subject to this Agreement and the Customer has also made an equivalent election in respect of premises connected to one or more other EDNO networks which are also connected to

the same Host Network, then the information to be provided under Clause 7.1 and the information to be provided under the equivalent clause of the Customer's connection agreement(s) with the other EDNO(s) shall be provided as a single consolidated file to the Company, the Host DNO and the other EDNO(s).

7.2 ~~Where the Customer is only able to provide a Non-Geographic Inventory of the Customer's Installation, the Customer shall not (unless the Company otherwise agrees) be entitled to receive Unmetered Supplies at the Customer's Installation unless the Customer's Installation was receiving Unmetered Supplies on 1 April 1998 via the Distribution System.~~

~~7.3 The Customer shall,~~ Where there has been addition, deletion, or amendment to any Item that causes a change to the Detailed Inventory, within a calendar month, the Customer shall provide a new Detailed Inventory to the Company in the following calendar month, (and, where the Customer has made an Election, to the Host DNO) that includes all additions, deletions and amendments, or at such frequency as is reasonably specified and varied from time to time by the Company. Where there have been additions, deletions or amendments to the Detailed Inventory that have not been included previously, these shall be included within the next Detailed Inventory. Where there have been no additions, deletions or amendments to the Detailed Inventory within 12 calendar months, or at such frequency as is reasonably specified and varied from time to time by the Company, the Customer shall provide confirmation to the Company that there have been no additions, deletions or amendments to the Detailed Inventory. Such confirmation due by the anniversary date of provision of that Detailed Inventory.~~on such dates and at such frequency as is reasonably specified and varied from time to time by the Company, provide to the Company (and, where the Customer has made an Election, to the Host DNO):~~

~~7.3.1 the Detailed Inventory for Profile Traded Items including additions, deletions or amendments to the Detailed Inventory (and, in the absence of any contrary specification by the Company, the Customer shall do so once per calendar year, due by the anniversary date of this Agreement); and/or~~

~~7.3.2 the Detailed Inventory for Half-Hourly Traded Items including additions, deletions or amendments to the Inventory (and, in the absence of any contrary~~

~~specification by the Company, the Customer shall do so once per calendar month, due by the earliest day date closest to the day date of this Agreement),~~

~~and the Company shall give the Customer notice as soon as possible after receipt of any notice given under Clause 7.3 if it will give rise to a Modification.~~

~~7.4~~7.3 Where the Company agrees to any addition, deletion or amendment of the Detailed Inventory (whether pursuant to Clause 7.~~3~~ 2 or otherwise), the Summary Inventory shall be deemed to be amended accordingly from the date the Customer notifies the Company (and, where the Customer has made an Election, the Host DNO) of such addition, deletion or amendment, or such date as agreed by the Company. No more than one Detailed Inventory shall be deemed to be amended within the same calendar month, subject to the Company agreeing that a replacement Detailed Inventory may be provided by the Customer for that calendar month.

~~7.5 In respect of Unmetered Supplies that are to be subject to Half-Hourly Trading, the Company (or, where the Customer has made an Election, the Host DNO) shall provide the Meter Administrator with a copy of the Summary Inventory within 20 Working Days of the commencement of this Agreement (or such later date of receipt of a copy of the Detailed Inventory from the Customer). The Company (or, where the Customer has made an Election, the Host DNO) shall notify the Meter Administrator of any revision to the Summary Inventory as soon as reasonably practicable following any amendment to the Summary Inventory.~~

~~7.6 In respect of Unmetered Supplies that are to be subject to Profiled Trading:~~

~~7.6.1 if the Customer requests a copy of the revised Summary Inventory, the Company (or, where the Customer has made an Election, the Host DNO) will provide a copy of it to the Customer within 10 Working Days (and the Customer shall pay any reasonable charge levied by the Company in respect of such provision); and~~

~~7.6.2 the Company (or, where the Customer has made an Election, the Host DNO) shall comply with the Unmetered Supplies Procedure regarding any change to the Estimated Annual Consumption relating to the Connection Point.~~

~~7.7~~7.4 All information provided by the Customer under this Clause 7 shall be in such form (including computer readable form) as the Company (or, where the Customer has made an Election, the Host DNO) may reasonably specify from time to time after consultation with the Customer. Where the information is not provided in accordance with the Agreed Codes and in the file format set out in the Unmetered Supplies Procedure, the Company (or, where the Customer has made an Election, the Host DNO) will convert the information received as soon as reasonably practicable so that the information can be used in settlement pursuant to the BSC (and the Customer shall pay upon demand the Company's or, where the Customer has made an Election, the Host DNO's costs of so converting the information).

~~7.8~~7.5 The Parties shall comply with the provisions for audit as set out in this Clause 7.~~8~~5:

~~7.8.1~~7.5.1 The Company shall be entitled at all times on giving no less than 10 Working Days' notice to carry out an audit of the Customer's Installation against the Detailed Inventory, provided that the Company may not carry out more than one such audit in any six-month period unless the previous audit has disclosed any material discrepancy that arises from the Customer's breach of this Agreement, breach of statutory duty and/or tortious (including negligent) act or omission.

~~7.8.2~~7.5.2 If the audit reveals material irregularities or discrepancies in the Detailed Inventory, the Company shall be entitled to recover from the Customer the reasonable cost incurred by the Company in carrying out the initial audit, and the Customer shall also bear the cost of all additional audits required to confirm the accuracy of the new Detailed Inventory.

