

DCP 398 ‘GENDER NEUTRAL AMENDMENTS TO THE DCUSA’

DRAFT LEGAL TEXT

Amend the following definitions under Clause 1.1 of Section 1A as follows:

Panel ~~Chairman~~Chair means the person appointed as such in accordance with Clause 7.1.

Related Person means, in relation to an individual, any member of that individual’s immediate family; any partner with whom that individual is in partnership; that individual’s employer; any Affiliate of such employer; any person by whom that individual was employed in the previous 12 months; and any company (or Affiliate of a company) in respect of which that individual (individually or collectively with any member of ~~his~~that individual’s immediate family) controls more than 20% of the voting rights in respect of the shares in that company.

WG ~~Chairman~~Chair has the meaning given to that term in Clause 7.28.

Amend Clause 1.2.3 of Section 1A as follows:

Interpretation

1.2 In this Agreement, unless the context otherwise requires, any reference to:

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

1.2.2 the singular includes the plural, and vice versa;

~~1.2.3 a gender includes every gender;~~

1.2.3 not used;

Amend Clause 6.2.1 of Section 1B as follows:

6.2 The Panel Members from time to time shall be elected in accordance with the following provisions:

- 6.2.1 no later than 40 Working Days before 1 December in each year, any individual shall be entitled, by notice in writing to the Panel Secretary specifying the Party Category in respect of which ~~hethat individual~~ wishes to stand and the company (if any) by which ~~hethat individual~~ is employed, to put ~~himself~~themselves forward for election as a Panel Member or Alternate for that Party Category (the position as Panel Member or Alternative for a Party Category being, for the purposes of this Clause 6.2, a “**Role**”);
- 6.2.2 the Panel Secretary shall ignore notices received from candidates who would, if elected, be obliged to resign in accordance with Clause 6.8.3;
- 6.2.3 no later than 30 Working Days before 1 December in such year, the Panel Secretary shall notify each Party of the candidates who have put themselves forward for election for each Role;
- 6.2.4 at the same time as it issues such notice, the Panel Secretary shall, in respect of those Roles (if any) for which the number of candidates exceeds the number of Panel Member or Alternate offices attributable to that Party Category and currently vacant or due to become vacant on the following 1 December, invite the Groups comprising that Party Category to vote for their favoured candidate for that Role;
- 6.2.5 each such Group shall be entitled to cast one vote per Role, and shall cast such vote by means of a system established by the Panel which ensures that each Party Category casts only one vote per Role and which complies with the same requirements as are set out in Clauses 12.4.5 and 12.4.6;
- 6.2.6 each such Group shall be given 10 Working Days from the date of notification under Clause 6.2.3 to cast such vote; and
- 6.2.7 as soon as reasonably practicable following the expiry of such 10 Working Days, the Panel Secretary shall notify the Parties of the result of such vote, listing, in respect of each Role, the candidate who received the most votes first,

the candidate who received the second most votes second, and so on. In the event that two or more candidates in respect of a Role for a Party Category received the same number of votes, the Panel Secretary shall invite the Groups comprising that Party Category to vote, within such time period as the Panel Secretary may reasonably specify, for their preferred candidate from those tied candidates, the result of such vote determining the order in which those candidates should be listed.

Amend Clauses 6.6 to 6.14 of Section 1B as follows:

Term of Office and Removal from Office of Panel Members

6.6 Each person elected as a Panel Member or Alternate shall be appointed as such with effect from the last to occur of the following:

6.6.1 the date on which ~~he~~that person complies with the requirements of Clause 6.17;

6.6.2 the date on which ~~he~~that person is elected; and

6.6.3 the date on which the position for which ~~he~~that person was elected becomes vacant.

6.7 Each Panel Member or Alternate (other than one appointed under Clause 5.8 or 6.9) shall retire (at which point ~~his~~the office of that Panel Member or Alternate shall become vacant) on 1 December in the second year following ~~his~~their appointment.

