

**SECTION 2D – ELECTRICITY SUPPLIER TO GAS SUPPLIER  
RELATIONSHIPS**

## **SCOPE OF SECTION 2D**

This Section 2D and the Schedules referred to in it set out the terms and conditions pursuant to which a Supplier Party shall allow a Gas Supplier Party to undertake Permitted Third Party Metering Works, and thereafter to maintain any Smart Metering Comms Hub Devices and/or Relevant Alt HAN Equipment installed pursuant to those works.

**52G. INTERPRETATION OF SECTION 2D****Party Obligations**

52G.1 In this Section 2D, in the Schedules when applied pursuant to this Section 2D, and in the terms defined in Clause 1 when used in this Section 2D or those Schedules, a reference to an **Electricity Supplier** is:

52G.1.1 a reference to each Party that is a Supplier Party separately and individually and, where an obligation is imposed on, or a right granted to, an Electricity Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and

52G.1.2 when made in relation to a Gas Supplier and any period of time, a reference to the Supplier Party who is (or was), during that period, Registered in respect of the Metering Point which is a Third Party Metering Point for the Gas Supplier, because either (a) that Metering Point relates to a Premises for which the Gas Supplier is (or was) the Responsible Gas Supplier during that period, or (b) that Metering Point has Proximate Metering Equipment with the Metering Point referred to in limb (a).

52G.2 In this Section 2D, in the Schedules when applied pursuant to this Section 2D, and in the terms defined in Clause 1 when used in this Section 2D or those Schedules, a reference to a **Gas Supplier** is:

52G.2.1 a reference to each Party that is a Gas Supplier Party separately and individually and, where an obligation is imposed on, or a right is granted to, a Gas Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and

52G.2.2 when made in relation to an Electricity Supplier and any period of time, a reference to the Gas Supplier Party who is (or was), during that period, the Responsible Gas Supplier for either: (a) a Premises in respect of which the Electricity Supplier is (or was) Registered during that period; or (b) a Premises which has Proximate Metering Equipment with a Metering Point in respect of which the Electricity Supplier is (or was) Registered during that period.

52G.3 This Section 2D, and the Schedules when applied pursuant to it, shall:

52G.3.1 only create rights and obligations between Supplier Parties (on the one hand) and Gas Supplier Parties (on the other), and shall not create rights or obligations between Supplier Parties and other Supplier Parties or between Gas Supplier Parties and other Gas Supplier Parties; and

52G.3.2 not apply to the OTSO Party, to the Crowded Meter Room Coordinator, to SIP Parties or to DNO/IDNO Parties.

#### **References in Relation to Electricity Suppliers and Gas Suppliers**

52G.4 In this Section 2D, in the Schedules when applied pursuant to this Section 2D, and in the terms defined in Clause 1 when used in this Section 2D or those Schedules, unless the context otherwise requires, references to:

52G.4.1 an Exit Point or Entry Point are, when made in relation to an Electricity Supplier and any period of time, references to an Exit Point or Entry Point relating to a Metering Point for which that Electricity Supplier is (or was) Registered during that period;

52G.4.2 a Premises are, when made in relation to a Gas Supplier and any period of time, references to a Premises for which the Gas Supplier is (or was) the Responsible Gas Supplier during that period of time;

- 52G.4.3 a Connectee, Connected Installation, Contract, Premises or Smart Metering Comms Hub Device, are (when made in relation to an Electricity Supplier and any period of time) references to a Connectee, Connected Installation, Contract, Premises, Relevant Alt HAN Equipment or Smart Metering Comms Hub Device relating to a Metering Point for which that Electricity Supplier is (or was) Registered during that period;
- 52G.4.4 a Connectee, Connected Installation, Contract, Exit Point, Entry Point, Metering Point or Smart Metering Comms Hub Device, are (when made in relation to a Gas Supplier and any period of time) references to a Connectee, Connected Installation, Contract, Exit Point, Entry Point, Metering Point, Relevant Alt HAN Equipment or Smart Metering Comms Hub Device relating to a Premises for which the Gas Supplier was the Responsible Gas Supplier during that period of time; or
- 52G.4.5 a Distribution System or Company, are respectively (when made in relation to an Exit Point or Entry Point) references to the Distribution System associated with that Exit Point or Entry Point or to the DNO/IDNO Party that operates that Distribution System.

#### **Application Limited to Whole Current Metering**

- 52G.5 This Section 2D shall only apply to Exit Points or Entry Points for which the import or export of electricity is metered directly by putting the full electrical current through the meter (known as ‘whole current metering’).

## **52H. DE-ENERGISATION AND RE-ENERGISATION WORKS**

### **Requirements for those undertaking Works**

52H.1 Any and all Permitted Third Party Metering Works, De-energisation Works and Re-energisation Works carried out by or on behalf of the Gas Supplier pursuant to this Clause 52H shall only be carried out by a person working on behalf of a Gas Meter Asset Manager engaged by the Gas Supplier.

### **Good Industry Practice**

52H.2 The Electricity Supplier and the Gas Supplier shall each act in accordance with Good Industry Practice when carrying out, or procuring the carrying out of, any and all works pursuant to this Clause 52H. Without limitation, the Gas Supplier shall notify a Customer before undertaking any Permitted Third Party Metering Works in respect of the Customer's Metering Point where that Metering Point is a Proximate Metering Point to a Metering Point serving the Premises for which the Gas Supplier is the Responsible Gas Supplier.

### **Works Undertaken by the Gas Supplier**

52H.3 If the Gas Supplier wishes at any time to undertake Permitted Third Party Metering Works in respect of a Third Party Metering Point, then the Gas Supplier may (to the extent reasonably required in order to do so, and with no prior notice to the Electricity Supplier) De-energise the Exit Point and/or Entry Point to which the Third Party Metering Point relates in order to do so; provided that the Gas Supplier Re-energises that Exit Point and/or Entry Point as soon as reasonably practicable thereafter.

52H.4 If the Gas Supplier resolves to De-energise and/or Re-energise an Exit Point and/or Entry Point pursuant to Clause 52H.3, then the Gas Supplier shall:

52H.4.1 (subject to Clauses 52H.2 and 52I) decide on the extent and nature of the De-energisation Works and Re-energisation Works, and shall undertake such De-energisation Works and Re-energisation Works at its own cost; and

52H.4.2 comply with the Relevant Instruments and the Distribution Code in relation to the De-energisation Works and Re-energisation Works.

**Electricity Supplier's Right to De-energise**

52H.5 Notwithstanding the right of the Gas Supplier under this Clause 52H to install a Smart Metering Comms Hub Device and/or Relevant Alt HAN Equipment (and to keep either or both of them installed), the Electricity Supplier may, at any time with no prior notice to the Gas Supplier, De-energise any Exit Point and/or Entry Point if:

52H.5.1 the Electricity Supplier is entitled to do so pursuant to the Contract relating to such Exit Point and/or Entry Point; or

52H.5.2 the Electricity Supplier is entitled to do so pursuant to the Relevant Instruments or Section 2A, 2E or 2F.

52H.6 If the Electricity Supplier resolves to De-energise an Exit Point and/or Entry Point pursuant to Clause 52H.5, then:

52H.6.1 (subject to Clauses 52H.2 and 52I) the Electricity Supplier shall decide on the extent and nature of the De-energisation Works required to De-energise the Exit Point and/or Entry Point;

52H.6.2 the Electricity Supplier shall Re-energise the Exit Point and/or Entry Point as soon as is reasonably practicable after the circumstance giving rise to such De-energisation has ended (and shall determine the extent and nature of the Re-energisation Works required to Re-energise the Exit Point and/or Entry Point); and

52H.6.3 there shall be no charge to the Gas Supplier in respect of such De-energisation Works and/or Re-energisation Works.

**Other Matters**

52H.7 For the avoidance of doubt, the Gas Supplier shall only be entitled to Re-energise an Exit Point and/or Entry Point that has been De-energised by (or on behalf of) the Gas Supplier pursuant to this Agreement.

52H.8 In undertaking De-energisation Works and Re-energisation Works as permitted by this Clause 52H, the Electricity Supplier may reposition the Smart Metering Comms Hub Device and/or Relevant Alt HAN Equipment (or any part of either or

both of them) on the meter board (but may not otherwise alter the position of such device or equipment, subject to any other agreement between the Gas Supplier and the Electricity Supplier).

- 52H.9 In undertaking De-energisation Works and Re-energisation Works pursuant to this Clause 52H, the Gas Supplier may reposition the electricity metering equipment (or any part of it) on the meter board (but may not otherwise alter the position of the electricity metering equipment).
- 52H.10 Subject to any other agreement between the Gas Supplier and the Electricity Supplier, where the Gas Supplier has no further need for the Smart Metering Comms Hub Device and/or Relevant Alt HAN Equipment (and there is no reasonable prospect of the Gas Supplier, or any future Gas Supplier, needing to use that Smart Metering Comms Hub Device and/or Relevant Alt HAN Equipment in the future), then the Gas Supplier shall remove that Smart Metering Comms Hub Device and/or Relevant Alt HAN Equipment (or, to the extent consistent with Good Industry Practice, render either or both of them inoperable in accordance with Good Industry Practice). Where a Smart Metering Comms Hub Device and/or Relevant Alt HAN Equipment has been rendered inoperable pursuant to this Clause 52H.10, then the Electricity Supplier shall at any time thereafter be entitled to remove and dispose of that Smart Metering Comms Hub Device and/or Relevant Alt HAN Equipment.

### **Non-Interference**

- 52H.11 The Electricity Supplier consents to the Gas Supplier (and its Gas Meter Asset Manager when acting in its capacity as such) interfering with the electricity metering equipment at the Premises to the extent it is necessary to do so in exercising the Gas Supplier's rights or complying with its obligations under this Clause 52H or Clause 52I. The Gas Supplier shall not (and shall ensure that its Gas Meter Asset Manager when acting in its capacity as such shall not) otherwise interfere with the electricity metering equipment at the Premises (subject to any contrary agreement between the Gas Supplier and the Electricity Supplier).
- 52H.12 Notwithstanding the consent given by the Electricity Supplier under Clause 52H.11, the Gas Supplier shall indemnify the Electricity Supplier against all

actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising:

52H.12.1 directly from physical damage to the property of any person caused by the Gas Supplier's Gas Meter Asset Manager in exercising the Gas Supplier's rights under this Clause 52H (but excluding liability for any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill, and subject to a cap of £1 million per incident or series of related incidents); and/or

52H.12.2 directly or indirectly from any claim by the owner of the electricity metering equipment at the Premises or by the Electricity Supplier's Meter Operator Agent that the Electricity Supplier is in breach of its contracts with such persons in providing consent under Clause 52H.11 (but only to the extent such contracts were entered into prior to 1 October 2013, and subject to a cap of £1 million per contract).

52H.13 The Gas Supplier shall ensure that the Electricity Supplier is entitled to interfere with the Smart Metering Comms Hub and/or Relevant Alt HAN Equipment to the extent it is necessary to do so in exercising the Electricity Supplier's rights or complying with its obligations under this Clause 52H or Clause 52I. The Electricity Supplier shall not otherwise interfere with the Smart Metering Comms Hub and/or Relevant Alt HAN Equipment (subject to any contrary agreement between the Gas Supplier and the Electricity Supplier).

52H.14 For the purposes of Clause 53.4, the Electricity Supplier and the Gas Supplier agree that matters relating to Smart Metering Comms Hub Devices and/or Relevant Alt HAN Equipment that are not the subject of express rights and obligations under this Section 2D (including the standard to which such devices and equipment are to be maintained) are outside of the subject matter of this Agreement (and neither the Electricity Supplier nor the Gas Supplier waive their rights or remedies under Clause 53.4 in respect of the same).

**52I. METER OPERATION CODE OF PRACTICE**

- 52I.1 The Gas Supplier shall procure that the Gas Meter Asset Manager which carries out Permitted Third Party Metering Works, De-energisation Works and/or Re-energisation Works pursuant to Clause 52H shall be party to the Retail Energy Code, and shall comply with the Meter Operation Code of Practice in relation to those works.
- 52I.2 The Electricity Supplier shall procure that the Meter Operator Agent appointed for each Metering Point supplied by the Electricity Supplier shall be party to the Retail Energy Code, and shall comply with the Meter Operation Code of Practice in relation to that Metering Point.

## **52J. PROVISION OF INFORMATION**

### **Danger, Damage or Interference**

52J.1 The Gas Supplier shall (and shall ensure that its contractors and agents shall) in a prompt and appropriate manner having regard to the nature of the incident, inform the Electricity Supplier where the Gas Supplier has (or in the case of the Gas Supplier's contractors and agents, such contractors and agents have) reason to believe that:

52J.1.1 the flow of electricity through the Exit Point has been interrupted (and remains interrupted);

52J.1.2 there has been interference with any electricity metering equipment at a Premises that has prevented such metering equipment from correctly registering the quantity of electricity supplied; and/or

52J.1.3 the electricity metering equipment at the Premises otherwise presents a danger,

unless the Gas Supplier believes that the Electricity Supplier has caused such circumstance to arise.