~~7.8.3~~7.5.3 The Customer shall give the Company access to any Plant and/or Apparatus as it requires to carry out any audit in accordance with this Clause 7.~~8~~5, and shall provide access to any information requested in respect of such audit.

~~7.9~~7.6 In addition to the rights and remedies which the Company has under any other provision of this Agreement, where an audit pursuant to Clause 7.~~8~~ 5 reveals irregularities or discrepancies in the Detailed Inventory, then, in respect of the Connection Points in question:

~~7.9.1~~7.6.1 the Customer shall submit a revised Detailed Inventory to the Company (and, where the Customer has made an Election, the Host DNO) to reflect such adjustments; and

~~7.9.2~~7.6.2 (if applicable) the Company (or, where the Customer has made an Election, the Host DNO) shall make such adjustment to the Summary Inventory~~Estimated Annual Consumption~~; ~~or~~

~~7.9.3 (if applicable) the Company (or, where the Customer has made an Election, the Host DNO) shall require the Meter Administrator to make such adjustments to the consumption figures produced by the Equivalent Meter,~~

as (in each case) may be required in order to ensure the accuracy (within the margins of accuracy set out in the BSC) of the settlement data on which the related supply and distribution use of system charges are calculated in respect of the Unmetered Supplies.

~~7.10~~7.7 Where Items on the Detailed Inventory are subject to a change of ownership then such Items will remain on the Customer's Detailed Inventory until the Company has been notified by the new owner that such Items have been added to the new owner's detailed inventory.

~~7.11~~7.8 The Customer grants, or shall procure the grant (to the extent the Customer is able to do so), to the Company (and, where the Customer has made an Election, to the Host DNO and any other distribution licensee to whose system items within the same inventory are connected) free and unrestricted access to and use of any information or data concerning electricity taken through any Connection Point available under this Agreement, the Unmetered Supplies Procedures or the BSC for use in the Company's (and, where applicable, the Host DNO's and other distribution licensee's) business whether that information or data is held by the Customer or another person on its behalf. ~~Where the Meter Administrator is not the Company, the Customer shall procure that the Meter Administrator shall comply with the provisions of this Clause 7.11 as if it were the Customer~~.

~~7.12~~7.9 Where any additions or amendments to the Detailed Inventory or to the Summary Inventory are made pursuant to this Clause 7, or where a Modification to the Customer's Installation is made pursuant to Clause 15, the Customer shall ensure that any charges which the Company requires to be paid in accordance with the statements of charges made by the Company from time to time under the Company's Electricity Distribution Licence are paid for any such addition, amendment or Modification (including those relevant to the addition of a new Connection Point), and that any works which the Company requires to be effected are carried out such that they are fit for purpose.

~~7.14~~7.10 If at any time any Item shall be re-rated such that the characteristics of its consumption of electricity are different than they were before such re-rating, the Company (or, where the Customer has made an Election, the Host DNO) may ~~either~~ require recalculation of the unmetered energy consumption as required by the Unmetered Supplies Procedure ~~(as applicable):~~

~~7.12.1 adjust the Estimated Annual Consumption by the amount necessary to reflect such re-rating; or~~

~~7.12.2 require the Meter Administrator to recalculate (and re-submit under the BSC) the amount of electricity consumed by the Item to take into account such re-rating,~~

~~(in each case)~~ from (subject to the limitations on adjustments to electricity settlement data under the BSC) the date on which the Item first was registered in the Detailed Inventory (or any later date that the Company or (where applicable) the Host DNO may reasonably specify).

8. THE CUSTOMER'S INSTALLATION AND EQUIPMENT

Equipment Generally

8.1 The Customer shall ensure compliance at all times with the Regulations and any laws or Directives in respect of the Customer's Installation which are binding on the Customer.

8.2 Save where express written representations are made by the Company, neither by inspection (if any) or non-rejection (nor in any other way) does the Company give any warranty (express or implied) as to the adequacy, safety, or other characteristics of the Customer's Installation, and the Company shall not be responsible therefor.

8.3 The Customer hereby acknowledges that the Company may use switchgear with auto-reclosing facilities, that the Customer's Installation should be designed and built so as not to suffer damage through the operation of such facilities and that the Company accepts no liability for such damage (subject to Clause 16.3) to the extent (if any) such damage is attributable to the Customer's failure to so design and build the Customer's Installation.

8.4 The Customer shall maintain the Customer's Installation so that it is reasonably fit for the purpose for which it is used, and so that neither it nor its operation or use shall be liable to cause damage to, or interference with, the Distribution System or the National Electricity Transmission System (or their operation or use or the flow of electricity through them).

8.5 If the Customer imports electricity from, and/or exports electricity to, the Distribution System in a manner which adversely affects or impairs voltage regulation or impairs the flow of electricity through the Distribution System (or in the reasonable opinion of the Company is likely to do so), then the Customer shall at its own expense remedy the condition in a manner deemed adequate in the reasonable opinion of the Company (and, if the condition is not remedied within a reasonable time of the Company giving notice to the Customer of such condition, the Company may forthwith De-energise the Connection Point until such condition has been so remedied), and pay to the Company on demand the full amounts of all costs, losses and expenses caused to the Company thereby.