6.8 A Panel Member or Alternate shall immediately cease to be a Panel Member or Alternate (and ~~his~~their office shall become vacant) if ~~he~~that Panel Member or Alternate:

6.8.1 resigns ~~his~~from office by notice in writing to the Panel Secretary;

6.8.2 being a Panel Member, fails to attend three consecutive meetings of the Panel that have been duly convened; or, being an Alternate, fails to attend two consecutive meetings of the Panel which the Alternate was due to attend;

6.8.3 ceases to be, or to be employed by, a person that is:

- (A) a Party that forms part of the same Party Category as the Party Category in respect of which the Panel Member or Alternate was elected;
- (B) not a Party but that has an Affiliate that is a Party that forms part of the same Party Category as the Party Category in respect of which the Panel Member or Alternate was elected; or
- (C) not a Party and that has no Affiliate that is a Party but provides consultancy services to, or represents the interests of, the same Party Category as the Party Category in respect of which the Panel Member or Alternate was elected;

- 6.8.4 becomes bankrupt or makes any arrangement or composition with ~~his~~ creditors;
- 6.8.5 becomes prohibited by law from being a director of a company under the Companies Act 2006;
- 6.8.6 is convicted of an indictable offence;
- 6.8.7 is admitted to hospital in pursuance of an application under the Mental Health Act 1983 or the Mental Health (Care and Treatment) (Scotland) Act 2003, or an order is made by a court with competent jurisdiction in matters concerning mental disorder for ~~his~~their detention or for the appointment of a receiver, curator bonis or other person with respect to ~~his~~their property or affairs; or
- 6.8.8 dies.

Replacement of Panel Members

- 6.9 Where the office of a Panel Member (other than one appointed under Clause 5.8) becomes vacant for any reason other than ~~his~~by retirement in accordance with Clause 6.7 or 6.10:
- 6.91 the Alternate:
 - (A) allocated to that Panel Member (as described in Clause 6.11); or

(B) if there is no such Alternate, any other Alternate in respect of the Party Category relevant to that office,

shall be appointed to that office. The appointment shall be subject to Clause 6.17, but as if the reference to “~~his~~their election” in the final line thereof were to “the date upon which the relevant office became vacant”; or

6.9.2 where there is no Alternate in respect of the relevant Party Category, the election process set out in Clauses 6.2 to 6.5 (inclusive) shall apply in respect of that office, save that the dates and timescales set out therein shall be as the Panel Secretary may reasonably direct.

6.10 A Panel Member appointed in accordance with Clause 6.9 shall retire (at which point ~~his~~the office of that Panel Member shall become vacant) on the date that the person that Panel Member replaced would otherwise have retired in accordance with Clause 6.7.

Alternates

6.11 Each Alternate elected as described in Clause 6.3 shall be allocated to a Panel Member for the same Party Category by reference to the election in which the Panel Member and Alternate were elected (and, if relevant, the order in which they appeared on the list created under Clause 6.2.7).

6.12 Where a Panel Member is not present at a Panel meeting, ~~his~~that Panel Member's Alternate shall be entitled to attend (and count towards the quorum at) that meeting and to exercise and discharge all the functions, powers and duties of the Panel Member at that meeting.

6.13 Where a Panel Member is not present at a Panel meeting and ~~his~~that Panel Member's Alternate is not able to be present at a Panel meeting, another Alternate from the same Party Category shall be entitled to attend (and count towards the quorum at) that meeting and to exercise and discharge all the functions, powers and duties of the Panel Member at that meeting.

6.14 Where the office of an Alternate becomes vacant for any reason other than ~~his~~by way of retirement in accordance with Clause 6.7 (including where the Alternate becomes a Panel Member in accordance with Clause 6.9), then the election process set out in

Clauses 6.2 to 6.5 (inclusive) shall apply in respect of that office, save that the dates and timescales set out therein shall be as the Panel Secretary may reasonably direct.

