Modifications to the Electricity Distribution Standard Licence Conditions

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This document contains the modifications to the Electricity Distribution Standard Licence Conditions. Any additions are shown as black double-underlined and any deletions are shown as black single strikethrough. Any changes since the statutory consultation are highlighted in yellow.

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Gas and Electricity Markets Authority

ELECTRICITY ACT 1989

Standard conditions of the Electricity Distribution Licence

SECTION A: STANDARD CONDITIONS FOR ALL ELECTRICITY DISTRIBUTORS

Chapter 1 Standard conditions 1 to 3: Interpretation and application

Condition 1. Definitions for the standard conditions

Introduction

1.1 This condition sets out most of the defined words and expressions (all of which begin with capital letters) that are used in the standard conditions of both Section A and Section B of this licence, and gives their definitions next to them.

1.2 But where defined words and expressions are used only in a particular standard condition, their definitions are included in that condition.

Definitions in alphabetical order

1.3 In the standard conditions of this licence, unless the context otherwise requires**:**

~~**Instrument Credit Rating**~~	~~means:~~ ~~(a) a "Long-Term Issue Credit Rating" by Standard & Poor's Ratings Group or any of its subsidiaries;~~ ~~(b) a "Long-Term Obligation Rating" by Moody's Investors Services Inc. or any of its subsidiaries;~~ ~~(c) a rating on the "Structured, Project & Public Finance Obligations Long Term Ratings Scale" by Fitch Ratings Ltd or any of its subsidiaries or;~~ ~~(d) a rating which, the Authority directs, is equivalent to those referred to in sub-paragraphs (a), (b), or (c) and issued by:~~ ~~(i) any of the credit rating agencies as referred to in sub-paragraphs (a), (b), or (c); or (ii) any other reputable credit rating agency which, in the opinion of the Authority, notified in writing to the licensee, has comparable standing in both the United Kingdom and the United States of America.~~

Negative Rating Action	~~means~~ ~~an issuer credit rating by Standard & Poor's Ratings Group or any of its subsidiaries;~~ ~~an issuer credit rating by Moody's Investors Services Inc or any of its subsidiaries;~~ ~~an issuer credit rating by Fitch Ratings Ltd or any of its subsidiaries;~~ ~~an issuer credit rating by DBRS Ratings Limited or any of its affiliates; or~~ ~~a rating which, in the Authority's opinion given by Notice to the licensee, is equivalent to any of those specified in sub-paragraph (a), (b), (c) or (d) and is issued by:~~ ~~any of the credit rating agencies referred to in those sub-paragraphs, or~~ ~~any other reputable credit rating agency which, in the Authority's opinion given by Notice to the licensee, has comparable standing in both the United Kingdom and the United States of America.~~
~~Negative Rating Action~~	means a rating agency placing a rating on Negative Watch or a rating agency downgrading a rating to a lower rating.
Negative Watch	means the mechanism or mechanisms used by the relevant credit rating agency to identify an issuer that is at risk of a credit rating downgrade in the short or long term, including but not limited to negative designations of S&P CreditWatch, S&P Outlook, Fitch Rating Watch, Fitch Outlook, Moody's Watchlist, or Moody's Rating Outlook, as defined on the relevant rating agencies' websites from time to time.

Potential Mitigating Actions	means actions designed to improve the Issuer Credit Rating, Significant Instrument Credit Rating and/or financial resilience, including but not limited to: (a)dividend restraint; (b)equity injection or other additional sources of finance; (c)profiling of investment within the Price Control Period; (d)cost reduction; (e)profiling of financial liabilities within the Price Control Period; and (f)if relevant, negotiations with lenders regarding covenants and possible exemptions.
~~Significant Instrument Credit Rating~~	~~means an Instrument Credit Rating relating to debt issued by the licensee or a funding vehicle of the licensee which represents more than 10% of the licensee's total debt.~~
Ultimate Controller	means any of the following: (a) a Holding Company of the licensee that is not itself a Subsidiary of another company or entity; and (b) subject to notes 1 and 2 below, any person or entity (including a general partner of a limited partnership, whether an individual or corporate body) who (whether alone or with a person or persons connected with him~~them~~) is in a position to control, or exercise significant influence over, the policy of the licensee or the policy of any Holding Company of the licensee by virtue of: (i) rights under contractual arrangements to which ~~they are~~he is a party or of which ~~they are~~he is a beneficiary, or (ii) rights of ownership (including rights attached to or deriving from securities or rights under a trust) which are held by him ~~them~~ or of which he ~~they are~~ is a beneficiary. **note 1:** for the purposes of sub-paragraph (b), a person is connected with another person if he is~~they are~~ a party to any arrangement regarding the exercise

of any such rights as are described or referred to in that sub-paragraph.
note 2: sub-paragraph (b) does not include any director or employee of a corporate body in his ~~their~~ capacity as such.

Chapter 6 Standard conditions 24 to 28: Integrity and development of the network

Condition 26A. Disposal of Relevant Assets and restrictions on charges over Receivables

General prohibition

This condition applies to the licensee if the licensee is not a Distribution Services Provider.

26A.1 The licensee must not take any action that is or would be a Disposal of, or a Relinquishment of Operational Control over, any Relevant Asset except in accordance with the provisions of this condition.

26A.2 Subject to paragraph 26A.3, the licensee must not, on or after 1 April 2023, grant any mortgage, charge, or other form of security over any Receivable except in accordance with the provisions of this condition.

26A.3 The licensee may permit any mortgage, charge, or other form of security over any Receivable in effect at the date mentioned in paragraph 26A.2 to remain in effect and may vary its terms so long as the variation does not have the effect of materially extending the scope of the mortgage, charge, or other form of security insofar as it applies to the licensee's Receivables.

Arrangements for specific cases

26A.4 Except where paragraph 26A.6, 26A.7 or 26A.9 applies, the licensee:

(a) .

(i) must give the Authority not less than two months' Notice of its intention to dispose of or relinquish operational control over any Relevant Asset, together with such further information as the Authority may request relating to that asset, or to the circumstances of the intended Disposal or Relinquishment of Operational Control, or to the intentions in regard to those matters of the person who proposes to acquire the asset or operational control over it; and

(ii) may dispose of or relinquish operational control over that Relevant Asset if (and only if) the Authority either consents to the transaction in question or does not inform the licensee in Writing of any objection to it within the Notice period specified in sub-paragraph (a)(i);

and

(b) .

(i) must give the Authority not less than two months' Notice of its intention to grant any mortgage, charge, or other form of security over any Receivable or class or classes of Receivables together with such further information as the Authority may request relating to that Receivable, class or classes of Receivables or to the circumstances of the intended grant of the mortgage, charge, or other form of security; and

(ii) may grant a mortgage, charge, or other form of security over that Receivable or class or classes of Receivables if (and only if) the Authority either consents to the transaction in question or does not inform the licensee in Writing of any objection to it within the Notice period specified in sub-paragraph (b)(i).

26A.5 A consent by the Authority under paragraph 26A.4(a)(ii) or 26A.4(b)(ii) may be given subject to the acceptance by the licensee, or by any third party to the transaction in question, of such conditions as may be specified in that consent.

Arrangements for other cases

26A.6 The licensee may dispose of or relinquish operational control over any Relevant Asset where:

(a) the transaction in question or the asset in question is of a class or description to which the provisions of the General Consent set out at Appendix 1 (which is part of this condition) apply; and

(b) (b) the transaction in question satisfies and is in accordance with all such conditions and requirements as may apply to it under those provisions in relation to that asset.

26A.7 The licensee may grant a mortgage, charge, or other form of security over a Receivable or class or classes of Receivables where:

(a) the indebtedness of the licensee that is to be secured represents the novation or rollover of existing indebtedness; and

(b) the proceeds of the indebtedness of the licensee that is to be secured are used to repay the existing indebtedness referred to in sub-paragraph (a).

26A.8 For the purposes of paragraph 26A.7, what is meant in any particular case by:

(a) "existing indebtedness" and

(b) "proceeds of the indebtedness"

is to be treated as a question of fact.

Statutory requirement

26A.9 The licensee may:

(a) dispose of or relinquish operational control over any Relevant Asset; or

(b) grant a mortgage, charge, or other form of security over any Receivable or class or classes of Receivables,

where the transaction in question is required by or under any enactment, any provision of subordinate legislation within the meaning of the Interpretation Act 1978, or a regulation of the Council or Commission of the European Union that forms part of Retained EU Law.

Interpretation

26A.10 In this condition, in relation to a Relevant Asset or, as applicable, a Receivable:

Disposal means (whether under the law of England and Wales or under the law of Scotland) any of the following**:**

(a) a transfer of that asset (whether or not for value) to a person other than the licensee; or

(b) a lease, licence, or loan of (or the grant of any other right of possession in relation to) that asset; or

(c) the grant of any mortgage, charge, or other form of security over that asset; or

(d) if the asset is an interest in land, any transaction or event that is capable under any enactment or rule of law of affecting the title to a registered interest in that land,

and references to "dispose" are to be read accordingly.

Obsolete means that the asset no longer performs its required function either in an efficient manner or at all (whether through wear and tear, obsolescence, damage, failure, unsafe operation, or advances in technology) and includes equipment that the licensee has decided to render obsolete as a result of inspection.

Prior Notice means Notice given to the Authority under paragraph 26A.2(a) of the licensee's intention in relation to the asset.

Receivable means a contractual right to receive any sum or sums or any other financial asset from another person.

Redundant means that the asset is no longer required or necessary to enable the licensee to comply with its obligations under the Act or this licence in relation to its Distribution System (but a Relevant Asset may not be regarded as being Redundant solely because it is in the ownership or control of a third party).

Relinquishment of Operational Control includes entering into any agreement or arrangement under which operational control of the asset is not or ceases to be under the sole management of the licensee, and "relinquish" and any related expressions in this context are to be read accordingly.