8.6 Where there is more than one Connection Point, the Customer shall (at its own expense) ensure that there does not exist within the Customer's Installation the facility to parallel across more than one Connection Point, unless expressly agreed in writing by the Company.

Generating Equipment

8.7 If the Customer installs, or arranges for the installation of, Small-Scale Generating Equipment at the Premises, then the Customer must inform the Company of any intention to use the generating equipment in parallel with the Distribution System no later than 20 Working Days after the equipment is commissioned. Provided the Customer so informs the Company, the Customer does not need the Company's consent to install and/or operate Small-Scale Generating Equipment at the Premises.

8.8 Subject to Clause 8.7, the Customer shall notify the Company of any Generating Equipment at the Premises, and shall obtain the Company's prior written consent to the installation and/or operation of any Generating Equipment at the Premises capable of being operated in parallel with the Distribution System.

8.9 Where there is Generating Equipment at the Premises that is used as an emergency back-up source of electricity, it may be utilised provided that it is first isolated from the Distribution System.

Unmetered Supplies

8.10 The Customer shall not permit any Plant or Apparatus of a third party to be connected to the Customer's Installation without the prior written permission of the Company.

8.11 If, in relation to any Connection Point, the Customer fails to comply with Clause 8.10, the Company may exercise its rights under Clause 5 in respect of that Connection Point. Alternatively, if the Customer is unable to remedy the situation within a reasonable time, the Company may require a Modification to be made to the Company's Equipment and/or the Customer's Installation.

9. THE COMPANY'S INSTALLATION AND EQUIPMENT

9.1 Only Authorised Persons will be allowed to operate the Company's Equipment and/or the Monitoring Equipment, and shall only do so in accordance with Good Industry Practice.

9.2 The Customer shall at all times permit the Company to install such Monitoring Equipment as the Company may reasonably require from time to time on the Customer's Installation or the Property.

9.3 The Monitoring Equipment shall always remain the property of the Company, and does not constitute or comprise a Meter (as defined in the BSC).

9.4 This Agreement entitles the Customer's Installation to be Connected for the purpose of receiving electricity from, or exporting electricity to, the Distribution System. Any other use of the Distribution System, including the transmission of data or communications, is strictly prohibited without the prior written consent of the Company. Unless the Company has given such consent, any such use of the Distribution System by the Customer, or relating to the Connection Point, shall be a breach of this Agreement, and the Customer shall pay to the Company on demand the full amount of all costs, losses and expenses caused to the Company as a result of such use.

10. PLANT AND APPARATUS

Prohibition on Interference

10.1 Each Party shall ensure that its agents, employees and invitees do not interfere in any way with any of the Plant or Apparatus of the other Party without the consent of such other Party, except where emergency action has to be taken to protect the health and safety of persons or to prevent material damage to property. Neither Party shall knowingly do (or omit to do) anything which would cause the other Party to breach the Regulations.

10.2 Subject to Clause 16.2, if either Party breaches Clause 10.1 and as a result any equipment is lost or damaged, the Party in breach shall pay the other Party the amount of any loss, damage and expenses the other Party suffers as a result, unless such loss or damage was caused by fair wear and tear or Force Majeure.

Damage

10.3 The Customer shall at all times take reasonable precautions required to protect the Company's Equipment from damage, and for that purpose shall comply with any reasonable requirements made by the Company from time to time.

10.4 Each Party shall as soon as it becomes aware of the same notify the other Party in writing of any damage to any part of such other Party's equipment (being the Customer's Installation or the Company's Equipment) and shall provide in writing to such other Party (as soon as reasonably possible after the other Party has requested the same) such information relating to the incident giving rise to such damage as the first Party has in its possession, under its control or can obtain on exercising reasonable efforts.

10.5 Where the Company's Equipment is contained within, or adjacent to and directly associated with, the Customer's Installation, the Customer shall be liable for the replacement of any Company's Equipment which has been damaged and which arises from damage to the Customer's Installation; provided that the Customer's liability in respect of the Company's Equipment pursuant to this Clause 10.5 shall not exceed £1,000,000 per incident or series of related incidents.

~~Control Equipment~~

~~10.6 Upon the failure or malfunctioning of Control Equipment owned by the Company, the Company will remove such equipment and replace with simple unswitched electrical connections of its choosing such that the associated electrical circuits will be permanently Energised. The Company will notify the Customer of the removal of such control equipment. The Customer shall thereafter be responsible for implementing substitute control equipment within the Customer's Installations at its cost. At any time the Customer shall be responsible for re-declaring the consumption pattern of the associated Connection Points to reflect any changed pattern of operation in accordance with this Agreement.~~

~~10.7 Upon the failure or malfunctioning of Control Equipment owned by the Customer, the Company is permitted to remove such Control Equipment and make simple unswitched electrical connections of its choosing in place of such Control Equipment such that any previously switched electrical circuits will be permanently Energised. The Company will notify the Customer of the removal of such Control Equipment. The Customer shall thereafter be responsible for implementing substitute control equipment within the Customer's Installations at its cost. At any time the Customer shall be responsible for re-declaring the consumption pattern of the associated Connection Points to reflect any changed pattern of operation.~~