Amend Clauses 6.17 and 6.18 of Section 1B as follows:

6.17 A person shall not be appointed as a Panel Member or Alternate unless ~~he~~that person has first:

6.17.1 confirmed in writing to DCUSA Ltd (for the benefit of itself and each Party) that ~~he agrees~~they agree to act as a Panel Member in accordance with this Agreement and with particular regard to the requirements of Clause 6.16; and

6.17.2 confirmed in writing to DCUSA Ltd (for the benefit of itself and each Party) that ~~he agrees~~they agree to accept appointment as a director of DCUSA Ltd and to act in such capacity in accordance with this Agreement,

and ~~his~~their office shall be deemed to have become vacant if ~~he does~~they do not do so within 20 Working Days of ~~his~~their election.

6.18 Each Panel Member or Alternate shall, at the time of ~~his~~their appointment and upon any relevant change in circumstance, disclose, in writing to the Panel, the name of each Related Person who is a Party, or is otherwise likely to be affected by the operation of this Agreement and the matters to which it relates.

Amend Clauses 7.1 to 7.4 of Section 1B as follows:

The Panel ~~Chairman~~Chair

7.1 The Panel ~~Chairman~~Chair shall be the Panel Member appointed as such, from time to time, by a simple majority of the Panel Members.

7.2 The Panel ~~Chairman~~Chair may at any time be removed from the office of Panel ~~Chairman~~Chair by a simple majority of the Panel Members or at the direction of the Authority. Where a Panel Member is removed from the office of Panel ~~Chairman~~Chair, ~~he~~that Panel Member may not be reappointed as such without the Authority's prior consent.

7.3 The Panel ~~Chairman~~Chair shall preside at every meeting of the Panel at which ~~he is~~they are present. If the Panel ~~Chairman~~Chair is unable to be present at a meeting, ~~he~~the Panel

Chair may nominate, by notice in writing to the Panel Secretary, another Panel Member (or ~~his~~the Alternate of that Panel Member) to act as Panel ~~Chairman~~Chair for that meeting. If neither the Panel ~~Chairman~~Chair nor any person nominated by ~~him~~the Panel Chair in accordance with this Clause 7.3 is present at a Panel meeting, the Panel Members present may, by simple majority, appoint any one of their number to preside at that meeting.

- 7.4 The Panel ~~Chairman~~Chair shall be entitled to vote in ~~his~~their capacity as a Panel Member. ~~The Panel Chairman and~~ shall in no circumstances be entitled to an extra or casting vote.

Amend Clause 7.18 of Section 1B as follows:

- 7.18 Any Party shall be entitled to send a representative to attend a Panel meeting provided it gives the Panel Secretary two Working Days' notice in advance of such meeting. Such a representative shall be admitted as an observer, and shall (at the Panel ~~Chairman's~~Chair's invitation) be entitled to speak (but in no circumstances vote) at the meeting. The Panel ~~Chairman~~Chair may, at ~~his~~their sole discretion, exclude a representative of a Party from a meeting (or any part thereof) where matters being discussed are confidential.

Amend Clause 7.22 of Section 1B as follows:

- 7.22 If any Panel Member disagrees with any item of the minutes, ~~he~~the Panel Member shall, within five Working Days of receipt of the minutes, notify the Panel Secretary of those items with which ~~he~~the Panel Member disagrees, and the Panel Secretary shall incorporate those items upon which there is disagreement into the agenda for the next following meeting of the Panel, as the first item for resolution.

Amend Clauses 7.28 to 7.31 of Section 1B as follows:

Membership of Working Groups

- 7.28 Each Working Group shall be composed of such persons with experience and expertise suitable to the Working Group's remit, and who are willing to serve, as the Panel may direct. Each Working Group shall be chaired by such person (the ~~WG~~ ~~Chairman~~Chair) as the Panel may direct, or as (in the case of the DCUSA Standing

Issues Group) is elected pursuant to Schedule 7 or (in the case of the DCMDG) is appointed pursuant to Schedule 28.