52J.2 The Electricity Supplier shall (and shall ensure that its contractors and agents shall) in a prompt and appropriate manner having regard to the nature of the incident, inform the Gas Supplier where the Electricity Supplier has (or in the case of the Electricity Supplier's contractors and agents, such contractors and agents have) reason to believe that there has been damage to or interference with the Smart Metering Comms Hub Device and/or Relevant Alt HAN Equipment (unless the Electricity Supplier believes that the damage or interference was caused by the Gas Supplier), or that the Smart Metering Comms Hub Device and/or Relevant Alt HAN Equipment otherwise presents a danger.

52J.3 For the purposes of giving notice under Clause 52J.1 or 52J.2, the Gas Supplier or the Electricity Supplier (as applicable) shall use its reasonable endeavours to establish the identity of the Electricity Supplier or Gas Supplier (as applicable) to whom notice should be given. Where the Gas Supplier or the Electricity Supplier (as applicable) is unable to establish the identity of the person to whom notice

should be given, it shall give such notice to the United Kingdom Revenue Protection Association.

## **52K. CONFIDENTIALITY RESTRICTIONS ON THE GAS SUPPLIER**

### **Confidential Information**

52K.1 In this Clause 52K, Confidential Information means:

52K.1.1 any information (whether in writing, in disc or electronic form, or otherwise) which has been properly disclosed by the Electricity Supplier under this Agreement but which would usually be considered to be confidential; and

52K.1.2 any information which is marked as confidential or which is provided together with a covering letter indicating its confidential nature,

and, to the extent that any Affiliate or Related Undertaking of the Gas Supplier is in possession of Confidential Information, the Gas Supplier shall procure that such Affiliate or Related Undertaking observes the restrictions in Clauses 52K.2 to 52K.4 (inclusive) as if in each such Clause there was substituted for the Gas Supplier the name of the Affiliate or Related Undertaking.

### **Restrictions on Use and Disclosure**

52K.2 The Gas Supplier hereby undertakes to the Electricity Supplier that it will preserve the confidentiality of, and not directly or indirectly reveal, report, publish, disclose or transfer or use for its own purposes, Confidential Information except:

52K.2.1 in the circumstances set out in Clause 52K.3;

52K.2.2 to the extent otherwise required or expressly permitted by this Agreement or any other agreement entered into between the Electricity Supplier and the Gas Supplier; or

52K.2.3 with the prior consent in writing of the Electricity Supplier.

52K.3 The circumstances set out in this Clause 52K.3 are:

52K.3.1 where the Confidential Information, before it is furnished to the Gas Supplier, is in the public domain;

52K.3.2 where the Confidential Information:

- (A) is acquired by the Gas Supplier in circumstances in which this Clause 52K does not apply;
- (B) is acquired by the Gas Supplier in circumstances in which this Clause 52K does apply and thereafter ceases to be subject to the restrictions imposed by this Clause 52K; or
- (C) (after it is furnished to the Gas Supplier) enters the public domain,

otherwise (in any such case) than as a result of (i) a breach by the Gas Supplier of its obligations in this Clause 52K; or (ii) a breach by the person who disclosed that Confidential Information of that person's confidentiality obligation, and the Gas Supplier is aware of such breach;

52K.3.3 if the Gas Supplier is required or permitted to make disclosure of the Confidential Information to any person:

- (A) in compliance with any requirement of a Competent Authority;
- (B) in compliance with the provisions of any Relevant Instrument;
- (C) in compliance with any other law or regulation;
- (D) in response to a requirement of any Stock Exchange or the Panel on Takeovers and Mergers or any other regulatory authority (whether or not similar to those bodies); or
- (E) pursuant to the rules of the Electricity Arbitration Association or pursuant to any judicial or arbitral process or tribunal of competent jurisdiction; or

52K.3.4 the disclosure of Confidential Information to any Affiliate or Related Undertaking of the Gas Supplier, to the employees, directors, agents, consultants and professional advisers of the Gas Supplier or any Affiliate or Related Undertaking of the Gas Supplier, in each case on the basis set out in Clause 52K.4.

52K.4 The Gas Supplier shall take all reasonable steps to ensure that any such person as is referred to in Clause 52K.3.4 to whom the Gas Supplier discloses Confidential Information does not use that Confidential Information for any purpose other than that for which it is provided and does not disclose that Confidential Information otherwise than in accordance with this Clause 52K.

**Other Matters**

52K.5 Not Used.

**52L. CONFIDENTIALITY RESTRICTIONS ON THE ELECTRICITY**  
**SUPPLIER**

**Confidential Information**

52L.1 In this Clause 52L, Confidential Information means:

52L.1.1 any information (whether in writing, in disc or electronic form, or otherwise) which has been properly disclosed by the Gas Supplier under this Agreement but which would usually be considered to be confidential; and

52L.1.2 any information which is marked as confidential or which is provided together with a covering letter indicating its confidential nature,

and, to the extent that any Affiliate or Related Undertaking of the Electricity Supplier is in possession of Confidential Information, the Electricity Supplier shall procure that such Affiliate or Related Undertaking observes the restrictions in Clauses 52L.2 to 52L.4 (inclusive) as if in each such Clause there was substituted for the Electricity Supplier the name of the Affiliate or Related Undertaking.

**Restrictions on Use and Disclosure**

52L.2 The Electricity Supplier hereby undertakes to the Gas Supplier that it will preserve the confidentiality of, and not directly or indirectly reveal, report, publish, disclose or transfer or use for its own purposes, Confidential Information except:

52L.2.1 in the circumstances set out in Clause 52L.3;

52L.2.2 to the extent otherwise required or expressly permitted by this Agreement or any other agreement entered into between the Electricity Supplier and the Gas Supplier; or

52L.2.3 with the prior consent in writing of the Gas Supplier.

52L.3 The circumstances set out in this Clause 52L.3 are:

52L.3.1 where the Confidential Information, before it is furnished to the Electricity Supplier, is in the public domain;

52L.3.2 where the Confidential Information:

- (A) is acquired by the Electricity Supplier in circumstances in which this Clause 52L does not apply;
- (B) is acquired by the Electricity Supplier in circumstances in which this Clause 52L does apply and thereafter ceases to be subject to the restrictions imposed by this Clause 52L; or
- (C) (after it is furnished to the Electricity Supplier) enters the public domain,

otherwise (in any such case) than as a result of (i) a breach by the Electricity Supplier of its obligations in this Clause 52L; or (ii) a breach by the person who disclosed that Confidential Information of that person's confidentiality obligation, and the Electricity Supplier is aware of such breach;

52L.3.3 if the Electricity Supplier is required or permitted to make disclosure of the Confidential Information to any person:

- (A) in compliance with any requirement of a Competent Authority;
- (B) in compliance with the provisions of any Relevant Instrument;
- (C) in compliance with any other law or regulation;
- (D) in response to a requirement of any Stock Exchange or the Panel on Takeovers and Mergers or any other regulatory authority (whether or not similar to those bodies); or
- (E) pursuant to the rules of the Electricity Arbitration Association or pursuant to any judicial or arbitral process or tribunal of competent jurisdiction; or

52L.3.4 the disclosure of Confidential Information to any Affiliate or Related Undertaking of the Electricity Supplier, to the employees, directors, agents, consultants and professional advisers of the Electricity Supplier or any Affiliate or Related Undertaking of the Electricity Supplier, in each case on the basis set out in Clause 52L.4.

52L.4 The Electricity Supplier shall take all reasonable steps to ensure that any such person as is referred to in Clause 52L.3.4 to whom the Electricity Supplier discloses Confidential Information does not use that Confidential Information for any purpose other than that for which it is provided and does not disclose that Confidential Information otherwise than in accordance with this Clause 52L.

**Other Matters**

52L.5 Not Used.

**SECTION 2E – DISTRIBUTOR TO THIRD PARTY ELECTRICITY  
SUPPLIER RELATIONSHIPS**

## **SCOPE OF SECTION 2E**

This Section 2E and the Schedules referred to in it set out the terms and conditions pursuant to which a DNO/IDNO Party shall allow a Third Party Electricity Supplier to undertake Permitted Third Party Metering Works.

**52M. INTERPRETATION OF SECTION 2E****Party Obligations**

- 52M.1 In this Section 2E, in the Schedules when applied pursuant to this Section 2E, and in the terms defined in Clause 1 when used in this Section 2E or those Schedules, a reference to a "Company" is a reference to each Party that is either a DNO Party or an IDNO Party separately and individually and, where an obligation is imposed on, or a right granted to, a Company, that obligation is imposed on, and that right is granted to, each such Party separately and independently.
- 52M.2 In this Section 2E, in the Schedules when applied pursuant to this Section 2E, and in the terms defined in Clause 1 when used in this Section 2E or those Schedules, a reference to a Third Party Electricity Supplier is:
- 52M.2.1 a reference to each Party that is a Supplier Party separately and individually and, where an obligation is imposed on, or a right is granted to, a Third Party Electricity Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and
- 52M.2.2 when made in relation to a Company and any period of time, a reference to each Supplier Party (separately, individually and to the relevant extent) who is (or was), during that period, Registered for a Metering Point relating to an Entry Point or an Exit Point on that Company's Distribution System for which there is (or was) one or more Third Party Metering Points.
- 52M.3 This Section 2E, and the Schedules when applied pursuant to it, shall:
- 52M.3.1 only create rights and obligations between DNO/IDNO Parties (on the one hand) and Supplier Parties (on the other), and shall not create rights or obligations between DNO/IDNO Parties and other DNO/IDNO Parties or between Supplier Parties and other Supplier Parties;

- 52M.3.2 not apply to the OTSO Party, to the Crowded Meter Room Coordinator, to SIP Parties, to CVA Registrants or to Gas Supplier Parties;
- 52M.3.3 only create obligations between a Company and a Third Party Electricity Supplier to the extent that, and in relation to those periods for which, that Third Party Electricity Supplier is (or was) Registered for a Metering Point relating to an Entry Point or an Exit Point on that Company's Distribution System for which there is (or was) one or more Third Party Metering Points; and
- 52M.3.4 not impose any obligations between a Company and a Third Party Electricity Supplier in relation to periods for which that Third Party Electricity Supplier is (or was) not Registered for a Metering Point relating to an Entry Point or an Exit Point on that Company's Distribution System for which there is (or was) one or more Third Party Metering Points.

### **References in Relation to Companies**

- 52M.4 In this Section 2E, in the Schedules when applied pursuant to this Section 2E, and in the terms defined in Clause 1 when used in this Section 2E or those Schedules, references to:
- 52M.4.1 an Entry Point or Exit Point are, when made in relation to a Company, references to an Entry Point or Exit Point on that Company's Distribution System; and
- 52M.4.2 a Metering Point are, when made in relation to a Company, references to a Metering Point relating to an Entry Point or Exit Point on such Company's Distribution System.

### **Application Limited to Whole Current Metering**

- 52M.5 This Section 2E shall only apply to Exit Points and/or Entry Points for which the import or export of electricity is metered directly by putting the full electrical current through the meter (known as 'whole current metering').

## **52N. DE-ENERGISATION AND RE-ENERGISATION WORKS**

### **Requirements for those undertaking Works**

52N.1 Any and all Permitted Third Party Metering Works, De-energisation Works and Re-energisation Works carried out by or on behalf of the Third Party Electricity Supplier pursuant to this Clause 52N shall only be carried out by a person working on behalf of a Meter Operator Agent engaged by the Third Party Electricity Supplier.

### **Good Industry Practice**

52N.2 The Third Party Electricity Supplier shall each act in accordance with Good Industry Practice when carrying out, or procuring the carrying out of, any and all works pursuant to this Clause 52N.

### **Works Undertaken by the Third Party Electricity Supplier**

52N.3 If the Third Party Electricity Supplier wishes at any time to undertake Permitted Third Party Metering Works in respect of a Third Party Metering Point, then the Third Party Electricity Supplier may (to the extent reasonably required in order to do so, and with no prior notice to the Company) De-energise the Exit Point and/or Entry Point to which the Third Party Metering Point relates in order to do so; provided that the Third Party Electricity Supplier Re-energises that Exit Point and/or Entry Point as soon as reasonably practicable thereafter.

52N.4 If the Third Party Electricity Supplier resolves to De-energise and/or Re-energise an Exit Point and/or Entry Point pursuant to Clause 52N.3, then the Third Party Electricity Supplier shall:

52N.4.1 (subject to Clauses 52N.2 and 52O) decide on the extent and nature of the De-energisation Works and Re-energisation Works, and shall undertake such De-energisation Works and Re-energisation Works at its own cost; and

52N.4.2 comply with the Relevant Instruments and the Distribution Code in relation to the De-energisation Works and Re-energisation Works.