~~10.8 The Company will retain control of any control equipment removed pursuant to Clause 10.7 for a period of up to six months from date of its removal. After expiry of this period the Company may at any time and in its sole discretion choose to dispose of any such equipment.~~

~~10.9 Any control equipment still in the possession of the Company in accordance with Clause 10.8 may be collected by the Customer or, if requested to do so by the Customer, sent to the Customer at its cost provided that if the Customer fails to pay in advance the cost of its delivery, the Company may dispose of it.~~

~~10.10 If the Company disposes of any control equipment under Clauses 10.8 or 10.9, the Company will retain any proceeds of sale for its own use absolutely and if the proceeds of sale are insufficient to cover the costs of disposal any amount not so covered shall be a debt due from the Customer and payable upon demand.~~

~~10.11 Where the Meter Administrator requires the removal of a PECU from a Customer Installation for use in a PECU Array, the Customer shall (at no cost to the Company) replace such PECU.~~

11. PROPERTY RIGHTS & ACCOMMODATION

11.1 The Customer shall ensure that the Company is at all times entitled (without cost to it) to:

(a) occupy the Property for the purpose of Connecting the Premises (or for the purpose of Connecting the Premises and providing a connection to any other premises);

(b) exercise its rights created by (or under) the Property Documents; and

(c) upon the expiry or termination of such rights and for so long thereafter as the Premises requires a Connection (whether before or after the termination of this Agreement), exercise such rights upon the same terms as were contained in the Property Documents.

11.2 The Customer shall provide or procure the provision of (at its own expense) such building or other suitable accommodation or facilities as the Company may reasonably require for any of the Company's Equipment and/or the Monitoring Equipment situated at the Property, and the Customer shall (at its own expense) ensure that such accommodation or facilities are kept in good and safe repair and condition (including that they are water tight).

11.3 Where applicable the Customer shall grant free of charge (or procure the grant free of charge by the freehold or leasehold owner as the case may be of the Property) to the Company a lease relating to the accommodation referred to in Clause 11.2, and the Customer shall obtain (or procure the obtaining of) all consents (including any mortgagees, landlords or statutory consents) of any kind necessary to enable such a lease to be validly granted.

11.4 If the lease referred to in Clause 11.3 is not granted, or is terminated forfeited or surrendered (other than by replacement by a substitute lease), then the Company may terminate this Agreement by notice in writing to this effect to the Customer.

11.5 The Company shall not be liable for any breach of this Agreement arising as a result of, or caused by, any breach of the lease referred to in Clause 11.3 by the landlord to it, or any failure by the Customer to comply with its obligation at Clause 11.2 to keep the accommodation in good repair and water tight condition.

12. RIGHTS OF ACCESS

12.1 The Customer shall procure that the Company (and its employees, agents, sub-contractors and/or invitees) shall at all times be given safe and unobstructed access to enter the Property at convenient times (except in the case of emergency, in which case access is permitted at any time) and upon reasonable notice (except in the case of emergency or the reading of Monitoring Equipment, in which case no such notice need be given) for the purpose of exercising the Company's rights, or enforcing the Company's obligations, under this Agreement (and, in particular, for the purposes of: carrying out Connection, Modification, Energisation, De-energisation, and Re-energisation works; installing, inspecting, testing, repairing, renewing, maintaining, isolating, protecting or removing the Company's Equipment and/or the Monitoring Equipment (or any part thereof); and/or otherwise operating the Distribution System). The provisions as to rights of access specified in paragraphs 7 to 10 of Schedule 6 to the Act shall apply to this Agreement. The Company shall ensure that any individuals to whom access is given pursuant to this Clause 12.1 shall comply with all reasonable directions given by the Customer (and its appropriately authorised representatives) as to general safety and site security requirements.

12.2 The Company shall procure that the Customer (and its employees, agents, sub-contractors and/or invitees) shall at all times (subject to suitable supervision by representatives of the Company) be given safe and unobstructed access to enter the Company's Premises at convenient times and upon reasonable notice for the purpose of exercising the Customer's rights, or enforcing the Customer's obligations, under this Agreement (and, in particular, for the purposes of: inspecting, testing, repairing, renewing, maintaining, isolating, protecting or removing the Customer's Installation (or any part thereof)). The Customer shall ensure that any individuals to whom access is given pursuant to this Clause 12.2 shall comply with all reasonable directions given by the Company (and its appropriately authorised representatives) as to general safety and site security requirements.

12.3 Without prejudice to Clause 8.10, the Customer shall procure that the Company (and its employees, agents, sub-contractors and/or invitees) shall at all times be given safe and unobstructed access to, and use of, the Customer's Installation (without charge) in order to provide a supply to (or accept an export from) such third parties as the Customer has agreed (or may agree) to connect to the Customer's Installation.

13. LIMITATION OF CAPACITY

13.1 The Company shall only be obliged to allow the import of electricity from, and/or the export of electricity to, the Distribution System through the Connection Point at levels equal to or below the Maximum Import Capacity and/or the Maximum Export Capacity (respectively).

13.2 Subject to the other provisions of this Agreement, the Company shall use reasonable endeavours to:

13.2.1 ensure that the Maximum Import Capacity and the Maximum Export Capacity is available at the Connection Point at all times during the period of this Agreement; and

13.2.2 maintain the connection characteristics at the Connection Point.