- 7.29 Before establishing each Working Group, the Panel shall invite (by such means as it considers appropriate) applications from individuals who wish to serve on that Working Group.
- 7.30 Once a Working Group is established, the WG ~~Chairman~~Chair shall (unless the Panel otherwise directs) be entitled to admit such additional persons to serve on that Working Group as the WG ~~Chairman~~Chair considers appropriate. The Panel may, at its discretion, subsequently remove any such additional persons from service on that Working Group.
- 7.31 The Authority shall be entitled to send, to any Working Group meeting, a representative who shall be entitled to speak (but not to vote) at that meeting. Any Party shall be entitled to send a representative to attend and (at the WG ~~Chairman's~~Chair's invitation) speak (but in no circumstances vote) at any Working Group meeting.

Amend Clause 7.34 of Section 1B as follows:

- 7.34 Unless the Panel otherwise directs, a person who is to serve on a Working Group shall not be appointed to that Working Group unless ~~he~~that person has first confirmed in writing to DCUSA Ltd (for the benefit of itself and each Party) that ~~he agrees~~they agree to act in accordance with Clause 7.33 (save that this requirement shall not apply to those serving on the DCMDG).

Amend Clause 7.36 of Section 1B as follows:

Secretariat

- 7.36 The Panel may, from time to time, appoint and remove, or make arrangements for the appointment and removal of, any such person or persons (such person or persons to be known as the **Secretariat**) as the Panel requires to assist:
- 7.36.1 the Panel;
- 7.36.2 the Panel Secretary; and/or
- 7.36.3 any Working Group,

in the proper performance of its, ~~his~~ or their duties and responsibilities under this Agreement.

Amend Clause 11.18 of Section 1C as follows:

11.18 Where any person serving on the Working Group objects to any aspect of the final consultation draft referred to in Clause 11.17, that person may require the Working Group to include in the final consultation draft such alternative to any aspect of the final consultation draft as ~~he~~that person may specify, so as to allow the Parties to comment on those alternatives.

Amend Clauses 11.29 and 11.30 of Section 1C as follows:

Withdrawal by Proposer

11.29 The Proposer may withdraw ~~his~~their support for a Change Proposal on notice to the Secretariat at any time; provided that, where the Proposer raised the Change Proposal pursuant to Clause 10.2.5, the Proposer may not withdraw such support unless it also provides evidence that the Authority has given its consent to such withdrawal.

11.29A Where the Authority issues a "back-stop" direction under Condition 22.9ED of the Distribution Licences in respect of one or more Change Proposals, those Change Proposals (including any alternatives) shall be deemed to have been withdrawn (and Clause 11.31 shall not apply in respect of the withdrawal of those Change Proposals).

11.30 As soon as is reasonably practicable after receiving any such notice, the Secretariat shall notify the Parties that the Proposer has withdrawn ~~his~~their support and shall update the Change Register accordingly.

Amend Clauses 30.6 and 30.7 of Section 2A as follows:

Advance Notice of Interruptions

30.6 Where the User holds a Supply Licence and a Connectee is a Customer, the User shall, with the consent of the relevant Customer, provide the Company with details of any Customer who may be expected (by virtue of being of pensionable age or disabled or chronically sick) to require advance notice of interruptions to the supply of electricity and ~~his~~the Customer's requirement within three Working Days of receiving such details

and requirements pursuant to the User's obligations under Condition 26 of its Supply Licence.

- 30.7 The User shall, with the consent of any Customer who has agreed a password with the User or any Relevant Exempt Supplier for access to the Customer's premises, provide the Company with appropriate details concerning that Customer and ~~his~~the Customer's password within two Working Days of notification of such password by the Customer.

Amend Clause 33.8 of Section 2A as follows:

Other Matters

- 33.8 Neither the Company nor the User shall lead a Customer to believe that ~~he~~the Customer 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 33.8 shall not excuse the Party against whom the claim lies from making the relevant payment.

Amend Clause 49.8 in Section 2B as follows:

- 49.8 Neither the Remote Operator nor the Proximate Operator shall lead a Customer to believe that ~~he~~the Customer 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.