**Other Matters**

52N.5 For the avoidance of doubt, the Third Party Electricity Supplier shall only be entitled to Re-energise an Exit Point and/or Entry Point that has been De-energised by (or on behalf of) the Third Party Electricity Supplier pursuant to this Agreement.

**Non-Interference**

52N.6 The Company shall ensure that the Third Party Electricity Supplier (and its Meter Operator Agent when acting in its capacity as such) is entitled to interfere with the Distribution System to the extent it is necessary to do so in exercising the Third Party Electricity Supplier's rights or complying with its obligations under this Clause 52N or Clause 52O. The Third Party Electricity Supplier shall not (and shall ensure that its Meter Operator Agent when acting in its capacity as such shall not) otherwise interfere with the Distribution System (subject to any contrary agreement between the Third Party Electricity Supplier and the Company, including as set out in Section 2A of this Agreement).

52N.7 The Third Party Electricity Supplier shall indemnify the Company against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising directly from physical damage to the property of any person caused by the Third Party Electricity Supplier's Meter Operator Agent in exercising the Third Party Electricity Supplier's rights under this Clause 52N (but excluding liability for any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill, and subject to a cap of £1 million per incident or series of related incidents).

**52O.        METER OPERATION CODE OF PRACTICE**

52O.1        The Third Party Electricity Supplier shall procure that the Meter Operator Agent which carries out Permitted Third Party Metering Works, De-energisation Works and/or Re-energisation Works pursuant to Clause 52N shall be party to the Retail Energy Code, and shall comply with the Meter Operation Code of Practice in relation to those works.

**52P. PROVISION OF INFORMATION****Interference**

- 52P.1 Without prejudice to the Third Party Electricity Supplier's obligations under Clause 30 (Provision of Information), the Third Party Electricity Supplier shall (and shall ensure that its contractors and agents shall) in a prompt and appropriate manner having regard to the nature of the incident, inform the Company where the Third Party Electricity Supplier has (or in the case of the Third Party Electricity Supplier's contractors and agents, such contractors and agents have) reason to believe that there has been interference with any electricity metering equipment relating to Third Party Metering Points that has prevented such metering equipment from correctly registering the quantity of electricity supplied unless the Third Party Electricity Supplier believes that the damage or interference was caused by the Company.
- 52P.2 Where the Third Party Electricity Supplier has reason to believe that any damage or interference reported by it (or by its contractors or agents) under Clause 52P.1 has been caused by a criminal act, it shall provide the Company with such information as is reasonably required for investigating the incident and resolving any safety concerns arising out of it.

**SECTION 2F – ELECTRICITY SUPPLIER TO THIRD PARTY  
ELECTRICITY SUPPLIER RELATIONSHIPS**

## **SCOPE OF SECTION 2F**

This Section 2F and the Schedules referred to in it set out the terms and conditions pursuant to which a Supplier Party shall allow a Third Party Electricity Supplier to undertake Permitted Third Party Metering Works.

**52Q. INTERPRETATION OF SECTION 2F****Party Obligations**

52Q.1 In this Section 2F, in the Schedules when applied pursuant to this Section 2F, and in the terms defined in Clause 1 when used in this Section 2F or those Schedules, a reference to an "Electricity Supplier" is:

52Q.1.1 a reference to each Party that is a Supplier Party separately and individually and, where an obligation is imposed on, or a right granted to, an Electricity Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently;

52Q.1.2 when made in relation to a Metering Point and any period of time, a reference to the Supplier Party who is (or was), during that period, Registered in respect of the Metering Point; and

52Q.1.3 when made in relation to a Third Party Electricity Supplier and any period of time, a reference to the Supplier Party who is (or was), during that period, Registered in respect of a Metering Point for which the Third Party Electricity Supplier is (or was) a Third Party Electricity Supplier during that period (because the Metering Point for which the Electricity Supplier is Registered has Proximate Metering Equipment with a Metering Point for which the Third Party Electricity Supplier Party is Registered).

52Q.2 In this Section 2F, in the Schedules when applied pursuant to this Section 2F, and in the terms defined in Clause 1 when used in this Section 2F or those Schedules, a reference to a Third Party Electricity Supplier is:

52Q.2.1 a reference to each Party that is a Supplier Party separately and individually and, where an obligation is imposed on, or a right is granted to, a Third Party Electricity Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and

- 52Q.2.2 when made in relation to an Electricity Supplier and any period of time, a reference to each Supplier Party (separately, individually and to the relevant extent) who is (or was), during that period, Registered for a Metering Point which is (or was) a Third Party Metering Point for that Electricity Supplier.
- 52Q.3 This Section 2F, and the Schedules when applied pursuant to it, shall:
- 52Q.3.1 only create rights and obligations between Supplier Parties (on the one hand) and other Supplier Parties (on the other);
- 52Q.3.2 not apply to the OTSO Party, to the Crowded Meter Room Coordinator, to SIP Parties, to DNO/IDNO Parties or to Gas Supplier Parties; and
- 52Q.3.3 only create right and obligations between Supplier Parties to the extent that, and in relation to those periods for which, the two Supplier Parties are (or were) Registered in respect of Metering Points which are Proximate Metering Points (and not otherwise).

#### **Application Limited to Whole Current Metering**

- 52Q.4 This Section 2F shall only apply to Third Party Metering Points relating to Exit Points and/or Entry Points for which the import or export of electricity is metered directly by putting the full electrical current through the meter (known as ‘whole current metering’).

**52R. PERMITTED THIRD PARTY METERING WORKS AND DE-ENERGISATION AND RE-ENERGISATION WORKS**

**Requirements for those undertaking Works**

52R.1 Any and all Permitted Third Party Metering Works, De-energisation Works and Re-energisation Works carried out by or on behalf of the Third Party Electricity Supplier pursuant to this Clause 52R shall only be carried out by a person working on behalf of a Meter Operator Agent engaged by the Third Party Electricity Supplier.

**Good Industry Practice**

52R.2 The Third Party Electricity Supplier shall each act in accordance with Good Industry Practice when carrying out, or procuring the carrying out of, any and all works pursuant to this Clause 52R. Without limitation, the Third Party Electricity Supplier shall notify a Customer before undertaking any Permitted Third Party Metering Works in respect of the Customer's Metering Point.

**De-Energisation and Re-Energisation Works**

52R.3 If the Third Party Electricity Supplier wishes at any time to undertake Permitted Third Party Metering Works in respect of a Third Party Metering Point, then the Third Party Electricity Supplier may (to the extent reasonably required in order to do so, and with no prior notice to the Electricity Supplier) De-energise the Exit Point and/or Entry Point to which the Third Party Metering Point relates in order to do so; provided that the Third Party Electricity Supplier Re-energises that Exit Point and/or Entry Point as soon as reasonably practicable thereafter.

52R.4 If the Third Party Electricity Supplier resolves to De-energise and/or Re-energise an Exit Point and/or Entry Point pursuant to Clause 52R.3, then the Third Party Electricity Supplier shall:

52R.4.1 (subject to Clauses 52R.2 and 52S) decide on the extent and nature of the De-energisation Works and Re-energisation Works, and shall undertake such De-energisation Works and Re-energisation Works at its own cost; and

52R.4.2 comply with the Relevant Instruments and the Distribution Code in relation to the De-energisation Works and Re-energisation Works.

52R.5 For the avoidance of doubt, the Third Party Electricity Supplier shall only be entitled to Re energise an Exit Point and/or Entry Point that has been De-energised by (or on behalf of) the Third Party Electricity Supplier pursuant to this Agreement.

### **Permitted Third Party Metering Works**

52R.6 The Electricity Supplier consents to the Third Party Electricity Supplier (and its Meter Operator Agent when acting in its capacity as such) undertaking the Permitted Third Party Meter Works.

### **Non-Interference**

52R.7 The Electricity Supplier consents to the Third Party Electricity Supplier (and its Meter Operator Agent when acting in its capacity as such) interfering with the electricity metering equipment for the Metering Point for which the Electricity Supplier is Registered to the extent it is necessary to do so in exercising the Third Party Electricity Supplier's rights or complying with its obligations under this Clause 52R or Clause 52S. The Third Party Electricity Supplier shall not (and shall ensure that its Meter Operator Agent when acting in its capacity as such shall not) otherwise interfere with the electricity metering equipment for the Metering Point for which the Electricity Supplier is Registered (subject to any contrary agreement between the Third Party Electricity Supplier and the Electricity Supplier).

52R.8 Notwithstanding the consent given by the Electricity Supplier under Clause 52R.7, the Third Party Electricity Supplier shall indemnify the Electricity Supplier against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising:

52R.8.1 directly from physical damage to the property of any person caused by the Third Party Electricity Supplier's Meter Operator Agent in exercising the Third Party Electricity Supplier's rights under this Clause 52R (but excluding liability for any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill, and subject to a cap of £1 million per incident or series of related incidents); and/or

52R.8.2 directly or indirectly from any claim, by the owner of the electricity metering equipment or the Meter Operator Agent for (in each case) the Metering Point for which the Electricity Supplier is Registered, that the Electricity Supplier is in breach of its contracts with such persons in providing consent under Clause 52R.7 (but only to the extent such contracts were entered into prior to 24 July 2018, and subject to a cap of £1 million per contract).

**52S.        METER OPERATION CODE OF PRACTICE**

52S.1        The Third Party Electricity Supplier shall procure that the Meter Operator Agent which carries out any and all works in respect of a Third Party Metering Point pursuant to Clause 52R shall be party to the Retail Energy Code, and shall comply with the Meter Operation Code of Practice in relation to those works.

**52T. PROVISION OF INFORMATION****Danger, Damage or Interference**

52T.1 The Third Party Electricity Supplier shall (and shall ensure that its contractors and agents shall) in a prompt and appropriate manner having regard to the nature of the incident, inform the Electricity Supplier where the Third Party Electricity Supplier has (or in the case of the Third Party Electricity Supplier's contractors and agents, such contractors and agents have) reason to believe that:

52T.1.1 the flow of electricity through the Exit Point to which the Third Party Metering Point relates has been interrupted (and remains interrupted);

52T.1.2 there has been interference with any electricity metering equipment for the Third Party Metering Point that has prevented such metering equipment from correctly registering the quantity of electricity supplied; and/or

52T.1.3 the electricity metering equipment for the Third Party Metering Point otherwise presents a danger,

unless the Third Party Electricity Supplier believes that the Electricity Supplier has caused such circumstance to arise.

52T.2 For the purposes of giving notice under Clause 52T.1, the Third Party Electricity Supplier shall use its reasonable endeavours to establish the identity of the Electricity Supplier to whom notice should be given. Where the Third Party Electricity Supplier is unable to establish the identity of the person to whom notice should be given, it shall give such notice to the United Kingdom Revenue Protection Association.

## **52U. CONFIDENTIALITY RESTRICTIONS FOR SECTION 2F**

### **Confidential Information**

52U.1 In this Clause 52U, "Confidential Information" means:

52U.1.1 any information (whether in writing, in disc or electronic form, or otherwise) which has been properly disclosed to a Supplier Party under this Section 2F but which would usually be considered to be confidential; and

52U.1.2 any information which is marked as confidential or which is provided together with a covering letter indicating its confidential nature,

and, to the extent that any Affiliate or Related Undertaking of the Supplier Party is in possession of Confidential Information, the Supplier Party shall procure that such Affiliate or Related Undertaking observes the restrictions in Clauses 52U.2 to 52U.4 (inclusive) as if in each such Clause there was substituted for the Supplier Party the name of the Affiliate or Related Undertaking.

### **Restrictions on Use and Disclosure**

52U.2 Each Supplier Party undertakes that it will preserve the confidentiality of, and not directly or indirectly reveal, report, publish, disclose or transfer or use for its own purposes, Confidential Information except:

52U.2.1 in the circumstances set out in Clause 52U.3;

52U.2.2 to the extent otherwise required or expressly permitted by this Agreement or any other agreement entered into between the Supplier Parties; or

52U.2.3 with the prior consent in writing of the other Supplier Party.

52U.3 The circumstances set out in this Clause 52U.3 are:

52U.3.1 where the Confidential Information, before it is furnished to the Supplier Party, is in the public domain;

52U.3.2 where the Confidential Information:

- (A) is acquired by the Supplier Party in circumstances in which this Clause 52U does not apply;
- (B) is acquired by the Supplier Party in circumstances in which this Clause 52U does apply, and thereafter ceases to be subject to the restrictions imposed by this Clause 52U; or
- (C) after it is furnished to the Supplier Party, enters the public domain,

otherwise (in any such case) than as a result of (i) a breach by the Supplier Party of its obligations in this Clause 52U; or (ii) a breach by the person who disclosed that Confidential Information of that person's confidentiality obligation, and the Supplier Party is aware of such breach;

52U.3.3 if the Supplier Party is required or permitted to make disclosure of the Confidential Information to any person:

- (A) in compliance with any requirement of a Competent Authority;
- (B) in compliance with the provisions of any Relevant Instrument;
- (C) in compliance with any other law or regulation;
- (D) in response to a requirement of any Stock Exchange or the Panel on Takeovers and Mergers or any other regulatory authority (whether or not similar to those bodies); or
- (E) pursuant to the rules of the Electricity Arbitration Association or pursuant to any judicial or arbitral process or tribunal of competent jurisdiction; or

52U.3.4 the disclosure of Confidential Information to any Affiliate or Related Undertaking of the Supplier Party, to the employees, directors, agents, consultants and professional advisers of the Supplier Party or any Affiliate or Related Undertaking of the Supplier Party, in each case on the basis set out in Clause 52U.4.