13.3 The Customer shall ensure that the import of electricity from, and/or the export of electricity to, the Distribution System through the Connection Point does not exceed the Maximum Import Capacity and/or the Maximum Export Capacity (respectively). Where the Customer is unsure of the Maximum Import Capacity and/or the Maximum Export Capacity, it shall contact the Company (and the Company will inform the Customer of the applicable capacities).

13.4 On each occasion that the Customer breaches Clause 13.3 (and without prejudice to the Company's other rights and remedies, including under Clause 5), the Customer shall:

13.4.1 upon written notice from the Company, take the necessary actions to reduce the import and/or export of electricity to within the Maximum Import Capacity and/or the Maximum Export Capacity within the period of time specified in the notice; and

13.4.2 where it wishes to do so, propose a variation to the Maximum Import Capacity and/or the Maximum Export Capacity in accordance with Clause 13.6; or

13.4.3 where it wishes to do so, submit a Modification Application to the Company in accordance with Clause 15.

13.5 Following the occurrence of a breach of Clause 13.3 (and without prejudice to the Company's other rights and remedies, including under Clause 5), the Company shall (to the extent it is unable to recover the relevant amounts from the Registrant) be entitled to charge the Customer (in which case the Customer shall pay forthwith upon demand) such sum as the Company may require for such import or export calculated in accordance with the Company's then current charges.

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

13.7 Any reduction in the Maximum Import Capacity or the Maximum Export Capacity pursuant to Clause 13.6 shall, where the Parties have within the preceding 12 months agreed the Maximum Import Capacity or the Maximum Export Capacity (as applicable), only take effect following the expiry of 12 months from the date of such previous agreement (unless the Company expressly agrees otherwise).

14. POWER FACTOR AND PHASE BALANCE

14.1 Unless otherwise agreed, the Customer shall at all times ensure that the Power Factor of any import of electricity from, or export of electricity to, the Distribution System through the Connection Point is maintained at or as near to unity as practicable (and, in any event, at not less than 0.95 leading or 0.85 lagging). The Customer shall comply (at its own expense) with such requirements as the Company may make as to the installation by the Customer of such Plant and Apparatus as may be necessary to ensure that the Power Factor is maintained in accordance with this Clause 14.1.

14.2 The Customer shall not allow the Power Factor at the Connection Point to vary such as to cause damage or disturbance to the Distribution System.

14.3 Where connection at the Connection Point is provided through two or more phases, the Customer shall ensure (insofar as is reasonably practicable) that the flow of electricity through the Connection Point is at all times balanced between the phases.

14.4 If the Customer fails to comply with Clause 14.1, 14.2 or 14.3 the Company may in its reasonable discretion and having given such notice as it considers reasonable in the circumstances De-energise the Connection Point until the causes of the failure are remedied. If the Customer is unable to remedy the situation within a reasonable time, the Company may require a Modification to be made to the Company's Equipment and/or the Customer's Installation.

15. MODIFICATIONS

15.1 No Modification may be made by or on behalf of either Party otherwise than in accordance with the provisions of this Clause 15.

15.2 Where the Customer wishes to make a Modification it shall complete and submit to the Company an Application for a Modification.

15.3 The Company shall make a Modification Offer to the Customer as soon as reasonably practicable and in accordance with the requirements of its Electricity Distribution Licence. The Parties shall discuss in good faith the implications of the proposed Modification(s).

15.4 The Modification Offer made by the Company in response to the application will be open for acceptance in accordance with its terms, unless either the Company or the Customer makes an application for determination to the Authority under the Company's Electricity Distribution Licence in which event the Modification Offer shall remain open for acceptance until the date 10 Working Days after the determination by the Authority pursuant to such application. If the Modification Offer is accepted by the Customer, this Agreement shall be varied to reflect the terms of the Modification Offer and the Modification shall proceed according to the terms of this Agreement as varied.

15.5 Where the Company wishes to make a Modification to the Distribution System the Company shall complete and submit to the Customer a Modification Notification and shall advise the Customer of any works which the Company reasonably believes the Customer may have to carry out as a result.

15.6 The Customer may as soon as practicable after receipt of the Modification Notification and (save where the Authority consents to a longer period) within the period stated therein (which shall be sufficient to enable the Customer to assess the implications of the proposed Modification) make an application to the Authority under the Company's Electricity Distribution Licence.

15.7 As soon as practicable after the receipt of the Modification Notification or, if an application to the Authority has been made, the determination by the Authority, and in any event within 2 months thereof, the Customer shall submit an Application for a Modification to the Company.

15.8 Once an Application for a Modification has been made by the Customer pursuant to Clause 15.7 the provisions of Clauses 15.3 and 15.4 shall thereafter apply.

15.9 Subject to the payment of its reasonable charges (if any) as referred to in this Clause 15.9, the Company undertakes to the Customer to provide all advice and assistance reasonably requested by the Customer to enable the Customer adequately to assess the implications including the feasibility of making a Modification to the Customer's Installation (whether such Modification is to be made at the request of the Company or of the Customer). The charges referred to in this Clause 15.9 are:

15.9.1 if the proposed Modification by the Customer is or may be required as a result of a Modification proposed by the Company, then the Company shall provide such advice and assistance free of charge; or

15.9.2 if the proposed Modification is or may be proposed by the Customer, the Company may charge the Customer such amount as is reasonable in all the circumstances for such advice and assistance.