Amend Clause 54.7 of Section 3 as follows:

Panel Member Conflict

- 54.7 A Panel Member shall be disqualified from acting, and shall not act in ~~his~~their capacity as a Panel Member, in relation to a resolution pursuant to this Clause 54 and a Breaching Party where ~~his~~that Panel Member's employer is that Breaching Party or an Affiliate of that Breaching Party. Any Alternate of such Panel Member shall act in that Panel Member's place (unless that Alternate is also employed by that Breaching Party or an Affiliate of that Breaching Party).

Amend Clause 19.3 in Section 3 of Schedule 2B as follows:

Termination for breach or financial difficulty

19.3 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):

19.3.1 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;

19.3.2 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

19.3.3 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~~hisan 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.

Amend Clause 20.3 in Section 4 of Schedule 2B as follows:

Termination for breach or financial difficulty

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~~an 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.

Amend paragraphs 4.1 and 4.2 of Schedule 7 as follows:

4. CHAIR

- 4.1 The WG ~~Chairman~~Chair for the DCUSA Standing Issues Group (the Chair) will at all times be an independent appointment and will be appointed by the Panel for a 12-month term.
- 4.2 Should the Chair resign, for whatever reason, before the expiry of ~~his~~that 12-month term, the Panel will appoint a new Chair.
- 4.3 The Chair's role will be to chair meetings, facilitate discussions and establish a proposed way forward.

Amend paragraph 6.4 of Schedule 7 as follows:

6. MEETING FREQUENCY

- 6.1 The DCUSA Standing Issues Group will schedule meetings on a monthly basis. The convening of any meetings of the group will be on an as required basis depending on the number of issues on the table and the urgency for the resolution of them.
- 6.2 The Chair may convene an emergency meeting of the DCUSA Standing Issues Group where necessary, for the purpose of debating urgent operational difficulties and, where appropriate, developing Change Proposals to overcome these.
- 6.3 The Chair will be required to give a minimum of 5 days notice of any such emergency meeting. Where practical, and expedient, emergency meetings of the DCUSA Standing Issues Group may be conducted wholly, or partly, by conference call.
- 6.4 The Chair will be entitled to cancel any scheduled meeting of the DCUSA Standing Issues Group if, having consideration to the views of the group, ~~he~~the Chair considers there are insufficient items of importance for debate at the meeting to warrant holding it.

Amend the following definition under paragraph 2.1 of Schedule 10 as follows:

Company means the ~~chairman~~chairperson of the Board from time to time.
~~Chairman~~Chairperson

Amend paragraph 5 of Schedule 10 as follows:

5. THE MANAGEMENT OF DCUSA LTD

- 5.1 Directors.
- (a) The Shareholders shall procure that the Directors shall be all the Panel Members from time to time, and each Director shall have ~~as his~~an alternate for the purposes of this Schedule, such alternate being the Alternate allocated ~~to him~~ pursuant to Clause 6.

- (b) The Parties shall indemnify DCUSA Ltd against all claims, demands, liabilities, losses, costs and expenses which DCUSA Ltd may suffer or incur by reason of any claim by any Director in connection with ~~his~~their removal from office as a Director and the liability to indemnify shall be met:
- (i) in the case of a Director who was elected to the Panel by the DNO Parties, severally and rateably by the DNO Parties in accordance with the same proportions by which each DNO Party's Basic Vote would be calculated in the month such liabilities, losses, costs and expenses were incurred;
 - (ii) in the case of a Director who was elected to the Panel by the Supplier Parties, severally and rateably by the Supplier Parties in accordance with the same proportions by which each Supplier Party's Basic Vote would be calculated in the month such liabilities, losses, costs and expenses were incurred; and
 - (iii) in the case of any other Director, as if it were a cost included within an Approved Budget.

5.2 *Company ~~Chairman~~Chairperson*. The Company ~~Chairman~~Chairperson shall be the person appointed as the Panel ~~Chairman~~Chair from time to time. If the Company ~~Chairman~~Chairperson is unable to be present at a meeting, ~~he~~the Company Chairperson may nominate another Director (or any Director's alternate) to act as Company ~~Chairman~~Chairperson. If neither the Company ~~Chairman~~Chairperson nor ~~his~~their nominee is present within half an hour after the time appointed for holding the meeting, the Directors present may appoint any one of their number to be Company ~~Chairman~~Chairperson of that meeting.