Retail Prices Index means, in relation to a valuation of the asset under paragraph A5 of Appendix 1, the general index of retail prices published by the Office for National Statistics (or any other successor body) each month in respect of all items.

Value means the estimated price that could be expected to be received in the market at the time of the Disposal of the asset.

Appendix 1: General Consent

A1. As provided for under paragraph 26A.6, the licensee may dispose of or relinquish operational control over any Relevant Asset without Prior Notice**:**

(a) in accordance with the provisions of Part A below, for the Disposal of a Relevant Asset; and

(b) in accordance with the provisions of Part B below, for the Relinquishment of Operational Control over a Relevant Asset.

PART A: CATEGORIES OF DISPOSAL

Disposal Category 1

A2. The licensee may dispose of a Relevant Asset without giving Prior Notice if:

(a) the asset is Obsolete or Redundant; or

(b) the Disposal will not constitute the Disposal of a legal (rather than an equitable) interest until the asset is Obsolete or Redundant; or

(c) where the asset comprises only land above or below which an electric line (but not electrical plant) of the licensee is situated, the Disposal complies with paragraph A3.

A3. For the purposes of paragraph A2(c), the Disposal must be on terms that will permit the electric line (including any replacement of it) to remain in position for as long as it forms part of the licensee's Distribution System under a wayleave, easement, or other legal estate which in any such case includes sufficient rights of access in favour of the licensee for the purposes of inspection, maintenance, replacement, or repair as may reasonably be necessary to enable that line to remain in operation as part of the licensee's Distribution System.

A4. The consent in paragraph A2 does not apply in any of the following cases.

A5. It does not apply in respect of a Relevant Asset if the Value:

(a) of that asset; or

(b) of that asset and other related Relevant Assets that are being or are intended to be disposed of at the same time; or

(c) of that asset and other Relevant Assets which together formed part of the licensee's Distribution System and are being declared Obsolete or Redundant at the same time or as part of the same operation,

exceeds, in the Regulatory Year beginning on 1 April 2022, £298,000 or, in any subsequent Regulatory Year, that amount increased by the same percentage by which the Retail Prices Index on 1 April in that year is greater than the Retail Prices Index on 1 April 2022.

A6. It does not apply in respect of a Relevant Asset that is Obsolete, unless an appropriate replacement or alternative arrangement has been installed in the licensee's Distribution System, or is being or is

intended to be installed in such a manner that continuity of the function of that system is achieved.

A7. It does not apply if the Disposal of the Relevant Asset constitutes a sale and leaseback arrangement.

A8. It does not apply if the Relevant Asset is intended to remain in operational use but not under the operational control of the licensee and its Value exceeds, in the Regulatory Year beginning on 1 April 2022, £29,800 or, in any subsequent Regulatory Year, that amount increased by the same percentage by which the Retail Prices Index on 1 April in that year is greater than the Retail Prices Index on 1 April 2022.

Disposal Category 2

A9. The licensee may without giving Prior Notice dispose of any Relevant Asset to a wholly owned Subsidiary if before the Disposal it has given the Authority a document duly executed by the Subsidiary and the licensee (in a form capable of being enforced by the Authority) that undertakes to the Authority that:

(a) the Subsidiary, in respect of the Relevant Asset, will comply with the provisions of this condition and standard condition 6 (Provision of Information to the Authority) as if it were the licensee; and

(b) the licensee will not cause or permit the Subsidiary to cease to be its wholly owned Subsidiary without the Authority's consent to the Disposal of the Relevant Asset owned by the Subsidiary.

Disposal Category 3

A10. The licensee may without giving Prior Notice grant to a third party an easement, wayleave, licence, or similar right over any land or property in which the licensee has a legal or beneficial interest and which is a Relevant Asset, except where the grant of such a right would have a material adverse effect on the licensee's ability to use or develop the land for the purposes of its Distribution Business.

Disposal Category 4

A11. The licensee may without giving Prior Notice dispose of any Relevant Asset to another Electricity Distributor so long as:

(a) that Electricity Distributor is subject to the provisions of this condition and standard condition 6 (Provision of Information to the Authority); and

(b) the licensee will remain able to fulfil the duties imposed on it by or under this licence after the Disposal of the asset.

PART B: RELINQUISHMENT OF OPERATIONAL CONTROL

Ending of licensee's sole management of operational control

B1. The licensee may, without giving Prior Notice, enter into an agreement or arrangement whereby operational control of a Relevant Asset (which, for the avoidance of doubt, may comprise the whole of the licensee's Distribution System) ceases to be under the licensee's sole management in any case where the agreement or arrangement ("the transaction") complies in every respect with all of the requirements set out in this Part B.

Primary characteristics of the transaction

B2. The transaction must be consistent with all applicable conditions of this licence.

B3. Any other consent or clearance required under statute or under this licence in respect of the transaction must have been obtained.

B4. The transaction must be one that provides for the supply of a service or the provision of a resource in relation to a Relevant Asset by a counter-party ("the resource provider") on behalf of the licensee.

B5. The resource provider must be and remain an Affiliate of the licensee but must not be a Holding Company of the licensee.

B6. The transaction must be effected by contract made between the licensee and the resource provider.

B7. That contract must be binding and enforceable both in Great Britain and in any other jurisdiction in which the resource provider has its principal place of business and must conform to the requirement of paragraph B8.

Mandatory provisions of the relevant contract

B8. The requirement of this paragraph is that the contract in question must contain provisions to the effect set out as follows.

B9. The contract must ensure that no force majeure or equivalent provision in the contract is permitted to excuse any failure by the licensee, or by the resource provider acting on its behalf, to comply with the licensee's statutory or licence obligations unless (and to the extent that) the event or circumstance in question would have excused the licensee under this licence if it had itself performed the service or provided the resource.

B10. The contract must ensure that the responsibility for the performance of all the obligations to which the contract relates is clearly specified, subject to the overriding requirement that the licensee remains ultimately responsible for all statutory and licence obligations applicable to the licensee's business.

B11. The contract must ensure that the resource provider covenants with the licensee to refrain from any action that would be likely to cause the licensee to breach any of its statutory or licence obligations.

B12. The contract must ensure that the resource provider

(i) discloses to the licensee the basis or bases of all charges for services provided or supplies made under the contract, together with sufficient information and analysis to support the basis for the calculation of the total sum payable by the licensee, and

(ii) may not raise any objection to, or seek to prevent, disclosure of such information to the Authority.

B13. The contract must ensure that the licensee will be free, at any time after the fifth anniversary of the commencement of the contract, without penalty and on reasonable Notice, to resource any service or supply from an alternative source of its own choice if more favourable terms become available.

B14. The contract must ensure, finally, that the resource provider is under an obligation to give the licensee any information within its possession or control that the licensee may from time to time require in order to enable it to:

(a) comply with any request by the Authority for Information under standard condition 6 (Provision of Information to the Authority);

(b) assess the performance or position of the resource provider or any of its subsidiaries with respect to the provision of any service or supply made to the licensee; or

(c) monitor adherence by the resource provider to the terms and conditions of the contract.

Undertakings from Ultimate Holding Company

B15. The licensee must procure:

(a) from that company or other corporate body that is from time to time the Ultimate Holding Company of the licensee and the resource provider; or

(b) from such other corporate body as the Authority may from time to time designate,

acknowledgements and legally enforceable undertakings in favour of the licensee on the terms set out in the Model Form below (which is part of this condition).

B16. Those acknowledgements and undertakings:

(a) must have been obtained before the end of seven days after the date on which the company or other corporate body in question ("the covenantor") becomes the licensee's Ultimate Holding Company; and

(b) must remain in force for as long as the covenantor remains the Ultimate Holding Company.

B17. For the purposes of paragraphs B15 and B16, "Ultimate Holding Company" means the company or other corporate body that is the Holding Company of both the licensee and the resource provider and is not itself a Subsidiary of another company or corporate body.

Evidence of compliance and duty to enforce

B18. Whenever the licensee obtains the acknowledgements and undertakings in accordance with paragraph B15, it must:

(a) give the Authority evidence of its compliance without delay (including a copy of the acknowledgements and undertakings in question); and

(b) at all times comply with any direction from the Authority to enforce any of those undertakings.

Reporting obligation in respect of breach

B19. The licensee must inform the Authority immediately in Writing if the licensee's directors become aware that any undertaking procured

under the provisions of this Part B has ceased to be legally enforceable or that its terms have been breached.

Restriction of arrangements with resource provider

B20. Except with the Authority's consent, the licensee must not obtain or continue to obtain the service or resource in question from the resource provider at any time when:

(a) the acknowledgements and undertakings specified at paragraph B15 are not in place; or

(b) there is an unremedied breach of any undertaking that is in place; or

(c) the licensee is in breach of the terms of any direction given by the Authority under paragraph B18(b).

B21. The Model Form mentioned in paragraph B15 follows immediately below.

MODEL FORM: ACKNOWLEDGEMENTS AND UNDERTAKINGS

Acknowledgements

MF1. That it is in the best interests of the covenantor that the licensee complies with its statutory and licence obligations.

MF2. That all matters relating to the enforcement of the licensee's rights under the relevant contract are to be reserved to the licensee's directors without regard to other interests.

Undertakings

MF3. To procure that the resource provider will:

(a) refrain from any action that would be likely to cause the licensee to breach any of its statutory or licence obligations;

(b) provide the licensee with any information within its possession or control that the licensee may from time to time require in order to enable the licensee to:

(i) comply with any request by the Authority for Information under standard condition 6 (Provision of Information to the Authority), or

(ii) assess the performance or position of the resource provider or any of its subsidiaries with respect to the provision of any service or supply made to the licensee, or

(iii) monitor adherence by the resource provider to the terms and conditions of the contract;

(c) not show undue preference to, or unduly discriminate against, the licensee in the provision to it of supplies or services; and

(d) not take any action that would constitute a Disposal of, or Relinquishment of Operational Control over, any Relevant Asset (other than to the licensee upon the ending or termination of any relevant contract in accordance with its terms) except in accordance with the requirements of this condition and of any consent given by the Authority under it.