15.10 The provisions of such advice and assistance shall be subject to any confidentiality obligations binding on the Parties.

15.11 The Company shall have no obligation to compensate the Customer for the cost and expenses incurred by the Customer as a result of any Modification by the Company.

16. LIMITATION OF LIABILITY

16.1 Neither Party shall be liable for any breach of this Agreement directly or indirectly caused by Force Majeure.

16.2 Subject to Clause 16.3 and save where any provisions of this Agreement provide for an indemnity, neither Party (the "Party Liable") nor any of its officers, employees or agents shall be liable to the other Party for any loss arising under or in relation to this Agreement (whether for breach of this Agreement, in tort or otherwise) other than for loss directly resulting from a breach of this Agreement and which at the date hereof was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach in respect of:

16.2.1 physical damage to the property of the other Party, its officers, employees or agents; and/or

16.2.2 the liability of such other Party to any other person for loss in respect of physical damage to the property of any person,

provided that:

16.2.3 the liability of either Party in respect of claims for such loss shall in no circumstance exceed one million pounds (£1,000,000) per incident or series of related incidents;

16.2.4 where such incident or series of related incidents entitles the Customer to claim compensation from the Company under this Agreement and any other agreement (including any other connection agreement), the Company's aggregate liability under this Agreement and all such other agreements in respect of that incident or series of related incidents shall not exceed one million pounds (£1,000,000), irrespective of whether the Customer has claimed under this Agreement and/or any such other agreement; and

16.2.5 where such incident or series of related incidents entitles any person other than the Customer to claim compensation from the Company under a connection agreement relating to the Premises, the Company's aggregate liability under this Agreement and all such other connection agreements in respect of that incident or series of related incidents shall not exceed one million pounds (£1,000,000), and the Company's liability under this Agreement will be pro-rated accordingly.

16.3 Nothing in this Agreement shall exclude or limit the liability of the Party Liable for death or personal injury resulting from the negligence of the Party Liable, or any of its officers, employees or agents and the Party Liable shall indemnify and keep indemnified the other Party, its officers, employees or agents from and against all such and any loss or liability which such other Party may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the Party Liable, or any of its officers, employees or agents.

16.4 Subject to Clause 16.3, neither Party, nor any of its officers, employees or agents shall in any circumstances whatsoever be liable to the other Party for any:

16.4.1 loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill;

16.4.2 indirect or consequential loss; or

16.4.3 loss resulting from the liability of such other Party to any other person however and whenever arising except under Clause 16.2.2,

and, for the avoidance of doubt, the Company shall have no liability to the Customer to pay to any person the DGNU Payment unless by prior agreement in writing.

16.5 The rights and remedies provided by this Agreement to the Parties are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies express or implied and provided by common law or statute in respect of the subject matter of this Agreement, including without limitation any rights either Party may possess in tort which shall include without limitation actions brought in negligence and/or nuisance. Accordingly, each Party hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute, and releases the Company to the same extent from all duties, liabilities, responsibilities or obligations provided by common law or statute in respect of the matters dealt with in this Agreement and undertakes not to enforce any of the same except as expressly provided herein.

16.6 Save as otherwise expressly provided in this Agreement, this Clause 16 insofar as it excludes or limits liability shall override any other provision of this Agreement, provided that nothing in this Clause 16 shall exclude or restrict or otherwise prejudice or affect any of:

16.6.1 the rights, powers, duties and obligations of either Party which are conferred or created by the Act, (or any subordinate legislation made under it), the Electricity Distribution Licence, or the Regulations; or

16.6.2 the rights, powers, duties and obligations of the Authority or the Secretary of State under the Act, the Electricity Distribution Licence or otherwise howsoever.

16.7 Each of the Clauses of this Clause 16 shall:

16.7.1 be construed as a separate and severable contract term, and if one or more of such Clauses is held to be invalid, unlawful or otherwise unenforceable the other or others of such Clauses shall remain in full force and effect and shall continue to bind the Parties; and

16.7.2 survive termination of this Agreement.

16.8 Each of the Parties agrees that the other Party holds the benefit of Clauses 16.2 and 16.3 for itself and as trustee and agent for its officers, employees and agents.

16.9 Nothing in this Clause 16 shall be construed so as to prevent the Company from bringing an action in debt against the Customer.

16.10 Where the Company is an EDNO and the Customer has made an Election in respect of certain Items:

16.10.1 the Company shall be liable for the acts and omissions of the Host DNO in its role as UMSO for those Items as if they were the Company's own acts and omissions; and

16.10.2 without prejudice to Clause 16.10.1, the Host DNO shall have no liability to the Customer for any acts or omissions by the Host DNO in its role as UMSO for those Items.

17. DISTRIBUTION CODE & UNMETERED SUPPLIES PROCEDURE

17.1 Each Party undertakes to comply with all the provisions of the Distribution Code applicable to it.

17.2 In the event of any conflict between this Agreement and the Distribution Code, the Distribution Code shall prevail.

17.3 The Company and the Customer shall at all times comply with the Unmetered Supplies Procedure as if it was incorporated into this Agreement.

18. PAYMENTS

18.1 Unless otherwise stated, each Party shall pay any and all amounts due to the other Party under this Agreement within 30 days of the date of invoice.