52U.4 Each Supplier Party shall take all reasonable steps to ensure that any such person as is referred to in Clause 52U.3.4 to whom the Supplier Party discloses Confidential Information does not use that Confidential Information for any purpose other than that for which it is provided and does not disclose that Confidential Information otherwise than in accordance with this Clause 52U.

**SECTION 2G – DISTRIBUTOR/SUPPLIER TO CROWDED METER  
ROOM COORDINATOR RELATIONSHIPS**

## **SCOPE OF SECTION 2G**

This Section 2G sets out the terms and conditions pursuant to which each DNO/IDNO Party and each Supplier Party shall allow the Crowded Meter Room Coordinator to undertake Crowded Meter Room Works.

**52V. INTERPRETATION OF SECTION 2G****Party Obligations**

52V.1 In this Section 2G and in the terms defined in Clause 1 when used in this Section 2G:

52V.1.1 each reference to the "Company" is a reference to each Party that is either a DNO Party or an IDNO Party separately and individually and, where an obligation is imposed on, or a right granted to, the Company, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and

52V.1.2 each reference to the "Electricity Supplier" is: (a) a reference to each Party that is a Supplier Party separately and individually and, where an obligation is imposed on, or a right granted to, the Electricity Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and (b) when made in relation to a Metering Point and any period of time, a reference to the Supplier Party who is (or was), during that period, Registered in respect of the Metering Point.

52V.2 This Section 2G shall:

52V.2.1 only create rights and obligations between: (a) DNO/IDNO Parties (on the one hand) and the Crowded Meter Room Coordinator (on the other); and (b) Supplier Parties (on the one hand) and the Crowded Meter Room Coordinator (on the other);

52V.2.2 not create rights or obligations: (a) between DNO/IDNO Parties (on the one hand) and Supplier Parties (on the other); (b) between DNO/IDNO Parties and other DNO/IDNO Parties; or (c) between Supplier Parties and other Supplier Parties; and

52V.2.3 not apply to the OTSO Party, to SIP Parties, to CVA Registrants or to Gas Supplier Parties.

### **References in Relation to Companies and Electricity Suppliers**

52V.3 In this Section 2G and in the terms defined in Clause 1 when used in this Section 2G, references to:

52V.3.1 an Entry Point or Exit Point are: (a) when made in relation to the Company, references to an Entry Point or Exit Point on the Company's Distribution System; or (b) when made in relation to the Electricity Supplier and any period of time, references to an Entry Point or Exit Point relating to a Metering Point for which the Electricity Supplier is (or was) Registered during that period; and

52V.3.2 a Customer are to a Customer whose premises are connected to the Company's Distribution System and for which the Electricity Supplier is (or was) Registered.

### **Application Limited to Whole Current Metering**

52V.4 This Section 2G shall only apply to Exit Points and/or Entry Points for which the import or export of electricity is metered directly by putting the full electrical current through the meter (known as 'whole current metering').

**52W. PERMITTED WORKS****Requirements for those Undertaking Works**

52W.1 Any and all Crowded Meter Room Works carried out pursuant to this Section 2G shall only be carried out with the permission of the Customer. This Section 2G does not imply any permission by the Customer, and the works pursuant to this Section 2G are not undertaken on behalf of the Company. The Crowded Meter Room Coordinator must make clear to each Customer (and to the occupier if different) that the Crowded Meter Room Coordinator is not acting on behalf of the Company.

**Good Industry Practice**

52W.2 The Crowded Meter Room Coordinator shall act in accordance with Good Industry Practice when carrying out, or procuring the carrying out of, any and all works pursuant to this Section 2G.

**Meter Operation Code of Practice**

52W.3 The Crowded Meter Room Coordinator shall only be entitled to exercise rights under this Section 2G via a contractor which is accredited for the purposes of the Meter Operation Code of Practice under the Retail Energy Code. The Crowded Meter Room Coordinator shall ensure that all of its contractors which undertake works pursuant to this Section 2G do so in compliance with the Meter Operation Code of Practice.

**Works Undertaken by the Crowded Meter Room Coordinator**

52W.4 If the Crowded Meter Room Coordinator wishes at any time to undertake Crowded Meter Room Works, then the Company and the Electricity Supplier hereby consent to the Crowded Meter Room Coordinator De-energising the Exit Point and/or Entry Point in order to do so (to the extent reasonably required in order to do so, and with no prior notice to the Company or the Supplier); provided that the Crowded Meter Room Coordinator Re-energises that Exit Point and/or Entry Point as soon as reasonably practicable thereafter.

52W.5 If the Crowded Meter Room Coordinator resolves to De-energise and/or Re-energise an Exit Point and/or Entry Point pursuant to Clause 52W.4, then the Crowded Meter Room Coordinator shall:

52W.5.1 (subject to Clauses 52W.2 and 52W.3) decide on the extent and nature of the De-energisation Works and Re-energisation Works, and shall undertake such De-energisation Works and Re-energisation Works at its own cost; and

52W.5.2 comply with the Relevant Instruments and the Distribution Code in relation to the De-energisation Works and Re-energisation Works.

52W.6 For the avoidance of doubt, the Crowded Meter Room Coordinator shall only be entitled to Re-energise an Exit Point and/or Entry Point that has been De-energised by (or on behalf of) the Crowded Meter Room Coordinator pursuant to this Section 2G.

### **Non-Interference**

52W.7 The Company consents to the Crowded Meter Room Coordinator interfering with the Company's Distribution System to the extent it is necessary to do so in exercising the Crowded Meter Room Coordinator's rights, or complying with its obligations, under this Section 2G. The Crowded Meter Room Coordinator shall not otherwise interfere with the Company's Distribution System.

52W.8 The Electricity Supplier consents to the Crowded Meter Room Coordinator interfering with the Electricity Supplier's metering equipment to the extent it is necessary to do so in exercising the Crowded Meter Room Coordinator's rights, or complying with its obligations, under this Section 2G. The Crowded Meter Room Coordinator shall not otherwise interfere with the Electricity Supplier's metering equipment.

52W.9 The Crowded Meter Room Coordinator shall indemnify the Company and the Electricity Supplier against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising directly from physical damage to the property of any person caused by the Crowded Meter Room Coordinator in exercising the Crowded Meter Room Coordinator's rights under this Clause 52W (but excluding liability for any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill, and subject to a cap of £1 million per incident or series of related incidents).

**52X.        PROVISION OF INFORMATION TO THE COMPANY AND**  
**ELECTRICITY SUPPLIER**

52X.1        The Crowded Meter Room Coordinator shall, in a prompt and appropriate manner having regard to the nature of the incident, inform the Electricity Supplier where the Crowded Meter Room Coordinator has reason to believe that:

52X.1.1        the flow of electricity through an Exit Point has been interrupted (and remains interrupted);

52X.1.2        there has been interference with any electricity metering equipment that has prevented such metering equipment from correctly registering the quantity of electricity supplied; and/or

52X.1.3        the electricity metering equipment otherwise presents a danger, unless the Crowded Meter Room Coordinator believes that the Electricity Supplier has caused such circumstance to arise.

52X.2        For the purposes of giving notice under Clause 52X.1, the Crowded Meter Room Coordinator shall use its reasonable endeavours to establish the identity of the Electricity Supplier to whom notice should be given. Where the Crowded Meter Room Coordinator is unable to establish the identity of the person to whom notice should be given, it shall give such notice to the United Kingdom Revenue Protection Association.

52X.3        Where the Crowded Meter Room Coordinator becomes aware of any matter or incident that does or is likely to:

52X.3.1        cause danger or require urgent attention in relation to the supply or distribution of electricity through the Distribution System; or

52X.3.2        affect the maintenance of the security, availability and quality of service of the Distribution System,

then the Crowded Meter Room Coordinator shall notify the Company of such matter or incident in a prompt and appropriate manner having regard to the nature of the matter or incident (as further described in the remainder of this Clause 52X).

- 52X.4 Where the Crowded Meter Room Coordinator becomes aware of any matter or incident that does or is likely to cause danger or require urgent attention in relation to the supply or distribution of electricity through the Distribution System (including a Category A Situation), then the Crowded Meter Room Coordinator shall ensure that the Company is notified of such matter or incident by telephone in a prompt and appropriate manner having regard to the nature of the matter or incident. The Crowded Meter Room Coordinator shall ensure that such notification identifies the relevant asset condition code as set out in Part 2 of Schedule 24.
- 52X.5 Where the Crowded Meter Room Coordinator becomes aware of any matter or incident that is a Category B Situation, then the Crowded Meter Room Coordinator shall ensure that the Company is notified of such matter or incident using the Data Transfer Network (data flow D0135) or by such other method as agreed by the Company, within 5 Working Days after becoming aware of such matter or incident. The Crowded Meter Room Coordinator shall ensure that such notification identifies the relevant asset condition code as set out in Part 2 of Schedule 24, and (where the Crowded Meter Room Coordinator has the Connectee's permission to do so) contact details for the Connectee.
- 52X.6 Where the Crowded Meter Room Coordinator becomes aware of any matter or incident that is a Category C Situation, then the Crowded Meter Room Coordinator shall ensure that the Company is notified of such report or enquiry using the Data Transfer Network (data flow D0135) or by such other method as agreed by the Company, within 10 Working Days after becoming aware of such matter or incident. The Crowded Meter Room Coordinator shall ensure that such notification identifies the relevant asset condition code as set out in Part 2 of Schedule 24.
- 52X.7 Upon request by the Company, the Crowded Meter Room Coordinator shall, in a prompt and appropriate manner, provide the Company with available information regarding the condition of any crowded meter room or cupboard at which the Crowded Meter Room Coordinator has carried out Crowded Meter Room Works.

52X.8 Upon request by the Crowded Meter Room Coordinator, the Company shall, in a prompt and appropriate manner, provide the Crowded Meter Room Coordinator with available information regarding the Premises (including details of ownership) where the Crowded Meter Room Coordinator is planning to carry out Crowded Meter Room Works.

**SECTION 2H – DISTRIBUTOR/SUPPLIER TO SIP PARTY  
RELATIONSHIPS**

## **SCOPE OF SECTION 2H**

This Section 2H sets out the terms and conditions pursuant to which each DNO/IDNO Party and each Supplier Party shall allow each SIP Party to undertake Safe Isolation Works.

**52Y. INTERPRETATION OF SECTION 2H****Party Obligations**

52Y.1 In this Section 2H and in the terms defined in Clause 1 when used in this Section 2H:

52Y.1.1 each reference to the "Company" is a reference to each Party that is either a DNO Party or an IDNO Party separately and individually and, where an obligation is imposed on, or a right granted to, the Company, that obligation is imposed on, and that right is granted to, each such Party separately and independently;

52Y.1.2 each reference to the "Electricity Supplier" is: (a) a reference to each Party that is a Supplier Party separately and individually and, where an obligation is imposed on, or a right granted to, the Electricity Supplier, that obligation is imposed on, and that right is granted to, each such Party separately and independently; and (b) when made in relation to a Metering Point and any period of time, a reference to the Supplier Party who is (or was), during that period, Registered in respect of the Metering Point; and

52Y.1.3 each reference to the "Safe Isolation Provider" is a reference to each Party that is a SIP Party separately and individually and, where an obligation is imposed on, or a right granted to, the Safe Isolation Provider, that obligation is imposed on, and that right is granted to, each such Party separately and independently.

52Y.2 This Section 2H shall:

52Y.2.1 only create rights and obligations between: (a) DNO/IDNO Parties (on the one hand) and SIP Parties (on the other); and (b) Supplier Parties (on the one hand) and SIP Parties (on the other);

52Y.2.2 not create rights or obligations: (a) between DNO/IDNO Parties (on the one hand) and Supplier Parties (on the other); (b) between DNO/IDNO Parties and other DNO/IDNO Parties; or (c) between Supplier Parties and other Supplier Parties; and

52Y.2.3 not apply to the OTSO Party, to the Crowded Meter Room Coordinator, to CVA Registrants or to Gas Supplier Parties.