MF4. To procure that any contract between the licensee and the resource provider will comply with the requirements set out in Part B of this General Consent and will not be amended so as to cease in any way to be compliant with those requirements.

To procure that the resource provider has and maintains resources and operating capacity at a level sufficient to ensure efficient performance of the contract and the efficient discharge of the licensee's relevant obligations.

Condition 26. Disposal of Relevant Assets and restrictions on charges ~~over Receivables~~

General prohibition

This condition applies to the licensee if the licensee is a Distribution Services Provider.

26.1 The licensee must not take any action that is or would be a Disposal of, or a Relinquishment of Operational Control over, any Relevant Asset except in accordance with the provisions of this condition.

26.2 Subject to paragraph 26.3, the licensee must not, on or after ~~1 April 2023~~6 November 2026 ~~-~~16 December 2026, grant any mortgage, charge, or other form of security over any ~~Receivable or other~~ Financial Asset except in accordance with the provisions of this condition.

26.3 The licensee may permit any mortgage, charge, or other form of security over ~~any Receivable or other~~ Financial Asset in effect at the date mentioned in paragraph 26.2 to remain in effect and may vary its terms so long as the variation does not have the effect of materially extending the scope of the mortgage, charge, or other form of

security insofar as it applies to the licensee's ~~Receivables or other~~ Financial Asset.~~.~~

Arrangements for specific cases

26.4 Except where paragraph 26.~~7~~6, 26.~~8~~7 or 26.10~~9~~ applies, the licensee**:**

(a) ~~.~~

(i) must give the Authority not less than two months' Notice of its intention to dispose of or relinquish operational control over any Relevant Asset, together with such further information as the Authority may request relating to that asset, or to the circumstances of the intended Disposal or Relinquishment of Operational Control, or to the intentions in regard to those matters of the person who proposes to acquire the asset or operational control over it; and

(ii) may dispose of or relinquish operational control over that Relevant Asset if (and only if) the Authority either consents to the transaction in question or does not inform the licensee in Writing of any objection to it within the Notice period specified in sub-paragraph (a)(i);

and

(b)

(i) must give the Authority not less than two months' Notice of its intention to grant any mortgage, charge, or other form of security over any ~~Receivable~~ Financial Asset or class or classes of ~~Receivables, or other~~ Financial Asset, together with such further information as the Authority may request relating to that Financial Asset~~Receivable~~, class or classes of ~~Receivables, or other~~ Financial Asset or to the circumstances of the intended grant of the mortgage, charge, or other form of security; and

(ii) may grant a mortgage, charge, or other form of security over that Financial Asset~~Receivable~~ or class or classes of ~~Receivables, or other~~ Financial Asset, if (and only if) the Authority either consents to the transaction in question or does not inform the licensee in Writing of any objection to it within the Notice period specified in sub-paragraph (b)(i).

26.5 A director and at least one sufficiently independent director must be a signatory in respect of a notification under paragraph 26.4(a) where

that notification relates to a Disposal of or Relinquishment of Operational Control over a Relevant Asset to an affiliate.

~~26.5~~26.6 A consent by the Authority under paragraph 26.4(a)(ii) or 26.4(b)(ii) may be given subject to the acceptance by the licensee, or by any third party to the transaction in question, of such conditions as may be specified in that consent.

Arrangements for other cases

~~26.6~~26.7 The licensee may dispose of or relinquish operational control over any Relevant Asset where**:**

(a) the transaction in question or the asset in question is of a class or description to which the provisions of the General Consent set out at Appendix 1 (which is part of this condition) apply; and

(b) ~~(b)~~ the transaction in question satisfies and is in accordance with all such conditions and requirements as may apply to it under those provisions in relation to that asset.

~~26.7~~26.8 The licensee may grant a mortgage, charge, or other form of security over a Financial Asset~~Receivable~~ or class or classes of Financial Assets~~Receivables~~ where:

(a) the indebtedness of the licensee that is to be secured represents the novation or rollover of existing indebtedness; and

(b) the proceeds of the indebtedness of the licensee that is to be secured are used to repay the existing indebtedness referred to in sub-paragraph (a).

~~26.8~~26.9 For the purposes of paragraph 26.8~~7~~, what is meant in any particular case by:

(a) “existing indebtedness” and

(b) “proceeds of the indebtedness”

is to be treated as a question of fact.

Statutory requirement

~~26.9~~26.10 The licensee may:

(a) dispose of or relinquish operational control over any Relevant Asset; or

(b) grant a mortgage, charge, or other form of security over any Financial Asset~~Receivable~~ or class or classes of Financial Assets~~Receivables~~,

where the transaction in question is required by or under any enactment, any provision of subordinate legislation within the meaning of the Interpretation Act 1978, or a regulation of the Council or Commission of the European Union that forms part of Retained EU Law.

~~In respect of a sale, disposal or transfer of a distribution asset to a company or other entity operating within the same group structure as the licensee, excluding to a subsidiary of the licensee, any notification required under paragraph 26.4 of this condition must be signed by at least one sufficiently independent director of the licensee and by at least one other director of the licensee .the licensee is required to meet the requirement of paragraph 43A.10(c) A43A (Requirement for sufficiently independent directors).~~

Interpretation

~~26.10~~26.11 In this condition, in relation to a Relevant Asset or, as applicable, a Financial Asset~~Receivable~~**:**

Disposal means (whether under the law of England and Wales or under the law of Scotland) any of the following**:**

(a) a transfer of that asset (whether or not for value) to a person other than the licensee; or

(b) a lease, licence, or loan of (or the grant of any other right of possession in relation to) that asset; or

(c) the grant of any mortgage, charge, or other form of security over that asset; or

(d) if the asset is an interest in land, any transaction or event that is capable under any enactment or rule of law of affecting the title to a registered interest in that land,

and references to "dispose" are to be read accordingly.

Financial Asset is any asset that is:

(a) cash;

(b) an equity instrument of another entity;

(c) a contractual right:

(i) to receive cash or another financial asset from another entity; or

(ii) to exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity; or

(d) a contract that will or may be settled in the entity's own equity instruments and is:

(i) a non-derivative for which the entity is or may be obliged to receive a variable number of the entity's own equity instruments, or

(ii) a derivative that will or may be settled other than by exchanging a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments.

Obsolete means that the asset no longer performs its required function either in an efficient manner or at all (whether through wear and tear, obsolescence, damage, failure, unsafe operation, or advances in technology) and includes equipment that the licensee has decided to render obsolete as a result of inspection.

Prior Notice means Notice given to the Authority under paragraph 26.2(a)(i) of the licensee's intention in relation to the asset.

~~**Receivable** means a contractual right to receive any sum or sums or any other financial asset from another person.~~

Redundant means that the asset is no longer required or necessary to enable the licensee to comply with its obligations under the Act or this licence in relation to its Distribution System (but a Relevant Asset may not be regarded as being Redundant solely because it is in the ownership or control of a third party).

Relinquishment of Operational Control includes entering into any agreement or arrangement under which operational control of the asset is not or ceases to be under the sole management of the

licensee, and “relinquish” and any related expressions in this context are to be read accordingly.

Retail Prices Index means, in relation to a valuation of the asset under paragraph A5 of Appendix 1, the general index of retail prices published by the Office for National Statistics (or any other successor body) each month in respect of all items.

Value means the estimated price that could be expected to be received in the market at the time of the Disposal of the asset.

Appendix 1: General Consent

A1. As provided for under paragraph 26.76, the licensee may dispose of or relinquish operational control over any Relevant Asset without Prior Notice**:**

(a) in accordance with the provisions of Part A below, for the Disposal of a Relevant Asset; and

(b) in accordance with the provisions of Part B below, for the Relinquishment of Operational Control over a Relevant Asset.

PART A: CATEGORIES OF DISPOSAL

Disposal Category 1

A2. The licensee may dispose of a Relevant Asset without giving Prior Notice if**:**

(a) the asset is Obsolete or Redundant; or

(b) the Disposal will not constitute the Disposal of a legal (rather than an equitable) interest until the asset is Obsolete or Redundant; or

(c) where the asset comprises only land above or below which an electric line (but not electrical plant) of the licensee is situated, the Disposal complies with paragraph A3.

A3. For the purposes of paragraph A2(c), the Disposal must be on terms that will permit the electric line (including any replacement of it) to remain in position for as long as it forms part of the licensee’s Distribution System under a wayleave, easement, or other legal estate which in any such case includes sufficient rights of access in favour of the licensee for the purposes of inspection, maintenance, replacement, or repair as may reasonably be necessary to enable that line to remain in operation as part of the licensee’s Distribution System.

A4. The consent in paragraph A2 does not apply in any of the following cases.

A5. It does not apply in respect of a Relevant Asset if the Value**:**

(a) of that asset; or

(b) of that asset and other related Relevant Assets that are being or are intended to be disposed of at the same time; or

(c) of that asset and other Relevant Assets which together formed part of the licensee's Distribution System and are being declared Obsolete or Redundant at the same time or as part of the same operation,

exceeds, in the Regulatory Year beginning on 1 April 2022, £298,000 or, in any subsequent Regulatory Year, that amount increased by the same percentage by which the Retail Prices Index on 1 April in that year is greater than the Retail Prices Index on 1 April 2022.

A6. It does not apply in respect of a Relevant Asset that is Obsolete, unless an appropriate replacement or alternative arrangement has been installed in the licensee's Distribution System, or is being or is intended to be installed in such a manner that continuity of the function of that system is achieved.

A7. It does not apply if the Disposal of the Relevant Asset constitutes a sale and leaseback arrangement.