18.2 If any amount owing by one Party to the other under the terms of this Agreement remains unpaid after the due date for payment, the Party to whom the amount is owed shall be entitled to recover interest thereon at the rate provided for by the Late Payment of Commercial Debts (Interest) Act 1998. The Party to whom the amount is owed shall also be entitled to recover the fixed sum provided for by that Act.

18.3 All amounts payable under this Agreement are exclusive of value added tax and value added tax may be added at the applicable rate.

19. ASSIGNMENT AND SUB-CONTRACTING

19.1 Subject to Clauses 19.2, 19.3 and 19.4, neither Party shall assign (or otherwise transfer) its benefit or burden under this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed.

19.2 Either Party may assign or charge its benefit under this Agreement in whole or in part by way of security.

19.3 The Company shall be entitled, without the consent of the Customer, to assign its rights and/or obligations under this Agreement, whether in whole or in part, where such assignment is to an Affiliate.

19.4 Either Party shall be entitled, without the consent of the other Party, to sub-contract its obligations under this Agreement. The sub-contracting by the Company or the Customer of the performance of any obligations or duties under this Agreement or of any activities envisaged by the Distribution Code shall not relieve the Company or the Customer (as the case may be) from liability for the performance (or non-performance) of such obligation or duty.

20. EVENTS OF DEFAULT AND TERMINATION

Automatic termination

20.1 This Agreement will automatically terminate in respect of a Connection Point where one or more of the following occurs:

20.1.1 the Customer and the Company agree a replacement connection agreement in respect of the Connection Point; or

20.1.2 the Connection Point is Disconnected.

Termination on notice

20.2 Either Party may terminate this Agreement by giving the other not less than one month's notice in writing; provided that the Company may only give such notice where it (or its appointed UMSO) no longer considers that the Customer's Installation is appropriate for Unmetered Supplies and it (or its UMSO) withdraws the Unmetered Supplies Certificate.

Termination for breach or financial difficulty

20.3 The Company may immediately terminate this Agreement by giving notice of such termination to the Customer in the event that one or more of the following occurs (and is continuing):

20.3.1 the Customer fails to pay any amount properly due and owing to the Company pursuant to this Agreement, and such failure is not remedied within 5 Working Days of receiving written notice from the Company of the occurrence thereof and requiring the same to be remedied;

20.3.2 the Customer fails in any material respect to perform or comply with any of its obligations under this Agreement, and (only if the breach is capable of remedy) it is not remedied to the reasonable satisfaction of the Company within 20 Working Days of receiving written notice from the Company of the occurrence thereof and requiring the same to be remedied; or

20.3.3 any of the following occurs:

(A) an interim order or bankruptcy order is made in respect of the Customer under the Insolvency Act 1986 or a voluntary arrangement is proposed in respect of the Customer;

(B) an order of the High Court is made or an effective resolution passed for the insolvent winding-up or dissolution of the Customer;

(C) a receiver (which expression shall include an administrative receiver within the meaning of section 29 of the Insolvency Act 1986) of the whole or any material part of the assets or undertaking of the Customer is appointed;

(D) an administration order under section 8 of the Insolvency Act 1986 is made or if a voluntary arrangement is proposed under section 1 of that Act in respect of the Customer; or

(E) the Customer enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Company); or

(F) the Customer is unable to pay its debts (within the meaning of section 123(1) or (2) of the Insolvency Act 1986),

and (to the extent relevant) within 20 Working Days of his appointment, the trustee in bankruptcy, liquidation, receiver, administrative receiver, administrator, nominee or other similar officer has not provided to the Company a guarantee of future performance by the Customer of this Agreement in such form and amount as the Company may reasonably require.

Consequences of Termination

20.4 The ending or termination of this Agreement (by either Party and for whatever reason) shall not affect any of the rights, remedies or obligations of either Party that have accrued prior to such ending or termination, or any of the provisions of this Agreement that are expressly (or by implication) intended to survive such ending or termination.

20.5 Upon the ending or termination of this Agreement (by either Party and for whatever reason):

20.5.1 the Company may De-energise and/or Disconnect the Connection Point;

20.5.2 the Customer shall allow the Company (at its sole option) to enter the Property in order to remove the Company's Equipment (or any part of it); and/or

20.5.3 the Customer shall pay to the Company all sums then due and payable or accrued due under this Agreement, and any reasonable costs incurred by the Company in Disconnecting the Connection Point and removing the Company's Equipment (or any part of it).

21. FORCE MAJEURE

21.1 If either Party shall be unable to carry out any of its obligations under this Agreement due to a circumstance of Force Majeure this Agreement shall remain in effect but save as otherwise provided herein both Parties' obligations other than any obligation as to payment of charges shall be suspended without liability for a period equal to the circumstance of Force Majeure provided that:

21.1.1 the Party affected by the Force Majeure promptly gives the other Party written notice describing the circumstance of the Force Majeure (including the nature of the occurrence and its expected duration) and, where reasonably practicable, continues to furnish regular reports with respect thereto during the period of the Force Majeure;

21.1.2 the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

21.1.3 no obligations of either Party that arose before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure; and

21.1.4 the non-performing Party uses all reasonable efforts to remedy its inability to perform.