5.3 *Committees*. The Directors may delegate any of their powers to committees of the Board consisting of such persons as the Directors may resolve. Any such committee shall exercise only powers expressly delegated to it and shall comply with any regulations imposed on it by the Board.

5.4 *Company Secretary*. The Company Secretary shall be the Secretary for the time being and from time to time.

5.5 *Proceedings at Board Meetings*.

- (a) Voting rights: Each Director shall have one vote. The Company ~~Chairman~~Chairperson shall have no second or casting vote.
- (b) Frequency: The Board shall meet at intervals of not less than once in any period of three months unless otherwise agreed by the Directors and insofar as reasonably practicable meetings of the Board shall follow on immediately from meetings of the Panel. A meeting of the Board may be convened at any reasonable time at the request of any Director by written notice to the Company Secretary.
- (c) Meetings: Meetings of the Board may be held by conference telephone call provided that participants acknowledge that they can speak to and hear each other.
- (d) Notice: Each of the Directors shall be given notice by the Company Secretary of each meeting of the Board setting out details of the time, date and place of meeting at least five Working Days prior to the date of such meeting, provided that such period of notice may be shortened for particular meetings by unanimous written consent of all Directors entitled to attend and vote thereat.
- (e) Quorum: The quorum for each meeting of the Board shall be four Directors, at least one of whom must have been elected to the Panel by the DNO Parties and at least one of whom must have been elected to the Panel by the Supplier Parties.
- (f) Resolutions: All resolutions of the Board shall be made by simple majority of those Directors present or participating by conference telephone call.
- (g) Written resolutions: A written resolution signed by all Directors shall be as valid and effective as a resolution passed by a meeting of the Board properly convened and constituted in accordance with the terms of this Schedule and the Articles.
- (h) Minutes: No later than five Working Days after each Board meeting, the Company Secretary shall circulate minutes of that meeting to each of the Directors.

5.6 *Exercise of Shareholders' rights.* The Shareholders shall exercise the rights attaching to their Shares in the manner best calculated to secure the implementation of decisions taken by the Panel, by the Parties in accordance with Section 1C, or (where this

Agreement provides that the decision of the Authority is to be binding) by the Authority, and shall not exercise their rights in a manner which is inconsistent with any such decision.

Amend Articles 10, 11, 13, 15, 17, 19, 21, 22, 23 and 25 in Annex 4 of Schedule 10 as follows:

10. PROCEEDINGS AT GENERAL MEETINGS

- 10.1 The quorum at any general meeting shall consist of six Shareholders present in person or by proxy: provided that at least two such Shareholders must be DNO Parties and at least two such Shareholders must be Supplier Parties (where the terms DNO Parties and Supplier Parties have the respective meaning given to them in the DCUSA). Regulation 40 of Table A shall be modified accordingly.
- 10.2 If, and for so long as, the Company has only one member, that member or the proxy for that member or, where that member is a corporation, its duly authorised representative shall be a quorum at any general meeting of the Company or of the holders of any class of shares. Regulation 40 of Table A shall be modified accordingly.
- 10.3 The ~~chairman~~chairperson at any general meeting shall not be entitled to a second or casting vote. Regulation 50 of Table A shall not apply.
- 10.4 In the case of a corporation, a resolution in writing may be signed on its behalf by a director or the secretary of the corporation or by its duly appointed attorney or duly authorised representative. Regulation 53 of Table A shall be extended accordingly.

11. VOTES OF MEMBERS

At a general meeting, but subject to any rights or restrictions attached to any shares, on a show of hands every member who (being an individual) is present in person or (being a corporation) is present by a duly authorised representative and every proxy for any member (regardless of the number or the holdings of the members for whom ~~he~~that member is a proxy) shall have one vote, and on a poll every member who is present in person or by proxy shall have one vote for every share of which ~~he~~the member is the holder. Regulation 54 of Table A shall not apply.