A8. It does not apply if the Relevant Asset is intended to remain in operational use but not under the operational control of the licensee and its Value exceeds, in the Regulatory Year beginning on 1 April 2022, £29,800 or, in any subsequent Regulatory Year, that amount increased by the same percentage by which the Retail Prices Index on 1 April in that year is greater than the Retail Prices Index on 1 April 2022.

Disposal Category 2

A9. The licensee may without giving Prior Notice dispose of any Relevant Asset to a wholly owned Subsidiary if before the Disposal it has given the Authority a document duly executed by the Subsidiary and the licensee (in a form capable of being enforced by the Authority) that undertakes to the Authority that**:**

(a) the Subsidiary, in respect of the Relevant Asset, will comply with the provisions of this condition and standard condition 6

(Provision of Information to the Authority) as if it were the licensee; and

(b) the licensee will not cause or permit the Subsidiary to cease to be its wholly owned Subsidiary without the Authority's consent to the Disposal of the Relevant Asset owned by the Subsidiary.

Disposal Category 3

A10. The licensee may without giving Prior Notice grant to a third party an easement, wayleave, licence, or similar right over any land or property in which the licensee has a legal or beneficial interest and which is a Relevant Asset, except where the grant of such a right would have a material adverse effect on the licensee's ability to use or develop the land for the purposes of its Distribution Business.

Disposal Category 4

A11. The licensee may without giving Prior Notice dispose of any Relevant Asset to another Electricity Distributor so long as**:**

(a) that Electricity Distributor is subject to the provisions of this condition and standard condition 6 (Provision of Information to the Authority); and

(b) the licensee will remain able to fulfil the duties imposed on it by or under this licence after the Disposal of the asset.

PART B: RELINQUISHMENT OF OPERATIONAL CONTROL

Ending of licensee's sole management of operational control

B1. The licensee may, without giving Prior Notice, enter into an agreement or arrangement whereby operational control of a Relevant Asset (which, for the avoidance of doubt, may comprise the whole of the licensee's Distribution System) ceases to be under the licensee's sole management in any case where the agreement or arrangement ("the transaction") complies in every respect with all of the requirements set out in this Part B.

Primary characteristics of the transaction

B2. The transaction must be consistent with all applicable conditions of this licence.

B3. Any other consent or clearance required under statute or under this licence in respect of the transaction must have been obtained.

B4. The transaction must be one that provides for the supply of a service or the provision of a resource in relation to a Relevant Asset by a counter-party ("the resource provider") on behalf of the licensee.

B5. The resource provider must be and remain an Affiliate of the licensee but must not be a Holding Company of the licensee.

B6. The transaction must be effected by contract made between the licensee and the resource provider.

B7. That contract must be binding and enforceable both in Great Britain and in any other jurisdiction in which the resource provider has its principal place of business and must conform to the requirement of paragraph B8.

Mandatory provisions of the relevant contract

B8. The requirement of this paragraph is that the contract in question must contain provisions to the effect set out as follows.

B9. The contract must ensure that no force majeure or equivalent provision in the contract is permitted to excuse any failure by the licensee, or by the resource provider acting on its behalf, to comply with the licensee's statutory or licence obligations unless (and to the extent that) the event or circumstance in question would have excused the licensee under this licence if it had itself performed the service or provided the resource.

B10. The contract must ensure that the responsibility for the performance of all the obligations to which the contract relates is clearly specified, subject to the overriding requirement that the licensee remains ultimately responsible for all statutory and licence obligations applicable to the licensee's business.

B11. The contract must ensure that the resource provider covenants with the licensee to refrain from any action that would be likely to cause the licensee to breach any of its statutory or licence obligations.

B12. The contract must ensure that the resource provider

(i) discloses to the licensee the basis or bases of all charges for services provided or supplies made under the contract, together

with sufficient information and analysis to support the basis for the calculation of the total sum payable by the licensee, and

(ii) may not raise any objection to, or seek to prevent, disclosure of such information to the Authority.

B13. The contract must ensure that the licensee will be free, at any time after the fifth anniversary of the commencement of the contract, without penalty and on reasonable Notice, to resource any service or supply from an alternative source of its own choice if more favourable terms become available.

B14. The contract must ensure, finally, that the resource provider is under an obligation to give the licensee any information within its possession or control that the licensee may from time to time require in order to enable it to**:**

(a) comply with any request by the Authority for Information under standard condition 6 (Provision of Information to the Authority);

(b) assess the performance or position of the resource provider or any of its subsidiaries with respect to the provision of any service or supply made to the licensee; or

(c) monitor adherence by the resource provider to the terms and conditions of the contract.

Undertakings from Ultimate Holding Company

B15. The licensee must procure**:**

(a) from that company or other corporate body that is from time to time the Ultimate Holding Company of the licensee and the resource provider; or

(b) from such other corporate body as the Authority may from time to time designate,

acknowledgements and legally enforceable undertakings in favour of the licensee on the terms set out in the Model Form below (which is part of this condition).

B16. Those acknowledgements and undertakings**:**

(a) must have been obtained before the end of seven days after the date on which the company or other corporate body in question ("the covenantor") becomes the licensee's Ultimate Holding Company; and

(b) must remain in force for as long as the covenantor remains the Ultimate Holding Company.

B17. For the purposes of paragraphs B15 and B16, “Ultimate Holding Company” means the company or other corporate body that is the Holding Company of both the licensee and the resource provider and is not itself a Subsidiary of another company or corporate body.

Evidence of compliance and duty to enforce

B18. Whenever the licensee obtains the acknowledgements and undertakings in accordance with paragraph B15, it must**:**

(a) give the Authority evidence of its compliance without delay (including a copy of the acknowledgements and undertakings in question); and

(b) at all times comply with any direction from the Authority to enforce any of those undertakings.

Reporting obligation in respect of breach

B19. The licensee must inform the Authority immediately in Writing if the licensee’s directors become aware that any undertaking procured under the provisions of this Part B has ceased to be legally enforceable or that its terms have been breached.

Restriction of arrangements with resource provider

B20. Except with the Authority’s consent, the licensee must not obtain or continue to obtain the service or resource in question from the resource provider at any time when**:**

(a) the acknowledgements and undertakings specified at paragraph B15 are not in place; or

(b) there is an unremedied breach of any undertaking that is in place; or

(c) the licensee is in breach of the terms of any direction given by the Authority under paragraph B18(b).

B21. The Model Form mentioned in paragraph B15 follows immediately below.

MODEL FORM: ACKNOWLEDGEMENTS AND UNDERTAKINGS

Acknowledgements

MF1. That it is in the best interests of the covenantor that the licensee complies with its statutory and licence obligations.

MF2. That all matters relating to the enforcement of the licensee's rights under the relevant contract are to be reserved to the licensee's directors without regard to other interests.

Undertakings

MF3. To procure that the resource provider will**:**

(a) refrain from any action that would be likely to cause the licensee to breach any of its statutory or licence obligations;

(b) provide the licensee with any information within its possession or control that the licensee may from time to time require in order to enable the licensee to**:**

(i) comply with any request by the Authority for Information under standard condition 6 (Provision of Information to the Authority), or

(ii) assess the performance or position of the resource provider or any of its subsidiaries with respect to the provision of any service or supply made to the licensee, or

(iii) monitor adherence by the resource provider to the terms and conditions of the contract;

(c) not show undue preference to, or unduly discriminate against, the licensee in the provision to it of supplies or services; and

(d) not take any action that would constitute a Disposal of, or Relinquishment of Operational Control over, any Relevant Asset (other than to the licensee upon the ending or termination of any relevant contract in accordance with its terms) except in accordance with the requirements of this condition and of any consent given by the Authority under it.

MF4. To procure that any contract between the licensee and the resource provider will comply with the requirements set out in Part B of this General Consent and will not be amended so as to cease in any way to be compliant with those requirements.

MF5. To procure that the resource provider has and maintains resources and operating capacity at a level sufficient to ensure efficient performance of the contract and the efficient discharge of the licensee's relevant obligations.

Chapter 7 Standard conditions 29 to 31: Financial and ring-fencing arrangements

Condition 30A. Availability of resources
General obligation

~~This condition applies to the licensee if the licensee is not a Distribution Services Provider.~~

30A.1 This condition applies to the licensee if the licensee is not a Distribution Services Provider.

30A.2 The licensee must at all times act in a manner designed to ensure that it has available to itself such resources, including management and financial resources, personnel, fixed and moveable assets, rights, licences, consents, ~~and~~ facilities, on such terms and with all such rights, as will enable it to:

(a) properly and efficiently carry on its Distribution Business; and

(b) comply in all respects with its obligations under this licence and such obligations under the Act as apply to the Distribution Business, including its duty to develop and maintain an efficient, co-ordinated, and economical system of electricity distribution.

Certificates for the Authority in relation to financial resources

30A.3 The licensee must by 31 July each year give the Authority a certificate that has been approved by a resolution of the licensee's board of directors and signed by a director of the licensee pursuant to that resolution and is in one of the following forms:

(a) **Certificate 1F**

"After making enquiries, and having taken into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid by the licensee, the licensee's directors have a reasonable expectation that the licensee will have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate."

or

(b) **Certificate 2F**

"After making enquiries, and subject to what is explained below, having taken into account in particular (but without limitation) any dividend or other distribution that might reasonably be expected to be declared or paid by the licensee, the licensee's directors have a reasonable expectation, subject to what is explained below, that the licensee will have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate.

However, the directors of the licensee would like to draw attention to the following factors, which may cast doubt on the licensee's ability to carry on the Distribution Business [*followed by a description of the factors concerned*]."

or

(c) **Certificate 3F**

"In the opinion of the licensee's directors, the licensee will not have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate."