### **References in Relation to Companies and Electricity Suppliers**

52Y.3 In this Section 2H and in the terms defined in Clause 1 when used in this Section 2H, references to:

52Y.3.1 an Entry Point or Exit Point are: (a) when made in relation to the Company, references to an Entry Point or Exit Point on the Company's Distribution System; or (b) when made in relation to the Electricity Supplier and any period of time, references to an Entry Point or Exit Point relating to a Metering Point for which the Electricity Supplier is (or was) Registered during that period; and

52Y.3.2 a Customer are to a Customer whose premises are connected to the Company's Distribution System and for which the Electricity Supplier is (or was) Registered.

### **Application Limited to Whole Current Metering**

52Y.4 This Section 2H shall only apply to Exit Points and/or Entry Points for which the import or export of electricity is metered directly by putting the full electrical current through the meter (known as 'whole current metering').

## **52Z. PERMITTED WORKS**

### **Requirements for those Undertaking Works**

52Z.1 Any and all Safe Isolation Works carried out pursuant to this Section 2H shall only be carried out by an individual working on behalf of the Safe Isolation Provider and with the permission of the Customer. This Section 2H does not imply any permission by the Customer, and the works pursuant to this Section 2H are not undertaken on behalf of the Company or the Electricity Supplier. The Safe Isolation Provider must make clear to the Customer (and to the occupier if different) that the Safe Isolation Provider is not acting on behalf of the Company or the Electricity Supplier.

### **Good Industry Practice**

52Z.2 The Safe Isolation Provider shall act in accordance with Good Industry Practice when carrying out, or procuring the carrying out of, any and all works pursuant to this Section 2H.

### **Meter Operator Code of Practice**

52Z.3 The Safe Isolation Provider shall only be entitled to exercise rights under this Section 2H while it is an accredited for the purposes of the Meter Operation Code of Practice under the Retail Energy Code. The Safe Isolation Provider shall comply with the Meter Operation Code of Practice in relation to the works undertaken pursuant to this Section 2H.

### **Works Undertaken by the Safe Isolation Provider**

52Z.4 If the Safe Isolation Provider wishes at any time to undertake Safe Isolation Works, then the Company and the Electricity Supplier hereby consent to the Safe Isolation Provider De-energising the Exit Point and/or Entry Point in order to do so (to the extent reasonably required in order to do so); provided that the Safe Isolation Provider Re-energises that Exit Point and/or Entry Point as soon as reasonably practicable thereafter.

52Z.5 If the Safe Isolation Provider resolves to De-energise and/or Re-energise an Exit Point and/or Entry Point pursuant to Clause 52Z.4, then the Safe Isolation Provider shall:

52Z.5.1 (subject to Clauses 52Z.2 and 52Z.3) decide on the extent and nature of the De-energisation Works and Re-energisation Works, and shall undertake such De-energisation Works and Re-energisation Works at its own cost; and

52Z.5.2 comply with the Relevant Instruments and the Distribution Code in relation to the De-energisation Works and Re-energisation Works.

52Z.6 For the avoidance of doubt, the Safe Isolation Provider shall only be entitled to Re-energise an Exit Point and/or Entry Point that has been De-energised by (or on behalf of) the Safe Isolation Provider pursuant to this Section 2H.

**Advance notice to the Company of Safe Isolation Works**

52Z.7 The Safe Isolation Provider shall give the Company at least one (1) Working Day's advance notification of the day on which the Safe Isolation Provider is to undertake Safe Isolation Works at a premises.

52Z.8 Regarding the notification required by Clause 52Z.7:

52Z.8.1 if the Company (in conjunction with other distributors, potentially via the Energy Networks Association) has made an app available for the purposes of making such notification, then the Safe Isolation Provider shall use that app; or

52Z.8.2 if no such app has been made available, but the REC has been modified so that there is a Market Message for the purposes of making such notification, then the Safe Isolation Provider shall use that Market Message; or

52Z.8.3 if neither of the two options above applies, then the Safe Isolation Provider shall not be required to provide such notification.

**Non-Interference**

- 52Z.9 The Company consents to the Safe Isolation Provider interfering with the Company's Distribution System to the extent it is necessary to do so in exercising the Safe Isolation Provider's rights, or complying with its obligations, under this Section 2H. The Safe Isolation Provider shall not otherwise interfere with the Company's Distribution System.
- 52Z.10 The Electricity Supplier consents to the Safe Isolation Provider interfering with the Electricity Supplier's metering equipment to the extent it is necessary to do so in exercising the Safe Isolation Provider's rights, or complying with its obligations, under this Section 2H. The Safe Isolation Provider shall not otherwise interfere with the Electricity Supplier's metering equipment.
- 52Z.11 The Safe Isolation Provider shall indemnify the Company and the Electricity Supplier against all actions, proceedings, costs, demands, claims, expenses, liability, loss or damage arising directly from physical damage to the property of any person caused by the Safe Isolation Provider in exercising the Safe Isolation Provider's rights under this Clause 52Z (but excluding liability for any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill, and subject to a cap of £1 million per incident or series of related incidents).

**52AA. PROVISION OF INFORMATION TO THE COMPANY AND**  
**ELECTRICITY SUPPLIER**

52AA.1 The Safe Isolation Provider shall, in a prompt and appropriate manner having regard to the nature of the incident, inform the Electricity Supplier where the Safe Isolation Provider has reason to believe that:

52AA.1.1 the flow of electricity through an Exit Point has been interrupted (and remains interrupted);

52AA.1.2 there has been interference with any electricity metering equipment that has prevented such metering equipment from correctly registering the quantity of electricity supplied; and/or

52AA.1.3 the electricity metering equipment otherwise presents a danger,

unless the Safe Isolation Provider believes that the Electricity Supplier has caused such circumstance to arise.

52AA.2 For the purposes of giving notice under Clause 52AA.1, the Safe Isolation Provider shall use its reasonable endeavours to establish the identity of the Electricity Supplier to whom notice should be given. Where the Safe Isolation Provider is unable to establish the identity of the person to whom notice should be given, it shall give such notice to the United Kingdom Revenue Protection Association.

52AA.3 Where the Safe Isolation Provider becomes aware of any matter or incident that does or is likely to:

52AA.3.1 cause danger or require urgent attention in relation to the supply or distribution of electricity through the Distribution System; or

52AA.3.2 affect the maintenance of the security, availability and quality of service of the Distribution System,

then the Safe Isolation Provider shall notify the Company of such matter or incident in a prompt and appropriate manner having regard to the nature of the matter or incident (as further described in the remainder of this Clause 52AA).

- 52AA.4 Where the Safe Isolation Provider becomes aware of any matter or incident that does or is likely to cause danger or require urgent attention in relation to the supply or distribution of electricity through the Distribution System (including a Category A Situation), then the Safe Isolation Provider shall ensure that the Company is notified of such report or enquiry by telephone in a prompt and appropriate manner having regard to the nature of the matter or incident. The Safe Isolation Provider shall ensure that such notification identifies the relevant asset condition code as set out in Part 2 of Schedule 24.
- 52AA.5 Where the Safe Isolation Provider becomes aware of any matter or incident that is a Category B Situation, then the Safe Isolation Provider shall ensure that the Company is notified of such matter or incident using the Data Transfer Network (data flow D0135), within 5 Working Days after becoming aware of such matter or incident. The Safe Isolation Provider shall ensure that such notification identifies the relevant asset condition code as set out in Part 2 of Schedule 24, and (where the Safe Isolation Provider has the Connectee's permission to do so) contact details for the Connectee.
- 52AA.6 Where the Safe Isolation Provider becomes aware of any matter or incident that is a Category C Situation, then the Safe Isolation Provider shall ensure that the Company is notified of such report or enquiry using the Data Transfer Network (data flow D0135) within 10 Working Days after becoming aware of such matter or incident. The Safe Isolation Provider shall ensure that such notification identifies the relevant asset condition code as set out in Part 2 of Schedule 24.

**SECTION 3**  
**GENERAL LEGAL PROVISIONS**

## 53. LIMITATION OF LIABILITY

### Physical Damage

53.1 Subject to Clause 53.5 and save as provided in this Clause 53.1 and Clause 53.2, and save where any provision of this Agreement provides for an indemnity, no Party (the **Party Liable**) nor any of its officers, employees or agents shall be liable to any other Party for loss arising from any breach of this Agreement other than for loss directly resulting from such breach 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:

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

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

provided that the liability of the Party Liable in respect of all claims for such loss shall in no circumstances exceed £1 million (or, in relation to Bilateral Connection Agreements under Section 2B, such higher figure as the two Parties thereto may agree in such Bilateral Connection Agreement) per incident or series of related incidents, and provided further that the Party Liable shall be entitled:

53.1.3 to deduct from any sums payable to another Party in respect of the Party Liable's liability for loss or damage in respect of any event under this Agreement any sums which it is liable to pay to a person who has a connection to the Party Liable's System or any other person (whether or not a Party) in respect of the same loss or damage in respect of the same event; and

53.1.4 where it has already made payment in respect of its liability for loss or damage in respect of an event under this Agreement, at the time at which it becomes liable to pay any other person (whether or not a Party) in respect of the loss or damage in respect of the same event, to reclaim from the Party to whom it made a payment under this Agreement the amount of its liability to that other person but not exceeding the amount already paid to that Party in respect of loss or damage in respect of the same event,

provided that where any Party Liable becomes aware of any claim, difference, dispute or proceedings (actual or threatened) which it reasonably expects may lead to a liability to a person other than another Party in respect of an event which may also give rise to a liability to another Party under this Agreement, then the Party Liable shall consult with the other Party as to the conduct of that claim, difference, or dispute or those proceedings (actual or threatened).

### **Death or Personal Injury**

53.2 Nothing in this Agreement shall exclude or limit the liability of any 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 Parties and their officers, employees and agents, from and against all such liability and any loss or liability which such other Parties 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.

### **Economic and Consequential Loss**

53.3 Subject to Clause 53.5, and save where any provision of this Agreement provides for an indemnity, neither the Party Liable, nor any of its officers, employees or agents, shall in any circumstances whatsoever be liable, under or in relation to this Agreement, to another Party for:

53.3.1 any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill; or

53.3.2 any indirect or consequential loss; or

53.3.3 loss resulting from the liability of such other Party to any other person howsoever and whenever arising save as provided in Clauses 53.1 and 53.2.

### **Exclusive Remedies**

53.4 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 any rights any Party may possess in tort (or delict) which shall include actions brought in negligence and/or nuisance. Accordingly, each of the Parties hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute, and releases the Party Liable, its officers, employees and agents 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.

### **Overriding Nature of this Clause**

53.5 Save as otherwise expressly provided in this Agreement, this Clause 53 insofar as it excludes or limits liability shall override any other provision in this Agreement, provided that nothing in this Clause 53 shall exclude or restrict or otherwise prejudice or affect any of:

53.5.1 the rights, powers, duties and obligations of any Party which are conferred or created by the Act, any licence granted pursuant to the Act, or any subordinate legislation made under the Act; or

53.5.2 the rights, powers, duties and obligations of the Authority or the Secretary of State under the Act, any such licence or otherwise howsoever.

### **Other Matters**

53.6 Each of the sub-clauses of this Clause 53:

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

- 53.6.2 shall survive the termination or expiry of this Agreement.
- 53.7 Each Party hereby acknowledges and agrees that each other Party holds the benefit of Clauses 53.1, 53.2 and 53.3 for itself and as trustee and agent for its officers, employees and agents.
- 53.8 Each Party hereby acknowledges and agrees that the provisions of this Clause 53 have been the subject of discussion and negotiation and are fair and reasonable having regard to the circumstances as at the date hereof.
- 53.9 Nothing in this Clause 53 shall prevent or restrict any Party from enforcing any payment obligation (including suing for a debt) owed to it under or pursuant to this Agreement, or prevent DCUSA Ltd from enforcing any payment obligation (including suing for debts owed under Clause 8) owed to the Panel.

### **Offshore Transmission Systems**

- 53.10 The following provisions apply only in relation to arrangements pursuant to Section 2B and between the OTSO Party and a DNO/IDNO Party in respect of an Offshore Transmission System owned by an Offshore Transmission Owner:
- 53.10.1 in consideration of the rights conferred upon the DNO/IDNO Party under this Agreement, the right of the DNO/IDNO Party to claim in negligence, other tort, or otherwise howsoever against the Offshore Transmission Owner in respect of any act or omission of the Offshore Transmission Owner in relation to the subject matter of the STC is hereby excluded and the DNO/IDNO Party agrees not to pursue any such claim; save that nothing in this Clause 53.10 shall restrict the ability of the DNO/IDNO Party to claim in respect of:
- (A) any contract to which the DNO/IDNO Party and the Offshore Transmission Owner are (from time to time) party;
  - (B) fraudulent misrepresentation; or
  - (C) death or personal injury resulting from the negligence of the Offshore Transmission Owner; and

53.10.2 the OTSO Party shall ensure that the STC contains a waiver from the Offshore Transmission Owner in favour of (and enforceable by) the DNO/IDNO Party in respect of any claim the Offshore Transmission Owner may have in negligence, other tort, or otherwise howsoever against the DNO/IDNO Party in respect of any act or omission of the DNO/IDNO Party in relation to the subject matter of Section 2B, and the OTSO Party shall ensure that such waiver includes an agreement on the part of the Offshore Transmission Owner not to pursue such a claim: save that the waiver need not apply to claims in respect of:

- (A) any contract to which the DNO/IDNO Party and the Offshore Transmission Owner are (from time to time) party;
- (B) fraudulent misrepresentation; or
- (C) death or personal injury resulting from the negligence of the DNO/IDNO Party.