13. ALTERNATE DIRECTORS

Each director shall have as ~~his~~their alternate for the purposes of these Articles the alternate allocated to ~~him~~them pursuant to clause 6 of the DCUSA. Regulation 65 of Table A shall not apply.

15. NO AGE LIMIT OR SHARE QUALIFICATION

No Director shall be required to retire or vacate ~~his~~their office, and no person shall be ineligible for appointment as a director, by reason of ~~his~~ having attained any particular age. No shareholding qualification for directors shall be required.

17. DISQUALIFICATION AND REMOVAL OF DIRECTORS

The office of a Director shall be vacated if ~~he~~the Director ceases to be a Panel Member. Regulation 81 of Table A shall not apply.

19. NOTICE AND CONDUCT OF BOARD MEETINGS

Notice of a meeting of the directors shall be deemed to be properly given to a director if it is given to ~~him~~them personally or sent to the director in writing to ~~him at his~~the director's last known address or any other address given by ~~him~~the director to the Company for this purpose, or by any other means authorised in writing by the director concerned. Notice shall be given in this manner to all directors including any director who is for the time being absent from the United Kingdom. A director may waive notice of any meeting either prospectively or retrospectively. All resolutions of the board shall be made by unanimous vote of the Directors present or participating by conference telephone. In the case of an equality of votes, the ~~chairman~~chairperson shall not have a second or casting vote. Regulation 88 of Table A shall be modified accordingly.

21. PARTICIPATION IN BOARD MEETINGS BY TELEPHONE

All or any of the members of the board or any committee of the board may participate in a meeting of the board or that committee by means of a conference telephone or video call provided that participants acknowledge that they can speak to and hear each other. A person so participating shall be deemed to be present in person at the meeting and shall be entitled to vote

or be counted in a quorum accordingly. Such a meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the ~~chairman~~chairperson of the meeting is then situated.

22. RESOLUTION IN WRITING

A resolution in writing executed by all the directors or by all the members of a committee for the time being shall be as valid and effective as a resolution passed unanimously at a meeting of the board or, as the case may be, of the committee properly convened and constituted. The resolution may be contained in one document or in several documents in like form each executed by one or more of the directors or members of the committee concerned. A resolution signed by an alternate director need not also be signed by ~~his appointer~~the director to whom they are appointed and, if it is signed by a director who has appointed an alternate director, it need not be signed by the alternate director in that capacity. Regulation 93 of Table A shall not apply.

23. DIRECTORS MAY VOTE WHEN INTERESTED

A director who ~~to his knowledge~~ to their knowledge is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company shall declare the nature of ~~his~~the interest at a meeting of the directors in accordance with the Act. Subject where applicable to such disclosure, a director shall be entitled to vote in respect of any contract or proposed contract in which ~~he~~that director is interested and, if ~~he~~the director does so, ~~his~~that director's vote shall be counted and ~~he~~the director shall be taken into account in ascertaining whether a quorum is present. Regulations 94 and 95 of Table A shall not apply.

25. NOTICES

Any notice or other document may be served on or delivered to any member by the Company either personally, or by sending it by post addressed to the member ~~at his~~ at that member's registered address or by fax or telex to a number provided by the member for this purpose, or by leaving it at ~~his~~the member's registered address addressed to the member, or by any other means authorised in writing by the member concerned. In the case of joint holders of a share, service or delivery of any notice or other document on or to one of the joint holders shall for

all purposes be deemed a sufficient service on or delivery to all the joint holders. Regulation 112 of Table A shall not apply.

Amend paragraphs 4.1 and 4.2 of Schedule 28 as follows:

4. CHAIR

- 4.1 The WG ~~Chairman~~Chair for the DCMDG (the **Chair**) will at all times be an independent appointment and will be appointed by the Panel for a 12-month term.
- 4.2 Should the Chair resign, for whatever reason, before the expiry of ~~his~~their 12-month term, the Panel will appoint a new Chair.
- 4.3 The Chair's role will be to chair meetings, facilitate discussions and seek to establish a proposed way forward.