Statement of factors and report by auditors in relation to financial resources certificate

30A.4 The licensee must ensure that the certificate given to the Authority under paragraph 30A.2 is accompanied by:

(a) a statement of the main factors that the licensee's directors have taken into -account in giving that certificate including reference to:

(i) the main financial resources and financial facilities available to the licensee; and

(ii) the most recent cash flow statement prepared for the licensee; and

(b) a report prepared by its auditors and addressed to the Authority that states whether or not the auditors are aware of any inconsistencies between, on the one hand, that certificate and the statement submitted with it under sub-paragraph (a) and, on the other hand, any information that they obtained during their audit

work on the licensee's most recent annual accounts as referred to in standard condition 31A (Accounts)". ~~under standard condition 44 (Regulatory Accounts) on the licensee's Regulatory Accounts.~~

Certificates for the Authority in relation to operational resources

30A.5 With effect from 1 August 2013, the licensee must by 31 July each year give the Authority a certificate that has been approved by a resolution of the licensee's board of directors and signed by a director of the licensee pursuant to that resolution and is in one of the following forms:

(a) **Certificate 1R**

"After making enquiries the licensee's directors have a reasonable expectation that the licensee will have sufficient operational resources including management, personnel, fixed and moveable assets, rights, licences, consents, and facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate."

or

(b) **Certificate 2R**

"After making enquiries, and subject to what is explained below, the licensee's directors have a reasonable expectation, subject to what is explained below, that the licensee will have sufficient operational resources including management, personnel, fixed and moveable assets, rights, licences, consents and facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate.

However, the directors of the licensee would like to draw attention to the following factors, which may cast doubt on the licensee's ability to carry on the Distribution Business [followed by a description of the factors concerned].

or

(c) **Certificate 3R**

"In the opinion of the licensee's directors, the licensee will not have sufficient operational resources including management, personnel, fixed and moveable assets, rights, licences, consents, and facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate."

Statement of factors in relation to operational resources certificate

30A.6 The licensee must ensure that the certificate given to the Authority under paragraph 30A.4 is accompanied by a statement of the main factors that the licensee's directors have taken into account in giving that certificate.

Certificate for the Authority in relation to compliance with certain standard licence conditions

30A.7 With effect from 1 August 2013, the licensee must by 31 July each year give the Authority a certificate that has been approved by a resolution of the licensee's board of directors and signed by a director of the licensee pursuant to that resolution and is in one of the following forms:

(a) **Certificate 1C**

"After making enquiries the licensee's directors consider that, at the time of their approval of this certificate, the licensee is in compliance in all material respects with all of the obligations imposed on it by standard condition 6 (Provision of Information to the Authority), standard condition 29 (Restriction of activity and financial ring-fencing of the Distribution Business), standard condition 30 (Availability of resources), standard condition 31 (Undertaking from Ultimate Controller), amended standard condition BA 3 (Credit rating of licensee), and amended standard condition BA 4 (Indebtedness)."

or

(b) **Certificate 2C**

"In the opinion of the licensee's directors, the licensee is not at the time of their approval of this certificate in compliance in all material respects with all of the obligations imposed on it by standard condition 6 (Provision of Information to the Authority), standard condition 29 (Restriction of activity and financial ring-fencing of the Distribution Business), standard condition 30 (Availability of resources), standard condition 31 (Undertaking from Ultimate Controller), amended standard condition BA 3 (Credit rating of licensee), and amended standard condition BA 4 (Indebtedness)."

Obligation to report any adverse circumstance

30A.8 The licensee must inform the Authority in Writing immediately if:

(a) the directors of the licensee become aware of any circumstance that causes them no longer to have the reasonable expectations

expressed in the most recent certificate given under paragraph 30A.2(a), 30A.2(b), 30A.4(a) or 30A.4(b); or

(b) the directors of the licensee consider that any adverse circumstance that caused them to give the Authority a certificate in the form of Certificate 3F under paragraph 30A.2(c) or Certificate 3R under paragraph 30A.4(c) has materially worsened.

Certificates for the Authority in relation to dividends

30A.9 Subject to paragraph 30A.11, the directors of the licensee must not declare or recommend a dividend, and the licensee must not make any other form of distribution within the meaning of sections 829, 830, 849 and 850 of the Companies Act 2006, or redeem or repurchase any share capital of the licensee, unless before declaring, recommending, or making the distribution, redemption, or repurchase (as the case may be) the licensee has given the Authority a certificate that complies in all respects with the three requirements set out in paragraphs 30A.9 and 30A.10 below.

30A.10 The first requirement is that the certificate must be in the following form:

"After making enquiries, the directors of the licensee are satisfied**:**

(a) that, at the time of their approval of this certificate, the licensee is in compliance in all material respects with all the obligations imposed on it by standard condition 6 (Provision of Information to the Authority), standard condition 29 (Restriction of activity and financial ring-fencing of the Distribution Business), standard condition 30 (Availability of resources), standard condition 31 (Undertaking from Ultimate Controller), amended standard condition BA 3 (Credit rating of licensee), and amended standard condition BA 4 (Indebtedness); and

(b) that the making of a distribution, redemption, or repurchase of [value] on [date] will not, either alone or when taken together with other circumstances reasonably foreseeable at the date of this certificate, cause the licensee to be in breach to a material extent of any of those obligations in the future."

30A.11 The second and third requirements are that the certificate:

(a) must have been approved by a resolution of the licensee's board of directors passed not more than 14 days before the date on which the declaration, recommendation, or payment is to be made; and

(b) must be signed by a director of the licensee.

30A.12 The licensee need not give the Authority a certificate of the type referred to in paragraph 30A.8 in circumstances where:

(a) during the three months preceding the declaration or recommendation of a dividend, the making of any other form of distribution or the redemption or repurchase of share capital, it has given the Authority a certificate in the form of Certificate 1C under the requirement set out in paragraph 30A.6 of this condition; and

(b) that certificate includes an appropriate addendum using the wording given at paragraph 30A.9(b) of this condition.

30A.13 Where the certificate given under paragraph 30A.8, or relied upon under paragraph 30A.11, relates to the declaration or recommendation of a dividend, the licensee is under no obligation to issue a further certificate before paying that dividend so long as such payment is made within six months of the date on which the certificate was given.

Requirement to maintain an Intervention Plan

30A.14 The licensee must prepare by 1 April 2014, or within 12 months of this condition coming into effect in respect of the licensee, whichever is the later, and thereafter, maintain an Intervention Plan fulfilling the criteria described in the definition of Intervention Plan in Paragraph 30A.16 below.

30A.15 The requirement for the information described in any of sub-paragraphs (a) to (k) in the definition of intervention plan in paragraph 30A.16 below to be included in the Intervention Plan will be satisfied if the plan provides details of other documents or records (including electronic records) where that information can be readily obtained and those documents or records are either maintained by the licensee itself or are available to the licensee at all times under a legal or contractual right.

~~**Variation of provision for certain licensees**~~

~~If the licensee is not a Distribution Services Provider, paragraph 30A.3(b) has effect as if, for the reference to "audit work under standard condition 44 (Regulatory Accounts) on the licensee's Regulatory Accounts" there were substituted a reference to "audit work on the licensee's most recent annual accounts as referred to in standard condition 31A (Accounts)".~~

Interpretation

30A.16 In this condition:

Associate means:

(a) an Affiliate or Related undertaking of the licensee;

(b) an Ultimate Controller of the licensee;

(c) a Participating Owner of the licensee; or

(d) a Common Control Company.

Common Control Company means any company, any of whose Ultimate Controllers (applying the definition set out in standard condition 1 (Definitions for the standard conditions) but substituting that company for the licensee) is also an Ultimate Controller of the licensee.

Intervention Plan means a document or set of documents (which may be in a suitably secure electronic format) containing information that would be sufficient to allow an energy administrator (within the meaning of Chapter 3 of Part 3 of the Energy Act 2004) readily to obtain information on:

(e) the financial assets, resources, and facilities of the licensee;

(f) the non-financial assets, rights, and resources of the licensee including information on key management and operational personnel and information technology systems;

(g) the liabilities of the licensee, including contingent and contractual liabilities, with counterparty and maturity information;

(h) the tax affairs of the licensee;

(i) the personnel of the licensee and any pension schemes sponsored or administered by the licensee;

(j) any mortgages, charges, or other forms of security over the licensee's assets;

(k) the systems and processes by which the licensee carries on the Distribution Business with information on any significant contractual arrangements, including those that impose obligations on the licensee;

(l) any arrangements under which the licensee has relinquished operation control over Relevant Assets to an Associate of the licensee;

(m) any contractual rights to receive cash or other financial assets from any Associate of the licensee;

(n) any contractual obligations to deliver cash or other financial assets to any Associate of the licensee; and

(o) the licensee's arrangements and procedures for ensuring compliance with legislative requirements and with its obligations under this licence, including price control reporting requirements.

Participating Owner – For the purposes of the definition of Associate above, a person is subject to a Participating Interest by another person (a **Participating Owner**) if:

(p) that other person holds a Participating Interest in the person; or

(q) the person is subject to a Participating Interest by a person who is himself subject to a Participating Interest by that other person.

Participating Interest has the meaning given in section 421A of the Financial Services and Markets Act 2000.

Condition 30. Availability of resources
General obligation

30.1 This condition applies to the licensee if the licensee is a Distribution Services Provider.

~~30.1~~30.2 The licensee must at all times act in a manner designed to ensure that it has available to itself such resources, including management and financial resources, personnel, fixed and moveable assets, rights, licences, consents, and facilities, on such terms and with all such rights, as will enable it to:

(a) properly and efficiently carry on its Distribution Business; and

(b) comply in all respects with its obligations under this licence and such obligations under the Act as apply to the Distribution Business, including its duty to develop and maintain an efficient, co-ordinated, and economical system of electricity distribution.