## 54. TERMINATION

### Events of Default

54.1 It shall be an **Event of Default** in respect of a Party (the **Breaching Party**) if:

- 54.1.1 the Breaching Party is in material breach of any of its material obligations under this Agreement and, if the breach is or was capable of remedy, the Breaching Party has failed to remedy the breach within 20 Working Days of receipt of a notice from any Party to whom that obligation was owed giving full details of the breach, requiring the Breaching Party to remedy the breach, and stating that a failure to remedy the breach may give rise to the consequences set out in this Clause 54;
- 54.1.2 the Breaching Party passes a resolution for its own winding-up, dissolution, administration or reorganisation (except for the purposes of a solvent reconstruction or reorganisation approved by the Panel), or a court of competent jurisdiction makes an order for the winding-up or dissolution of the Breaching Party;
- 54.1.3 the Breaching Party has an administrator appointed in respect of it, or an administration order is made in relation to it, or a receiver, administrative receiver, trustee, liquidator, compulsory manager or other similar officer is appointed in respect of the Breaching Party or the whole or a substantial part of its assets, or an encumbrancer takes possession of or sells the whole or a substantial part of the Breaching Party's assets, rights, or revenues;
- 54.1.4 the Breaching Party makes an arrangement, compromise, composition, assignment or assignation with its creditors generally or makes an application to a court for protection from its creditors generally;
- 54.1.5 the Breaching Party is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, but as if in that section the sum of £10,000 was substituted for the sum of £750;
- 54.1.6 without prejudice to Clause 55, a circumstance of Force Majeure that affects the performance by the Breaching Party of substantially all of its obligations under this Agreement continues for more than 180 days and any Party to whom

any such obligation was owed serves a notice on the Breaching Party referring to this Clause 54;

- 54.1.7 any of the conditions precedent relating to the Breaching Party set out in Clauses 16.1.2 to 16.1.7 (inclusive) or in Clauses 37.1.1 to 37.1.5 (inclusive) cease to be satisfied in respect of the Breaching Party.
- 54.1.8 the Breaching Party fails to remedy a DCUSA Payment Default within 5 Working Days after receipt of a DCUSA Late Payment Notice.

### **Suspension of Rights**

54.2 For so long as an Event of Default is continuing, where a Supplier/CVA Registrant is a User under Section 2A, or where a DNO/IDNO/OTSO Party is a User under Section 2B, and, in either case, that Party is a Breaching Party pursuant to:

- 54.2.1 Clause 54.1.1 or 54.1.6, any Party to whom the obligations in question were owed shall be entitled to suspend its performance of the services described in Section 2 to the Breaching Party by: (a) giving notice in writing to the Breaching Party; and (b) copying that notice to the Authority and the Panel (care of the Secretariat);
- 54.2.2 Clause 54.1.8, the Panel shall be entitled to instruct the REC Code Manager to procure suspension of CSS registration services for the Breaching Party by imposing a Market Sanction under the 'Switching Data Management Schedule' of the Retail Energy Code and shall notify each DNO/IDNO Party and the Authority that the Panel has taken such action; and
- 54.2.3 any provision of Clause 54.1 other than Clauses 54.1.1, 54.1.6 and 54.1.8, any Party shall be entitled to suspend its performance of the services described in Section 2 to the Breaching Party by: (a) giving notice in writing to the Breaching Party; and (b) copying that notice to the Authority and the Panel (care of the Secretariat).

54.2A In the case of suspension under Clauses 54.2.1 or 54.2.3:

- 54.2A.1 where the Breaching Party's rights under Section 2A are suspended, then the suspending Party shall prevent new registrations in its MPAS by the Breaching Party, and shall notify an end to the Regulatory Alliance with the Breaching Party under the 'Switching Data Management Schedule' of the Retail Energy Code; and
- 54.2A.2 the Breaching Party shall pay to the suspending Party an amount equal to any reasonable costs incurred by such Party as a result of such suspension.
- 54.3 Where an Event of Default is continuing, the Panel may resolve that the Breaching Party in question shall not, for such period as the Panel may specify, be entitled to exercise its election and voting rights under Section 1, in which case the provisions of Clause 6 and Section 1C shall operate (during that period) as if that Party were not a Party. The Panel shall notify the Authority and all the Parties of any such resolution.
- 54.4 Any Party whose rights are restricted in accordance with Clause 54.3 may apply to the Panel to have those restrictions removed. The Panel shall consider such application and may levy a fee on the relevant Party for doing so. Where the Panel considers that no Event of Default is continuing in respect of the applicant, it shall notify the Parties and the Authority accordingly, and the restrictions imposed under Clause 54.3 shall cease to apply.

### **Ending of Suspension**

- 54.4A Where the Panel has instructed the REC Code Manager to procure suspension of CSS registration services for a Party in accordance with Clause 54.2.2 and that Party remedies the DCUSA Payment Default, then the Panel shall notify each DNO/IDNO Party and the Authority that the DCUSA Payment Default has been remedied, and shall instruct the REC Code Manager to cease the suspension of CSS registration services by ending the Market Sanction under the Retail Energy Code.
- 54.4B Where a Party has suspended its performance of the services under Section 2 to a Breaching Party in accordance with Clause 54.2 and where the Breaching Party remedies the relevant Event of Default, then the suspending Party shall end such suspension by: (a) giving notice in writing to the Breaching Party; and (b) copying that notice to the Authority and the Panel (care of the Secretariat). Where suspension

of new registrations in MPAS is ended, the suspending Party shall notify the re-establishment of the Regulatory Alliance with the Breaching Party under the 'Switching Data Management Schedule' of the Retail Energy Code.

### **Ceasing to be a Party**

54.5 Subject to Clause 54.6:

54.5.1 where a Party applies to the Panel to be removed as a Party; or

54.5.2 where an Event of Default occurs in respect of a Party, and is continuing, and has been continuing for at least six months,

the Panel may resolve to terminate that Party's accession to this Agreement. On written notice by the Panel of such resolution to the Parties and the Authority, the Party in question shall cease to be a Party.

54.6 A Party's accession to this Agreement may not be terminated:

54.6.1 in the case of a DNO Party or an IDNO Party, where that Party holds a Distribution Licence which requires it to be a party to this Agreement;

54.6.2 in the case of a Supplier Party, where that Party holds a Supply Licence which requires it to be a party to this Agreement.

### **Panel Member Conflict**

54.7 A Panel Member shall be disqualified from acting, and shall not act in their capacity as a Panel Member, in relation to a resolution pursuant to this Clause 54 and a Breaching Party where 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).

### **Consequences of Termination**

54.8 Except where expressly stated to the contrary, the rights and obligations of a Party under this Agreement shall cease immediately upon that Party's accession to this Agreement

being terminated and it ceasing to be a Party. However, such termination shall not affect any rights and obligations which have accrued on or before the date of such termination.

- 54.9 Clauses 1, 8 (only in respect of those Financial Years, and parts thereof, during which it was a Party), 15, 19 to 25 (inclusive), 32, 34, 35, 36, 41, 43 to 47 (inclusive), 50, 51, 53, 54.8 and 54.9 shall survive the termination of such accession and continue to apply to a Party after it ceases to be a Party.

## 55. FORCE MAJEURE

55.1 If any Party (the **Affected Party**) is unable to carry out any of its obligations under this Agreement due to any circumstance of Force Majeure, this Agreement shall (subject to Clause 54.1.6) remain in effect but:

55.1.1 the Affected Party's obligations;

55.1.2 the obligations any other Party owes to the Affected Party under this Agreement; and

55.1.3 any obligations such other Parties owe between themselves under this Agreement which the relevant Party is unable to carry out directly as a result of the suspension of the Affected Party's obligations in accordance with this Clause 55,

shall be suspended without liability for the period during which the circumstance of Force Majeure prevails provided that:

55.1.4 the Affected Party gives the other Parties prompt notice describing the circumstance of 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 Force Majeure; and

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

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

55.1.7 the Affected Party uses all reasonable efforts to mitigate the impact of the circumstance of Force Majeure and to remedy its inability to perform as quickly as possible; and

55.1.8 immediately after the end of the circumstance of Force Majeure, the Affected Party notifies the other Parties in writing that the circumstance of Force Majeure has ended and resumes performance of its obligations under this Agreement.

## 56. DEROGATIONS

### **Panel's Ability to Grant Derogations (excluding Sandbox Applications)**

- 56.1 The Panel may (subject to Clause 56.3) resolve, on the application of any Party, to grant a derogation to any Party or Parties in relation to any obligation or obligations contained in this Agreement. In resolving to grant such derogation, the Panel may impose such conditions as it sees fit, and shall specify the term, scope and application of such derogation. Derogations, save for derogations requested under Sandbox Applications, will normally only be granted in respect of newly introduced or amended obligations (or obligations due to be implemented in the future).
- 56.2 The Panel may, from time to time and as it sees fit (subject to Clause 56.3), resolve to retract any derogation, or to amend or add to the conditions applicable to any derogation.
- 56.3 A derogation granted to any Party by the Panel under Clause 56.1, or any retraction, amendment or addition under Clause 56.2, shall, in each case, only be effective if made in conformity with any representations received from the Authority in accordance with Clause 56.5.3 and if not vetoed by the Authority within 10 Working Days of notification of the Panel's decision and the rationale for it.

### **Application for Derogation**

- 56.4 A Party may, at any time, apply to the Panel for a derogation under Clause 56.1 by notice in writing to the Panel Secretary.
- 56.5 Where the Panel Secretary receives such an application, it shall ensure that the matter is added to the agenda for the next Panel meeting occurring more than 10 Working Days after receipt of such application, and shall give notice to all the Parties and to the Authority, at least 10 Working Days before the Panel meeting in question:
- 56.5.1 setting out the identity of the Party by whom the application has been made and the terms of the derogation sought;
- 56.5.2 specifying the date on which the Panel is due to consider the matter; and

56.5.3 inviting representations or objections with respect to the derogation before that time.

56.6 Where representations or objections are made in accordance with Clause 56.5.3, the Panel Secretary shall, as soon as reasonably practicable after receipt thereof and unless such representations or objections have been marked as confidential, publish those representations or objections on the Website.

### **Licence Derogations**

56.7 Without prejudice to Clause 56.1, where the Authority grants a derogation to a Party under its Licence relieving that Party of certain of its licence obligations (including any derogation in respect of one or more of the Charging Methodologies or any element of them), that derogation shall also be effective for the purposes of this Agreement in the same terms (to the extent relevant to this agreement). The Party seeking to rely upon such derogation shall, as soon as reasonably practicable after receipt of such derogation send a copy of it to the Panel.

### **Derogation from Performance**

56.8 For so long as a Party has the benefit of a derogation in accordance with Clause 56.1 or 56.7, that Party shall be excused from complying with the obligations specified in the terms of that derogation, and shall be deemed not to be in breach of this Agreement for failing to comply with the relevant obligations for the term of the derogation, but shall be required to comply with any modified obligations which are specified as a condition of the derogation.

56.9 A Party may, immediately by notice in writing to the Panel at any time, reject any derogation then applying to it, in which case the derogation shall cease to apply for the purposes of this Agreement and the Party shall become subject to the obligations under this Agreement set out in the derogation in question.