22. DISPUTES RESOLUTION

22.1 Without prejudice to the rights of the Parties given in the Electricity Distribution Licence or the Act in respect of dispute resolution (including as referred to in Clauses 13.6, 15.4 and 23.2), the Parties shall not be obliged to submit any dispute, difference or question arising under or in connection with this Agreement to any prescribed method of resolution but shall be entitled, in the event of a failure to agree between them on a method of dispute resolution, to commence such proceedings or make such reference as they may competently pursue.

23. VARIATIONS

23.1 The National Terms of Connection (and therefore this Agreement) will be changed automatically to incorporate any changes which are approved by the Authority pursuant to the DCUSA. Notice of any change which is approved will be advertised in the national press, and the new terms will be published on the internet at www.connectionterms.co.uk.

23.2 Either Party may, at any time, ask the other to enter into an alternative connection agreement in respect of the Premises if it believes an alternative agreement is needed because of the nature or use of the Connection Point and/or the Premises. Each Party shall negotiate in good faith the terms of any such alternative agreement. If an alternative agreement has not been agreed within 1 month of its being proposed, either Party may refer the matter to the Authority for resolution pursuant to section 23 of the Act. The Parties shall give effect to any such determination, and shall enter into any agreement as shall be necessary to give effect to any such determination.

24. NOTICES

24.1 Any notice, demand, certificate or other communication required to be given or sent under this Agreement shall be in writing and delivered by hand, by first class post, by facsimile or by email.

24.2 Subject to Clause 24.3, the required address for the delivery of notices to the Company shall be its registered address (in which case delivery must be by hand or by first class post), and for delivery to the Customer shall be the Premises or its registered or principal business address (in which case delivery must be by hand or by first class post).

24.3 Either Party may, from time to time, notify the other in accordance with this Clause 24 of the address, facsimile number and/or email address at which the first Party will accept delivery of notices for the purposes of this Agreement.

24.4 A notice or other form of communication shall be deemed to have been served and received as follows:

24.4.1 if given or delivered by hand, at the time when given or delivered;

24.4.2 if sent by first class post, at the expiration of two Working Days after the document was delivered (bearing the correct address and being pre-paid) into the custody of the postal authorities;

24.4.3 if sent by facsimile, upon production by the sender's equipment of a transmission report indicating that the message was sent to the correct number in full and without error; and

24.4.4 if sent by email, at the time when delivered to the recipient's email server..

25. GENERAL

25.1 This Agreement, and any documents referred to in it, contains the entire agreement between the Parties in relation to its subject matter. Each of the Parties irrevocably and unconditionally waives any right it may have to claim damages for, and/or to rescind this Agreement because of, breach of any warranty not expressly contained, or referred to, in this Agreement, or any misrepresentation whether or not contained in this Agreement, unless such misrepresentation was made fraudulently.

25.2 None of the provisions of this Agreement shall be considered waived by either Party except when such waiver is given in writing. No delay by or omission of either Party in exercising any right, power, privilege or remedy under this Agreement or the Distribution Code shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other future exercise thereof or the exercise of any other right, power, privilege or remedy.

25.3 If any provision of this Agreement is or becomes or is declared invalid, unenforceable or illegal by a Competent Authority, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of this Agreement which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.

25.4 Each Party's officers, employees and agents shall have the benefit of, and be able to enforce, Clauses 16.2 and 16.3. Where the Company is an EDNO and the Customer has made an Election, the Host DNO shall have the benefit of, and be able to enforce, Clause 16.10. Subject to this Clause 25.4, the Parties do not intend that any provision of this Agreement will be enforceable by a third party (whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise). Notwithstanding that a person who is not a Party may have a right to enforce particular Clauses under the Contracts (Rights of Third Parties) Act 1999 in accordance with this Clause 25.4, the Parties may vary or terminate this Agreement in accordance with its terms without requiring the consent of any such person.

26. GOVERNING LAW AND JURISDICTION

26.1 Subject to Clause 26.2, this Agreement will be governed by, and interpreted in accordance with, the laws of England and Wales, under the jurisdiction of the English and Welsh courts.

26.2 If the Connection Point is located in Scotland (except where the Company is Northern ~~Electric Distribution Limited~~Powergrid (Northeast) plc (a company incorporated in England & Wales with company number 2906593) or Electricity North West Limited (a company incorporated in England & Wales with company number 2366949)), this Agreement will be governed by, and interpreted in accordance with, Scots law, under the jurisdiction of the Scottish courts.

For information: supply characteristics

As required by law, the electricity delivered to the Premises through the Distribution System will normally be at one of the voltages (and will have the technical characteristics) set out below:

- At 230 volts nominal alternating voltage: normally a single-phase supply, with a permitted range of voltage variation from plus 10% to minus 6%.
- At 400 volts nominal alternating voltage: normally a three-phase supply, with a permitted range of voltage variation from plus 10% to minus 6%.
- At a nominal alternating voltage equal to or greater than 1000 volts but less than 132,000 volts: normally a three-phase supply, with a permitted range of voltage variation from plus 6% to minus 6%. For the avoidance of doubt this range includes not exhaustively Connection Points with a nominal alternating voltage of 3,300, 6,600, and 11,000 volts.
- At all of the above voltages: the supply frequency will be 50 hertz, with a permitted nominal variation of plus or minus 1%.