Certificates for the Authority in relation to financial resources

~~30.2~~30.3 The licensee must by 31 July each year, give the Authority a certificate that has been approved by a resolution of the licensee's

board of directors and signed by a sufficiently independent director and at least one other director of the licensee pursuant to that resolution and is in one of the following forms:

(a) **Certificate 1F**

"After making enquiries including reviewing the results of stress tests that the licensee has considered to be appropriate, and having taken into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid by the licensee, the licensee's directors have a reasonable expectation that the licensee will have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate."

or

(b) **Certificate 2F**

"After making enquiries, including reviewing the results of stress tests that the licensee has considereds to be appropriate and subject to what is explained below, having taken into account in particular (but without limitation) any dividend or other distribution that might reasonably be expected to be declared or paid by the licensee, the licensee's directors have a reasonable expectation, subject to what is explained below, that the licensee will have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate.

However, the directors of the licensee would like to draw attention to the following factors, which may cast doubt on the licensee's ability to carry on the Distribution Business [*followed by a description of the factors concerned*]."

or

(c) **Certificate 3F**

"In the opinion of the licensee's directors, the licensee will not have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate."

30.4 The licensee must by 31 July each year give the Authority a certificate that has been approved by a resolution of the licensee's board of directors and signed by a sufficiently independent director and at least one other director of the licensee pursuant to that resolution and which is in one of the following forms:

(a) Certificate 1F – Extended

"After making enquiries, including reviewing the results of stress tests that the licensee has considered to be appropriate, and having taken into account in particular (but without limitation) any dividend or other distribution that might reasonably be expected to be declared or paid by the licensee, the licensee's directors have a reasonable expectation that the licensee will have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the D~~d~~istribution B~~b~~usiness for the longer of: (i) a period of 36 months from the date of this certificate or (ii) the remainder of the Price Control Period."

or

(b) Certificate 2F – Extended

"After making enquiries, including reviewing the results of stress tests that the licensee has considered to be appropriate, and subject to what is explained below, having taken into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid by the licensee, the licensee's directors have a reasonable expectation~~,~~ ~~subject to what is explained below~~, that the licensee will have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the D~~d~~istribution B~~b~~usiness for the longer of (i) a period of 36 months from the date of this certificate or (ii) the remainder of the Price Control Period.

However, the directors of the licensee would like to draw attention to the following factors, which may cast doubt on the licensee's ability to carry on the Distribution ~~b~~Business [followed by a description of the factors concerned]."

or

(c) Certificate 3F - Extended

"In the opinion of the licensee's directors, the licensee will not have sufficient financial resources and financial facilities available to itself to enable the licensee to carry on the D~~d~~istribution B~~b~~usiness for

the longer of (i) a period of 36 months from the date of this certificate or (ii) the remainder of the Price Control Period."

Statement of factors and report by auditors in relation to financial resources certificate

~~30.3~~30.5 The licensee must ensure that the certificate given to the Authority under paragraph 30.3~~2~~ is accompanied by:

(a) a statement of the main factors, signed by a sufficiently independent director and at least one other director of the licensee, that the licensee's directors have taken into account in giving that certificate including reference to:

(i) the main financial resources and financial facilities available to the licensee;

(ii) the most recent cash flow statement prepared for the licensee; and

(b) a report prepared by its auditors and addressed to the Authority that states whether or not the auditors are aware of any inconsistencies between, on the one hand, that certificate and the statement submitted with it under sub-paragraph (a) and, on the other hand, any information that they obtained during their statutory audit work ~~under standard condition 44 (Regulatory Accounts) on the licensee's Regulatory Accounts~~.

30.6 The licensee must ensure that the certificate given to the Authority under paragraph 30.4~~3~~ is accompanied by a statement of the main factors that the licensee's directors have taken into account in giving that certificate including reference to:

(a) results of any stress tests that the licensee considered~~deemed~~ to be appropriate;

(b) financial projections of key financial metrics;

(c) as~~s~~sumptions made in relation to the availability of financial markets for any financing or refinancing requirements, including assumptions around equity injections;

(d) credit facilities, including drawn and undrawn, and compliance with associated covenants; and

(e) cash flow forecasts;

Certificates for the Authority in relation to operational resources

~~30.4~~30.7 ~~With effect from 1 August 2013,~~ T~~t~~he licensee must by 31 July each year give the Authority a certificate that has been approved by a resolution of the licensee's board of directors and signed by a sufficiently independent director and at least one other director of the licensee pursuant to that resolution and is in one of the following forms:

(a) **Certificate 1R**

"After making enquiries the licensee's directors have a reasonable expectation that the licensee will have sufficient operational resources including management, personnel, fixed and moveable assets, rights, licences, consents, and facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate."

or

(b) **Certificate 2R**

"After making enquiries, and subject to what is explained below, the licensee's directors have a reasonable expectation, subject to what is explained below, that the licensee will have sufficient operational resources including management, personnel, fixed and moveable assets, rights, licences, consents and facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate.

However, the directors of the licensee would like to draw attention to the following factors, which may cast doubt on the licensee's ability to carry on the Distribution Business [followed by a description of the factors concerned]."

or

(c) **Certificate 3R**

"In the opinion of the licensee's directors, the licensee will not have sufficient operational resources including management, personnel, fixed and moveable assets, rights, licences, consents, and facilities available to itself to enable the licensee to carry on the Distribution Business for a period of 12 months from the date of this certificate."

Statement of factors in relation to operational resources certificate

~~30.5~~30.8 The licensee must ensure that the certificate given to the Authority under paragraph 30.~~.4~~76 is accompanied by a statement of

the main factors, signed by a sufficiently independent director and at least one other director of the licensee, that the licensee's directors have taken into account in giving that certificate.

Certificate for the Authority in relation to compliance with certain standard licence conditions

~~30.6~~30.9 ~~With effect from 1 August 2013, the~~The licensee must by 31 July each year, give the Authority a certificate that has been approved by a resolution of the licensee's board of directors and signed by a sufficiently independent director and at least one other director of the licensee pursuant to that resolution and is in one of the following forms:

(a) **Certificate 1C**

"After making enquiries the licensee's directors consider that, at the time of their approval of this certificate, the licensee is in compliance in all material respects with all of the obligations imposed on it by standard condition 4.9 (Prohibition of cross-subsidies), standard condition 6 (Provision of Information to the Authority), standard condition 26 (Disposal of ~~R~~relevant ~~A~~assets and restriction on charges), standard condition 29 (Restriction of activity and financial ring-fencing of the Distribution Business), standard condition 30 (Availability of resources), standard condition 31 (Undertaking from Ultimate Controller), ~~[~~standard condition 40 (Credit rating of the licensee) and standard condition 41 (Restriction of Indebtedness and transfers of funds), standard condition 42 (Independence of the Distribution Business and restricted use of Confidential Information~~network~~) and standard condition 43A (Requirement for sufficiently independent directors)~~]~~ ~~[amended standard condition BA 3 (Credit rating of licensee), and amended standard condition BA 4 (Indebtedness)]~~."

or

(b) **Certificate 2C**

"In the opinion of the licensee's directors, the licensee is not at the time of their approval of this certificate in compliance in all material respects with all of the obligations imposed on it by standard condition 4.9 (Prohibition of cross-subsidies), standard condition 6 (Provision of Information to the Authority), standard condition 26 (Disposal of relevant assets and restriction on charges), standard condition 29 (Restriction of activity and financial ring-fencing of the Distribution Business), standard condition 30 (Availability of resources), standard condition 31 (Undertaking from Ultimate

Controller), [standard condition 40 (Credit rating of the licensee) and standard condition 41 (Restriction of Indebtedness and transfers of funds), standard condition 42 (Independence of the Distribution Business and restricted use of Confidential Informationnetwork) and standard condition 43A (Requirement for sufficiently independent directors)] [amended standard condition BA 3 (Credit rating of licensee), and amended standard condition BA 4 (Indebtedness)].”

Obligation to report any adverse circumstance

30.730.10 The licensee must inform the Authority in Writing immediately if:

(a) the directors of the licensee become aware of any circumstance that causes them no longer to have the reasonable expectations expressed in the most recent certificate given under paragraph 30.32(a), 30.32(b), 30.746(a), or 30.746(b), 30.98(a), 30.110, or relied upon under 30.143; or

(b) the directors of the licensee consider that any adverse circumstance that caused them to give the Authority a certificate in the form of Certificate 3F under paragraph 30.32(c) or Certificate 3R under paragraph 30.746(c) has materially worsened.

Certificates for the Authority in relation to dividends or other distributions

30.830.11 Subject to paragraph 30.14311, the directors of the licensee must not declare or recommend a dividend, and the licensee must not make any other form of distribution within the meaning of sections 829, 830, 849 and 850 of the Companies Act 2006, or redeem or repurchase any share capital of the licensee, unless before declaring, recommending, or making the distribution, redemption, or repurchase (as the case may be) the licensee has given the Authority a certificate that complies in all respects with the three requirements set out in paragraphs 30.1219 and 30.10132 below.

30.930.12 The first requirement is that the certificate must be in the following form:

“After making enquiries, the directors of the licensee are satisfied**:**

(a) that, at the time of their approval of this certificate, the licensee is in compliance in all material respects with all the obligations imposed on it by standard condition 4.9 (Prohibition of cross-subsidies), standard condition 6 (Provision of Information to the Authority), standard condition 26 (Disposal of relevant assets and restriction on charges), standard condition 29 (Restriction of activity and financial ring-fencing of the Distribution Business),

standard condition 30 (Availability of resources), standard condition 31 (Undertaking from Ultimate Controller), ~~[~~standard condition 40 (Credit rating of the licensee), and standard condition 41, ~~-~~(Restriction of Indebtedness and transfers of funds) , standard condition 42 (Independence of the Distribution Business and restricted use of Confidential Information~~network~~) and standard condition 43A (Requirement for sufficiently independent directors)~~]~~ ~~[amended standard condition BA 3 (Credit rating of licensee), and amended standard condition BA 4 (Indebtedness)]~~; and

(b) that the making of a distribution, redemption, or repurchase of [value] on [date] will not, either alone or when taken together with other circumstances reasonably foreseeable at the date of this certificate, cause the licensee to be in breach to a material extent of any of those obligations in the future."