### **Sandbox Applications**

56.10 Where the Secretariat receives an enquiry from a potential Sandbox Applicant requesting guidance about their project, the Secretariat shall:

- 56.10.1 provide reasonable assistance and guidance to the potential applicant, including an initial assessment of the project's likely eligibility for sandbox support (by reference to the Authority's published criteria from time to time); and
  - 56.10.2 notify the Authority of the details of the enquiry and whether, in the Secretariat's view, a Sandbox Application will be made.
- 56.11 The Secretariat shall, in respect of any Sandbox Application received from the Authority, add it to the Sandbox Register and prepare a written report (the "**Sandbox Application Assessment Form**") containing the information listed at Clause 56.13.
- 56.12 The Secretariat shall not be required to conduct an evaluation of a Sandbox Application, or submit a draft Sandbox Application Assessment Form to the Authority, until the Sandbox Applicant has:
- 56.12.1 provided all the information that the Secretariat reasonably requires in order to conduct such evaluation and prepare a Sandbox Application Assessment Form; and
  - 56.12.2 paid to the Secretariat a fee which represents the reasonable costs to the Secretariat of processing the Sandbox Application, such fee to be approved by the Panel from time to time.
- 56.13 The Sandbox Application Assessment Form shall:
- 56.13.1 be addressed and delivered to the Authority and copied to the Panel;
  - 56.13.2 specify the identity of the Sandbox Applicant;
  - 56.13.3 specify the Party/Parties seeking the derogation (if not the Sandbox Applicant);
  - 56.13.4 set out the reason for the derogation;
  - 56.13.5 set out the derogation required to this Agreement;
  - 56.13.6 identify any impact on Parties including applicable costs (if any);

- 56.13.7 state the period of the requested derogation, the end of which shall be no longer than two years from the Authority's approval of such derogation;
  - 56.13.8 state the reason(s) why the derogation better facilitates the DCUSA Objectives;
  - 56.13.9 set out a reporting plan; and
  - 56.13.10 make a recommendation as to whether the Secretariat considers the Authority should accept or reject the Sandbox Application.
- 56.14 Following receipt of a Sandbox Pre-Approval, the Panel shall ensure that:
- 56.14.1 the Sandbox Application Assessment Form and the Sandbox Pre-Approval are provided to Parties, within 2 Working Days, by the Panel Secretary; and
  - 56.14.2 Parties are invited to submit representations with respect to the Sandbox Application within the period ending 10 Working Days after receipt of the Sandbox Application Assessment Form and Sandbox Pre-Approval.
- 56.15 Where representations or objections are made in accordance with Clause 56.14.2, the Secretariat shall, as soon as reasonably practicable after receipt thereof, and unless such representations or objections have been marked as confidential, publish those representations or objections on the Website.
- 56.16 Following the end of the period referred to in Clause 56.14.2, the Panel shall make its recommendation to the Authority as to whether the Panel considers the Authority should accept or reject the Sandbox Application. The Panel shall consider any representations or objections received from the Parties and the Authority, and may make any amendment or apply any conditions to the derogation request, in making such recommendation.
- 56.17 Where Clause 56.16 applies, the Secretariat shall provide the Authority with:
- 56.17.1 the Sandbox Application Assessment Form;
  - 56.17.2 the Panel's recommendation;
  - 56.17.3 any applicable amendments or conditions to apply to the Sandbox Application;

- 56.17.4 any representations or objections received from Parties; and
  - 56.17.5 at the Authority's request, any other existing documents or information in respect of the Sandbox Application in question.
- 56.18 In making a determination in respect of a Sandbox Application, the Authority:
- 56.18.1 may follow such procedure as it considers appropriate;
  - 56.18.2 may have regard to such matters, and to any representations by such Parties, as it considers appropriate; and
  - 56.18.3 shall, in any event, have regard to the recommendation made by the Panel.
- 56.19 Where the Authority determines that a Sandbox Application shall be accepted or rejected, it shall direct the Panel accordingly. Any direction will be effectively given if communicated by the Authority to the Panel (which may be care of the Secretariat).
- 56.20 The Secretariat shall, as soon as is reasonably practicable after receipt of the direction by the Authority as referred to in Clause 56.19, notify the Sandbox Applicant and shall ensure that the Sandbox Register is updated so as to indicate the decision made in relation to the Sandbox Application.
- 56.21 The Panel may, from time to time and as it sees fit, resolve to retract any derogation, or to amend or add to the conditions applicable to any Sandbox Application subject to seeking representations from Parties and approval from the Authority.

## 57. FURTHER INFORMATION PROVISIONS

### **Confidentiality and the Panel**

- 57.1 The Parties acknowledge that, in order for the Panel (and its Working Groups) to properly carry out its duties under this Agreement, the Panel may decide, or be obliged, to keep confidential to it (and may instruct its Working Groups to keep confidential) matters, minutes, reports, consultation responses, data and other information produced by or for, or made available to, the Panel, the Secretariat, the Panel Secretary or any Working Group. In such cases, the Panel, the Panel Members, the Secretariat, the Panel Secretary and any Working Group and its members shall not disclose such matters, minutes, reports, consultation responses, data and other information. The Panel shall use reasonable endeavours to keep such cases to a minimum.
- 57.2 Each Party agrees, subject to any relevant confidentiality provision binding on it, to provide the Panel, the Panel Secretary and the Secretariat with all data and other information reasonably requested by the Panel and necessary for the Panel, the Panel Secretary and/or the Secretariat properly to carry out their duties and responsibilities under this Agreement.
- 57.3 The following provisions apply in relation to information provided by a Party (under or in relation to this Agreement) to one or more of the Panel, DCUSA Ltd, any Working Group, the Panel Secretary and/or the Secretariat (including any information that a Party provides under Clause 57.2):
- 57.3.1 where the Party wishes such information to remain confidential, it shall clearly mark such information as such. The Panel, its Working Groups and the Secretariat shall ensure that all information so marked is kept secret and confidential, provided that such information shall still be made available to the Authority on the understanding that the Authority shall keep such information confidential: or
- 57.3.2 where the Party does not mark any such information as confidential, the Panel, its Working Groups and the Secretariat need not treat such information as secret or confidential, and the Party hereby consents to the publication of such information on the Website (provided the requirements of Schedule 14 are

observed). The Party providing such information shall indemnify DCUSA Ltd in respect of any claim relating to the publication of such information on the Website in accordance with Schedule 14 (whether under the Data Protection Legislation, section 105 of the Utilities Act or otherwise).

### **Intellectual Property in Change Proposals**

57.4 In respect of each Change Proposal that a Proposer may make, the Proposer hereby:

57.4.1 assigns fully, irrevocably and unconditionally any and all present and future Intellectual Property Rights that it may have in such Change Proposal to DCUSA Ltd; and

57.4.2 confirms that, to the best of its knowledge and belief, no other person has any Intellectual Property Rights in such Change Proposal.

### **Party Details**

57.5 On each Party's accession to this Agreement, the Secretariat shall add that Party's Party Details to Schedule 11.

57.6 Each Party shall ensure that the Secretariat is notified of any changes from time to time in that Party's Party Details, so as to ensure that the same can be kept up-to-date from time to time.

57.7 Subject to Clause 57.10, the Secretariat shall, on receipt of any notification under Clause 57.6, promptly:

57.7.1 amend Schedule 11 to reflect the relevant changes in the relevant Party's Party Details; and

57.7.2 make a copy of the amended Schedule 11 available via the Website.

57.8 A Party can only add a Party Category to its existing accession if that Party would be eligible to be admitted as a Party in that Party Category under Clause 4 (but disregarding for these purposes Clause 4.2.1).

57.9 Where a Party applies to the Secretariat to add an additional Party Category, DCUSA Ltd shall (subject to Clause 57.8) enter into an agreement with such Party to record such

addition (in such form as the Panel may approve from time to time). Each Party hereby irrevocably and unconditionally authorises DCUSA Ltd to execute and deliver, on behalf of such Party, any such agreement.

57.10 A Party's additional Party Category shall be effective from the effective date set out in the relevant agreement under Clause 57.9, and the Secretariat shall update Schedule 11 with effect from that date.

57.11 Any disputes regarding the ability of a Party to add a Party Category shall be subject to Clause 4.9, on the same basis as if the dispute concerned admission as a Party.

57.12 Notwithstanding Clauses 9.2 and 10.1, any changes to Schedule 11 in accordance with Clause 57.5 or 57.7 shall not constitute a change to which Section 1 C applies.

## 58. DISPUTES

### Arbitration

- 58.1 Save where expressly stated in this Agreement to the contrary, and subject to:
- 58.1.1 any contrary provisions of the Act, of any licence issued pursuant to the Act, or of the Regulations (or any other regulations made under Section 29 of the Act); and
  - 58.1.2 the rights, powers, duties and obligations of the Authority or the Secretary of State under the Act, or under any such licence, or otherwise howsoever,
- any dispute or difference of whatever nature howsoever arising under, out of, or in connection with this Agreement between two or more Parties shall be and is hereby referred to arbitration between such Parties, pursuant to the arbitration rules of the Electricity Arbitration Association from time to time in force.
- 58.2 Whatever the nationality, residence, or domicile of the Parties in question and wherever the dispute or difference or any part thereof arose, the law of England shall be the proper law of any reference to arbitration hereunder and in particular (but not so as to derogate from the generality of the foregoing) the seat of any such arbitration shall be Great Britain and the provisions of the Arbitration Act 1996 shall apply to any such arbitration wherever the same or any part of it shall be conducted.

### Third Party Claims

- 58.3 Subject always to Clause 58.5, if any consumer of electricity (the **consumer**) brings any legal proceedings in any court against any Party (the **defendant party**) and the defendant party wishes to make a third party claim (as defined in Clause 58.4) against another Party which would but for this Clause 58.3 have been a dispute or difference referred to arbitration by virtue of Clause 58.1, then, notwithstanding the provisions of Clause 58.1 (which shall not apply) and in lieu of arbitration, the court in which the legal proceedings have been commenced shall hear and completely determine and adjudicate upon the legal proceedings and the third party claim not only between the consumer and the defendant party but also between either or both of them and the other

such Party, whether by way of third party proceedings or otherwise as may be ordered by the court.

58.4 For the purposes of this Clause 58, **third party claim** shall mean:

58.4.1 any claim by a defendant party against another Party (whether or not already a party to the legal proceedings) for any contribution or indemnity; or

58.4.2 any claim by a defendant party against another Party for any relief or remedy relating to or connected with the subject matter of the legal proceedings and substantially the same as some relief or remedy claimed by the consumer; or

58.4.3 any requirement by a defendant party that any question or issue relating to or connected with the subject matter of the legal proceedings should be determined not only as between the consumer and the defendant party but also as between either or both of them and another Party (whether or not already a party to the legal proceedings).

58.5 Clause 58.3 shall apply only if, at the time at which the legal proceedings are commenced, no arbitration has been commenced between the defendant party and the other Party in question that raises or involves the same or substantially the same issues as would be raised by or involved in the third party claim. The tribunal in any arbitration which has been commenced prior to the commencement of legal proceedings shall determine the question, in the event of dispute, whether the issues raised or involved are the same or substantially the same.

## 59. DATA TRANSFER AND NOTICES

### **Data Transfer**

59.1 Unless otherwise agreed between the sender and the recipient, any notice, request or other communication under Section 2 shall be sent in accordance with Good Industry Practice, and Good Industry Practice will include sending it by the means (if any), and, with the content (if any), required pursuant to:

59.1.1 the Balancing and Settlement Code;

59.1.2 the Retail Energy Code; and/or

59.1.3 the Energy Market Data Specification.

59.2 Where this Agreement requires any notice, request or other communication to be sent via the Data Transfer Network or the DIP, the relevant message shall be addressed to the Market Domain I.D. or (for MHHS) to the DIP ID, specified for such purpose in that Party's Party Details.

### **Data Transfer Responsibility**

59.3 Where this Agreement requires any notice, request or other communication to be sent via the Data Transfer Network or the DIP, the Party sending the relevant message shall be responsible for ensuring that it is sent within any time period laid down in this Agreement for the provision of such notice, request or communication; provided that the Party sending a message shall have no obligation to ensure receipt where the intended recipient has failed to remove or process all messages delivered to it and to ensure that such messages are made available to its internal systems as expeditiously as possible.

### **Unavailability of DTN or the DIP**

59.4 If the Data Transfer Network or any relevant part of such network or the DIP is at any time for any reason unavailable for the sending of messages between the Parties, then during the period of unavailability:

- 59.4.1 the Parties shall use any means reasonable in the circumstances to send any notice, request or other communication that this Agreement would otherwise require to be sent via the Data Transfer Network or the DIP;
- 59.4.2 where other means are used in accordance with Clause 59.4.1, the Parties shall be relieved from any service levels set out in this Agreement relating to any affected notice, request or other communication (except to the extent that this Agreement expressly provides for alternative service levels in such circumstances) but shall use their reasonable endeavours to send such notice, request or other communication as soon as is reasonably practicable; and
- 59.4.3 to the extent that no such other means are practicable given the nature of the communication and the surrounding circumstances, such unavailability of the Data Transfer Network or the DIP shall be deemed (to the extent not caused by a breach by either party of the Data Transfer Service Agreement or the DIP Supplement) to constitute a circumstance of Force Majeure for the purposes of this Agreement.
- 59.5 Where any Party, in breach of its obligations under Clause 59.3, fails to deliver any notice, request or other communication to the recipient and such failure occurs for reasons outside that Party's direct control, the breaching Party shall have no liability to the other under this Agreement and the relevant Parties shall rely instead upon the provisions of the Data Transfer Service Agreement or the DIP Supplement.

### **Notices**

- 59.6 Save as provided in Clause 30.5, Clause 59.1 and Schedule 8, any notice, request or other communication to be made by one Party to another Party under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by first class post, courier or email to that other Party at the address specified for such purpose in that Party's Party Details.
- 59.7 Unless otherwise stated in this Agreement, a notice, request or other communication sent in accordance with Clauses 30.5, 59.6 or paragraph 11.1 of Schedule 8 shall be deemed to be received:

- 59.7.1 if delivered personally, when left at the address set out for such purpose in the relevant Party's Party Details;
  - 59.7.2 if sent by post, three Working Days after the date of posting; and
  - 59.7.3 if sent by email, one hour after being sent, unless an error message is received by the sender in respect of that email before that hour has elapsed.
- 59.8 Notices to or from DCUSA Ltd shall also be subject to the provisions of Clause 59.7, and notices to DCUSA Ltd shall be sent to the address given, from time to time, on the Website (or, in the absence of any such address, to its registered office).
- 59.9 Notices to the Panel shall also be subject to the provisions of Clause 59.7, and notices to the Panel shall be sent care of the Secretariat to the address given, from time to time, on the Website (or, in the absence of any such address, to the registered office of DCUSA Ltd).

## 60. MISCELLANEOUS

### **Entire Agreement**

- 60.1 This Agreement and any document referred to therein represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter; and supersedes any previous agreement whether written, oral, or deemed between any of the Parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom.
- 60.2 Each Party confirms that, except as provided in this Agreement and without prejudice to any liability for fraudulent misrepresentation, it has not relied on any representation, warranty or undertaking which is not contained in this Agreement or any document referred to therein.

### **Severability**

- 60.3 If any provision of this Agreement shall be held to be invalid or unenforceable by a judgement or decision of any court of competent jurisdiction or any Competent Authority whose decisions are binding on the Parties, that provision shall be deemed severable and the remainder of this Agreement shall remain valid and enforceable to the fullest extent permitted by law. In any such case, the Parties will negotiate in good faith with a view to agreeing one or more provisions which may be substituted for such invalid or unenforceable provision in order to give effect, so far as practicable, to the spirit of this Agreement.

### **Waivers**

- 60.4 The failure by any Party to exercise, or the delay by any Party in exercising, any right, power, privilege or remedy provided under this Agreement or a Distribution Code or by law shall not constitute a waiver thereof nor of any other right, power, privilege or remedy. No single or partial exercise of any such right, power, privilege or remedy shall preclude any future exercise thereof or the exercise of any other right, power, privilege or remedy.

## **Contract Management**

- 60.5 Each Party (other than DCUSA Ltd) shall appoint an appropriate person (each a **Contract Manager** and together the **Contract Managers**) to manage all matters arising under or in connection with this Agreement and to monitor the general operation of this Agreement.
- 60.6 The Contract Manager relating to each Party from time to time shall be the person referred to in that Party's Party Details.
- 60.7 The Contract Manager of each Party shall meet with the Contract Manager of each other Party (collectively or individually) at such venues and at such intervals as may be agreed between the Parties from time to time.

## **Third Party Rights**

- 60.8 Except for the benefit:
- 60.8.1 that DCUSA Ltd holds under Clause 6.22;
  - 60.8.2 that each Party holds under Clause 53.8;
  - 60.8.3 bestowed on Offshore Transmission Owners by Clause 53.10 (which shall be enforceable by Offshore Transmission Owners); and
  - 60.8.4 that Green Deal Providers hold under Clause 25.19C,
- the Parties do not intend that any of the Agreement's terms will be enforceable by a third party (whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise).
- 60.9 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 Clause 60.8, the Parties may vary or terminate this Agreement in accordance with its terms without requiring the consent of any such person.

### **Assignment and Sub-contracting**

60.10 No Party may assign any of its rights under this Agreement without the prior written consent of the other Parties, such consent not to be unreasonably withheld.

60.11 Any Party may sub-contract or delegate the performance of all or any of its obligations under this Agreement (including activities envisaged by a Distribution Code) to any appropriately qualified and experienced third party, but shall at all times remain liable to the other Parties in relation to all sub-contracted or delegated obligations.

### **Law and Jurisdiction**

60.12 Each Party agrees that, in performing its obligations pursuant to this Agreement, it shall be required to comply with relevant statutes, statutory instruments and the general law and shall not be liable for any failure to perform its obligations in accordance with this Agreement where to do so would put it in breach of any such statute, statutory instrument or general provision of law.

60.13 Each Party agrees that, without preventing any other mode of service, any document in an action (including any writ of summons or other originating process or any third or other party notice) may be served on any Party by being delivered to or left for that Party at its address for service of notices referred to in Clause 59.

60.14 This Agreement shall be governed by and construed in accordance with the laws of England and Wales. Subject to Clause 58, the Parties hereby submit to the exclusive jurisdiction of the courts of England and Wales and of Scotland.

60.15 The words and expressions used in this Clause 60.15 and not defined elsewhere in this Agreement shall be interpreted in accordance with any meaning given to them in the Data Protection Legislation.

- a. From time to time, personal data may be shared between Parties in accordance with the provisions of this Agreement.
- b. It is acknowledged that each Party is likely to process such personal data as a data controller, and when jointly agreeing on the manner in which, and the purpose for which, such data is processed, as joint data controllers.

- c. Each Party warrants that it has effected, and undertakes that it shall (while it remains a Party to this Agreement) effect and maintain, all such notifications and registrations as it is required to effect and maintain under the Data Protection Legislation to enable it lawfully to perform the obligations imposed on it by this Agreement, and exercise the rights granted to it by this Agreement.
- d. Each Party undertakes to comply with the Data Protection Legislation in the performance of this Agreement, including ensuring that it has a lawful basis for sharing personal data with another Party and that it complies with the Data Protection Legislation in relation to such sharing of personal data.
- e. Each Supplier Party shall provide to its Customers, and each DNO/IDNO Party shall provide to its Connectees the information (if any) required by the Data Protection Legislation to be provided by them in respect of the processing to be undertaken under this Agreement. If a data subject is dealing with two or more Parties at the same time, then both those Parties shall be separately responsible for complying with their obligations under the Data Protection Legislation regarding the processing of the data subject's personal data.
- f. Each Party shall comply with the Data Protection Legislation as regards the exercise of rights by data subjects for which the Party is the data controller. In particular, each Party shall designate its own contact point responsible for dealing with data protection queries raised by data subjects for which the Party is the data controller. Unless otherwise agreed bilaterally in writing at the relevant time, and to the extent any Parties are joint controllers:
  - i. each Party shall independently comply with the Data Protection Legislation regarding the rights of data subjects under the Data Protection Legislation; and
  - ii. each Party shall independently inform the data subjects about its processing activities and shall refer to the other joint controller in such notices.
- g. The Parties do not anticipate that they will act as data processors in relation to any personal data shared pursuant to this Agreement. If a Party becomes aware

of instances in which personal data may be processed under this Agreement by a Party as a data processor it shall notify the Panel so that consideration can be given to whether a Change Proposal should be raised to describe such personal data and the purpose, nature and duration of such processing, and to set out the clauses required by the Data Protection Legislation to be included in contracts between data controllers and data processors.

## **Novation**

- 60.16 With the approval of the Panel (at their discretion, but subject to Clauses 60.17 and 60.20), a Party may transfer its rights and obligations under this Agreement to another entity. In order to give effect to such transfer, the transferring Party, the transferee entity and DCUSA Ltd (on behalf of itself and each other Party) shall enter into a novation agreement (in substantially the form set out in Schedule 9A). For clarity, the entity wishing to take a transfer of rights and obligations may or may not already be a Party via its own Accession Agreement.
- 60.17 Without limitation, the Panel must not approve novation to a transferee entity which, if not already a Party, is not eligible to accede to this Agreement in the Party Category(ies) of the transferring Party or which, if already a Party, is not eligible to add the Party Category(ies) of the transferring Party to its existing accession.
- 60.18 Each Party hereby irrevocably and unconditionally authorises DCUSA Ltd to execute and deliver, on behalf of such Party, any novation agreement approved by the Panel under Clause 60.16.
- 60.19 Where the transferee entity is already a Party, the transferred rights and obligations shall become subject to such Party's existing Accession Agreement from the effective date of the novation agreement. Where the transferee entity is not already a Party, the transferring Party's Accession Agreement shall, from the effective date of the novation agreement, be treated as the transferee Party's Accession Agreement (and the transferee entity shall be deemed to have acceded to this Agreement).
- 60.20 The effect of each novation agreement entered into pursuant to Clause 60.16 will be to end the transferring Party's accession to this Agreement from the effective date of the novation agreement. Accordingly, the Panel shall not approve a Party's transfer of its

rights and obligations under Clause 60.16 if such Party's accession cannot be terminated in accordance with Clause 54.6.

### **Directions related to national security**

- 60.21 The Secretary of State may issue a direction to the OTSO Party as referred to in condition B4 of the OTSO Party's Electricity System Operator Licence where in the opinion of the Secretary of State there is a risk relating to national security that may detrimentally impact the resilience, safety or security of the energy system, or the continuity of essential services, and it is in the interest of national security that a direction should be issued to the ISOP.
- 60.22 The OTSO Party must comply with any such direction that has been issued by the Secretary of State. DNO/IDNO Parties should note that the OTSO Party is not required to comply with any other obligation in the Electricity System Operator Licence, where and to the extent that compliance with that obligation would be inconsistent with the requirement to comply with such a direction, for the period set out in the direction. This includes the requirement set out in Condition E5 of the OTSO Party's Electricity System Operator Licence to comply with this Agreement.
- 60.23 The OTSO Party is required under Condition B4 of its Electricity System Operator Licence to inform the Secretary of State of any conflict with the obligations as identified in Clause 60.22 as soon as reasonably practicable after the conflict is identified. The OTSO Party will include in such a notice, details of any identified impact or non-compliance that will be caused or will be likely to be caused to a DNO/IDNO Party, and in such a case will also seek clarification of whether this can be shared with the affected DNO/IDNO Party.
- 60.24 Where reasonably practicable and subject to the agreement of the Secretary of State to share any such specific details, the OTSO Party will inform each affected DNO/IDNO Party as identified in Clause 60.23 of what actions the OTSO Party will or has taken, or not taken, to comply with a direction or amended direction (including when such a direction is revoked) and what identified impact or non-compliance this will or is likely to cause to the DNO/IDNO Party.

- 60.25 The OTSO Party's obligations under this Agreement and any contracts made under this Agreement shall be suspended without liability where and to the extent that compliance with any such obligation would be inconsistent with the requirement upon the OTSO Party to comply with a direction.
- 60.26 A DNO/IDNO Party's obligations under this Agreement and any contracts made under this Agreement shall be suspended without liability where and to the extent that the DNO/IDNO Party is unable to comply with any such obligation as a result of any action taken, or not taken, by the OTSO Party to comply with a direction.
- 60.27 The Secretary of State may at any time amend or revoke any direction issued to the OTSO Party as referred to in Condition B4 of the OTSO Party's Electricity System Operator Licence.

#### **Advisory And Information Requests**

- 60.28 The OTSO Party is required to provide advice, analysis or information to the Authority or to a Minister of the Crown when requested in accordance with section 171 of the Energy Act 2023 and Condition D1 of the Electricity System Operator Licence and Gas System Planner Licence.
- 60.29 The OTSO Party may by notice request from a Party ("a recipient"), such information as it reasonably requires in connection with the exercise of any of its functions, in accordance with section 172 of the Energy Act 2023. It will do so by the issue of an Information Request Notice. The purposes of this may include to assist in the fulfilment of a request for advice, analysis or information as set out in Clause 60.28.
- 60.30 The OTSO Party is required by Condition D2 of the Electricity System Operator Licence and Gas System Planner Licence to prepare, submit for approval by the Authority and publish on its website once approved an Information Request Statement that sets out further detail on the process the OTSO Party expects to follow when requesting information from other parties.
- 60.31 The Information Request Statement must include, but need not be limited to, the following matters as set out in Condition D2.5 of the Electricity System Operator Licence and Gas System Planner Licence:

- 60.31.1 the process the OTSO Party expects to follow when issuing an Information Request Notice, including any further detail around the expected engagement between the OTSO Party and recipient of an Information Request Notice; and
  - 60.31.2 the details to be included in an Information Request Notice issued by the OTSO Party.
- 60.32 A recipient to whom a request is made under Clause 60.29 must, so far as reasonably practicable, provide the requested information within such reasonable period, and in such reasonable form and manner, as may be specified in the Information Request Notice.
- 60.33 The OTSO Party must, unless the Authority otherwise consents, maintain for a period of 6 years and provide to the Authority where required a record of information requests as detailed in Condition D2.12 of the Electricity System Operator Licence and Gas System Planner Licence including:
- 60.33.1 a copy of the Information Request Notice;
  - 60.33.2 any subsequent variations to the original information requested;
  - 60.33.3 the recipient's response to the notice, including any refusal or challenges to the notice or requested information;
  - 60.33.4 the time taken for the recipient to provide the requested information;
  - 60.33.5 the manner and form the information was provided in; and
  - 60.33.6 the information provided in response to the notice, and whether such information complied, in the OTSO Party's view, with the Information Request Notice.