~~30.10~~30.13 The second and third requirements are that the certificate:

(a) must have been approved by a resolution of the licensee's board of directors passed not more than 14 days before the date on which the declaration, recommendation, or payment is to be made; and

(b) must be signed by a sufficiently independent director and at least one other director of the licensee, pursuant to that resolution.

~~30.11~~30.14 The licensee need not give the Authority a certificate of the type referred to in paragraph 30.~~8~~11~~0~~ in circumstances where:

(a) during the three months preceding the declaration or recommendation of a dividend, the making of any other form of distribution or the redemption or repurchase of share capital, it has given the Authority a certificate in the form of Certificate 1C under the requirement set out in paragraph 30.~~6~~8~~9~~ of this condition; and

(b) that certificate includes an appropriate addendum using the wording given at paragraph 30.~~9~~12~~1~~(b) of this condition.

30.15 Where the certificate given under paragraph 30.11~~8~~, or relied upon under paragraph 30.~~11~~14, relates to the declaration or recommendation of a dividend, the licensee is under no obligation to issue a further certificate before paying that dividend so long as such payment is made within six months of the date on which the certificate was given.

30.16 ~~Except with the Authority's consent, the licensee shall not make~~Before making any alteration~~s~~ to a capital or reserve category, which is~~are usually~~ non-distributable by nature, where the effect of the alteration would be to create or increase distributable reserves available for ~~to facilitate~~ a dividend payment or other distribution,~~.~~ t~~T~~The licensee must~~should~~ notify the Authority and provide such information, supporting documentation ~~reasoning~~ and justification as the Authority may reasonably require~~. for any proposed alteration of the type described in this paragraph to the Authority.~~

30.17 The Authority may object to the proposed alteration within one month of receiving all information reasonably required to assess the proposal.

30.18 The licensee must not proceed with the proposed alteration where:

(a) the period referred to in paragraph 30.17 has not yet expired; or

(b) the Authority has notified the licensee of an objection under paragraph 30.17.

Requirement to maintain an Intervention Plan

~~30.12~~30.19 The licensee must ~~prepare by 1 April 2014, or within 12 months of this condition coming into effect in respect of the licensee, whichever is the later, and thereafter,~~ maintain an Intervention Plan. The Intervention Plan must be submitted to the Authority within 3 months of the start of each ~~p~~Price C~~c~~ontrol P~~p~~eriod. The Authority may request a copy of the Intervention Plan on an ad-hoc basis, which the licensee is required to submit~~would require to be submitted~~ within 10 ~~w~~Working D~~d~~ays of such a request. The Intervention Plan must fulfil ~~fulfilling~~ the criteria described in the definition of Intervention Plan in Paragraph 30.2016~~9~~ below.

~~30.13~~30.20 The requirement for the information described in any of sub-paragraphs (a) to (k) in the definition of I~~i~~ntervention P~~p~~lan in paragraph 30.2016~~9~~ below to be included in the Intervention Plan will be satisfied if the plan provides details of other documents or records (including electronic records) where that information can be readily obtained and those documents or records are either maintained by the licensee itself or are available to the licensee at all times under a legal or contractual right.

~~**Variation of provision for certain licensees**~~

~~30.14 If the licensee is not a Distribution Services Provider, paragraph 30.3(b) has effect as if, for the reference to "audit work under~~

~~standard condition 44 (Regulatory Accounts) on the licensee's Regulatory Accounts" there were substituted a reference to "audit work on the licensee's most recent annual accounts as referred to in standard condition 31A (Accounts)".~~

Interpretation

~~30.15~~30.21 In this condition:

Associate means:

(a) an Affiliate or Related undertaking of the licensee;

(b) an Ultimate Controller of the licensee;

(c) a Participating Owner of the licensee; or

(d) a Common Control Company.

Common Control Company means any company, any of whose Ultimate Controllers (applying the definition set out in standard condition 1 (Definitions for the standard conditions) but substituting that company for the licensee) is also an Ultimate Controller of the licensee.

Intervention Plan means a document or set of documents (which may be in a suitably secure electronic format) containing information that would be sufficient to allow an energy administrator (within the meaning of Chapter 3 of Part 3 of the Energy Act 2004) readily to obtain information on:

(a) the financial assets, resources, and facilities of the licensee;

(b) the non-financial assets, rights, and resources of the licensee including information on key management and operational personnel and information technology systems;

(c) the liabilities of the licensee, including contingent and contractual liabilities, with counterparty and maturity information;

(d) the tax affairs of the licensee;

(e) the personnel of the licensee and any pension schemes sponsored or administered by the licensee;

(f) any mortgages, charges, or other forms of security over the licensee's assets;

(g) the systems and processes by which the licensee carries on the Distribution Business with information on any significant

contractual arrangements, including those that impose obligations on the licensee;

(h) any arrangements under which the licensee has relinquished operational control over Relevant Assets to an Associate of the licensee;

(i) any contractual rights to receive cash or other financial assets from any Associate of the licensee;

(j) any contractual obligations to deliver cash or other financial assets to any Associate of the licensee; and

(k) the licensee's arrangements and procedures for ensuring compliance with legislative requirements and with its obligations under this licence, including price control reporting requirements.

Participating Owner – For the purposes of the definition of Associate above, a person is subject to a Participating Interest by another person (a **Participating Owner**) if:

(a) that other person holds a Participating Interest in the person; or

(b) the person is subject to a Participating Interest by a person who is himself subject to a Participating Interest by that other person.

Participating Interest has the meaning given in section 421A of the Financial Services and Markets Act 2000.

SECTION B: ADDITIONAL STANDARD CONDITIONS FOR ELECTRICITY DISTRIBUTORS WHO ARE DISTRIBUTION SERVICES PROVIDERS

Chapter 10 Standard conditions 40 and 41: Credit Rating and Restriction of Indebtedness

Condition 40. Credit rating of the licensee

Introduction

40.1 The purpose of this condition is to place obligations on the licensee in respect of credit ratings, Published Rating Reports, Negative Rating Actions and Financial Resilience Reports.

Part A:~~Licensee's o~~Obligation to maintain an Investment Grade Issuer Credit Rating

40.2 The licensee must ~~take all appropriate steps within its power to ensure that at all times it~~ maintain~~s an~~more than one Investment Grade Issuer Credit Rating at all times (which is to be interpreted in accordance with the provisions of paragraphs 40.~~2~~7 to 40.410).

Part B: Obligation to provide Published Rating Reports

40.3 Where a Negative Rating Action occurs in respect of the licensee or any of the licensee's credit ratings is withdrawn, it must within a period of ten W~~w~~orking D~~d~~ays beginning with the date of the relevant Published Rating Report:

(a) notify the Authority; and

(b) if permitted by the relevant rating agency, provide the Authority with a copy of the Published Rating Report, or where the Published Rating Report relates to the wider group provide such parts as are relevant to the licensee.

Part C: Obligation to provide Financial Resilience Report

40.4 The licensee must provide the Authority with a Financial Resilience Report within 60 days of the date of a Negative Rating Action relating to the licensee, if:

(a) any of the licensee's ratings held for an Issuer Credit Rating or highest rating held for a Significant Instrument Credit Rating is one notch higher than the lowest Investment Grade and that Issuer Credit Rating or Significant Instrument Credit Rating is on Negative Watch;

(b) any of the licensee's Issuer Credit Rating or Significant Instrument Credit Rating is at the lowest Investment Grade or lower; or

(c) the licensee has a debt covenant linked to a specific Issuer Credit Rating or Significant Instrument Credit Rating that would, if breached by the licensee, trigger an event of default under the relevant debt documents and that rating is either;

(i) one notch above the minimum covenant requirement and is on Negative Watch; or

(ii) lower than one notch above the minimum rating specified within the covenant requirement

40.5 The Financial Resilience Report means a report that must include:

(a) an assessment of the licensee's current and forecast financial standing, including an assessment of resilience to downside scenarios relating to:

(i) operational performance; and ~~/ or~~

(ii) macro-economic events,

in each case as applicable;

(b) financial projections for the next three Regulatory Years (including the remainder of the current year) or the remainder of the Price Control Period, whichever is longer; and

(c) details of Potential Mitigating Actions the licensee could take to improve its financial resilience and an indication of whether such actions are planned.

40.6 The financial projections required by paragraph 40.5(b) of this condition must include:

(a) a balance sheet;

(b) income statements;

(c) cashflow statements;

(d) key financial metrics; and

(e) results of any stress tests that the licensee considers to be appropriate

~~Where a licensee is required to provide the Authority with a notification pursuant to Part B paragraph 40.3(a) of this condition, the notification must be signed by at least one sufficiently independent director and by at least one other director of the licensee.~~

40.7 Where a licensee is required to provide the Authority with a Financial Resilience Report pursuant to Part C of this condition, the Financial Resilience Report must be signed by at least one sufficiently independent director and by at least one other director of the licensee.

40.8 Where a licensee is required to provide the Authority with a Financial Resilience Report pursuant to Part C of this condition, the licensee is also required to comply with paragraph 43A.9(b) of SC43A (Requirement for sufficiently independent directors).

40.9 Where a licensee is required to notify the Authority in accordance with paragraph 40.3(a) of this condition, the licensee is also required to comply with paragraphs 43A.10(a) and/or 43A.10(b) of SC43A (Requirement for sufficiently independent directors).

~~**Meaning of Issuer Credit Rating**~~

~~40.1 For the purposes of paragraph 40.1, an Issuer Credit Rating is any of the following:~~

~~(a) an issuer credit rating by Standard & Poor's Ratings Group or any of its subsidiaries;~~

~~(b)~~(a) an issuer credit rating by Moody's Investors Services Inc or any of its subsidiaries;

~~(c)~~(a) an issuer credit rating by Fitch Ratings Ltd or any of its subsidiaries;

~~(d)~~(a) an issuer credit rating by DBRS Ratings Limited or any of its affiliates; or

~~(e)~~(a) a rating which, in the Authority's opinion given by Notice to the licensee, is equivalent to any of those specified in sub-paragraph (a), (b), (c) or (d) and is issued by:

~~(i)~~ any of the credit rating agencies referred to in those sub-paragraphs, or

~~(ii)~~(i) any other reputable credit rating agency which, in the Authority's opinion given by Notice to the licensee, has comparable standing in both the United Kingdom and the United States of America.

~~**Meaning of Investment Grade**~~

~~40.2~~40.1 ~~Subject to paragraph 40.4~~11, an Investment Grade, ~~M~~means in relation to any Issuer Credit Rating within the meaning of paragraph ~~40.2~~8, is any~~one~~ of the following:

~~(a) an issuer credit rating of not less than BBB- by Standard & Poor's Ratings Group or any of its subsidiaries; or~~

~~(b)(a) an issuer credit rating of not less than Baa3 by Moody's Investors Service Inc or any of its subsidiaries; or~~

~~(c)(a) an issuer credit rating of not less than BBB- by Fitch Ratings Ltd or any of its subsidiaries;~~

~~(d)(a) an issuer credit rating of not less than BBB (low) by DBRS Rating Limited or any of its affiliates; or~~

~~(e)(a) a rating which, in the Authority's opinion given by Notice to the licensee, is equivalent to any of those specified in sub-paragraph (a), (b), (c) or (d) and is issued by:~~

~~(i) any of the credit rating agencies referred to in those sub-paragraphs, or~~

~~(i) any other reputable credit rating agency which, in the Authority's opinion given by Notice to the licensee, has comparable standing in both the United Kingdom and the United States of America.~~

~~**Meaning of Published Rating Report**~~

~~40.1 Published Rating Report means a rating action announcement, credit opinion report, rating report, research update or transaction update which:~~

~~(a) specifically relates to the licensee; and~~

~~(a) is published by any rating agency that is paid by the licensee (or a company in the licensee's group) to provide either an Issuer Credit Rating or a Significant Instrument Credit Rating.~~

~~Meaning of Instrument Credit Rating~~

Variation of rating by agency

40.10 If a rating higher than a particular rating set out in the definition of Issuer Credit Rating ~~paragraph 40.3~~ is at any time specified by the credit rating agency in question as its lowest investment grade issuer credit rating, that higher rating is to be taken as the relevant Investment Grade for the purposes of that paragraph.

Part D: Interpretation

40.11 In this condition:

Instrument Credit Rating means:

(a) a "Long-Term Issue Credit Rating" by Standard & Poor's Ratings Group or any of its subsidiaries;

(b) a “Long-Term Obligation Rating” by Moody’s Investors Services Inc. or any of its subsidiaries;
(c) a rating on the “Structured, Project & Public Finance Obligations Long Term Ratings Scale” by Fitch Ratings Ltd or any of its subsidiaries or;
(d) a rating which, the Authority directs, is equivalent to those referred to in sub-paragraphs (a), (b), or (c) and issued by:
(i) any of the credit rating agencies as referred to in sub-paragraphs (a), (b), or (c); or (ii) any other reputable credit rating agency which, in the opinion of the Authority, notified in writing to the licensee, has comparable standing in both the United Kingdom and the United States of America.

Published Rating Report means a rating action announcement, credit opinion report, rating report, research update or transaction update which:

(a) specifically relates to the licensee; and

(b) is published by any rating agency that is paid by the licensee (or a company in the licensee’s group) to provide either an Issuer Credit Rating or a Significant Instrument Credit Rating.

Significant Instrument Credit Rating means an Instrument Credit Rating relating to debt issued by the licensee or a funding vehicle of the licensee which represents more than 10% of the licensee’s total debt.

Potential Mitigating Actions means actions designed to improve the Issuer Credit Rating, Significant Instrument Credit Rating and/or financial resilience, including but not limited to:
(a)dividend restraint;
(b)equity injection or other additional sources of finance;
(c)profiling of investment within the Price Control Period;
(d)cost reduction;
(e)profiling of financial liabilities within the Price Control Period; and
(f)if relevant, negotiations with lenders regarding covenants and possible exemptions.

Meaning of Issuer Credit Rating

40.12 For the purposes of paragraph 40.1, an Issuer Credit Rating is any of the following:

(a) an issuer credit rating by Standard & Poor’s Ratings Group or any of its subsidiaries;

(b) an issuer credit rating by Moody’s Investors Services Inc or any of its subsidiaries;

(c) an issuer credit rating by Fitch Ratings Ltd or any of its subsidiaries;

(d) an issuer credit rating by DBRS Ratings Limited or any of its affiliates; or

(e) a rating which, in the Authority's opinion given by Notice to the licensee, is equivalent to any of those specified in sub-paragraph (a), (b), (c) or (d) and is issued by:

(i) any of the credit rating agencies referred to in those sub-paragraphs, or

(ii) any other reputable credit rating agency which, in the Authority's opinion given by Notice to the licensee, has comparable standing in both the United Kingdom and the United States of America.

Meaning of Investment Grade

40.13 Subject to paragraph 40.411, an Investment Grade,Means in relation to any Issuer Credit Rating within the meaning of paragraph 40.28, is anyone of the following:

(a) an issuer credit rating of not less than BBB– by Standard & Poor's Ratings Group or any of its subsidiaries; or

(b) an issuer credit rating of not less than Baa3 by Moody's Investors Service Inc or any of its subsidiaries; or

(c) an issuer credit rating of not less than BBB– by Fitch Ratings Ltd or any of its subsidiaries;

(d) an issuer credit rating of not less than BBB (low) by DBRS Rating Limited or any of its affiliates; or

(e) a rating which, in the Authority's opinion given by Notice to the licensee, is equivalent to any of those specified in sub-paragraph (a), (b), (c) or (d) and is issued by:

(i) any of the credit rating agencies referred to in those sub-paragraphs, or

(ii) any other reputable credit rating agency which, in the Authority's opinion given by Notice to the licensee, has comparable standing in both the United Kingdom and the United States of America.

Meaning of Published Rating Report

40.14 Published Rating Report means a rating action announcement, credit opinion report, rating report, research update or transaction update which:

(a) specifically relates to the licensee; and

(b) is published by any rating agency that is paid by the licensee (or a company in the licensee's group) to provide either an Issuer Credit Rating or a Significant Instrument Credit Rating.

Condition 41. Restriction of Indebtedness and transfers of funds

General prohibition

41.1 In addition to complying with the requirements of standard condition 26 (Disposal of Relevant Assets and restrictions on charges ~~over Receivables~~)and standard condition 30 (~~Availbility~~Availability of resources), the licensee ~~must~~shall not, without the prior written consent of the Authority following the licensee's disclosure of all material facts, enter into any transaction or commitment of a type described or referred to in this condition that does not comply with the restrictions applicable to it under this condition.

Part A: Restricted Category 1

41.2 The licensee must not create or continue or permit to remain in effect any mortgage, charge, pledge, lien or other form of security or encumbrance, ~~or~~ undertake any Indebtedness to any other person, or enter into any guarantee or any obligation, except in accordance with all of the following requirements**:**

(a) the transaction in question must be on an arm's length basis;

(b) it must be on normal commercial terms;

(c) it must be for a Permitted Purpose; and

(d) if it is within the ambit of standard condition 26 (Disposal of Relevant Assets and restrictions on charges ~~over Receivables~~), it must comply with the requirements of that condition.

Part B: Restricted Category 2

41.3 The licensee must not transfer, lease, license, or lend any sum or sums, asset, right, or benefit to any Associate of the licensee except by way of any of the following transactions**:**

(a) a dividend or other distribution out of distributable reserves; or

(b) a repayment of capital; or

(c) a payment properly due for any goods, services, or assets provided on an arm's length basis and on normal commercial terms; or

(d) a transfer, lease, licence, or loan of any sum or sums, asset, right, or benefit that is on an arm's length basis, on normal commercial terms, and is made in compliance with the payment condition described in paragraph 41.4 or

(e) a repayment of, or payment of interest on, a loan that is not prohibited by paragraph 41.2; or

(f) payments for group corporation tax relief calculated on a basis not exceeding the value of the benefit received; or

(g) an acquisition of shares or other investments that is in conformity with paragraphs 29.2 and 29.3 of standard condition 29 (Restriction of activity and financial ring-fencing of the Distribution Business) and is made on an arm's length basis and on normal commercial terms.

41.4 The payment condition referred to in paragraph 41.3(d) is that the consideration due in respect of the transaction in question must be paid in full when the transaction is entered into unless either**:**

(a) the counter-party to the transaction has and maintains until payment is made in full an Investment Grade Issuer Credit Rating; or

(b) the obligations of the counter-party to the transaction are fully and unconditionally guaranteed throughout the period during which any part of the consideration remains outstanding by a guarantor that has and maintains an Investment Grade Issuer Credit Rating.

41.5 The provisions of this Part B are subject to the provisions of Part C below.

Part C: Circumstances that trigger the provisions of Part D

41.6 The following paragraphs of this Part C set out each of the circumstances in which the licensee must not, except with the Authority's consent, enter into or complete any transaction of a type described or referred to in Part B except in accordance with the provisions of Part D below.

41.7 The circumstance described by this paragraph is that the licensee does not hold an Investment Grade Issuer Credit Rating.

41.8 The circumstance described by this paragraph is that the licensee holds more than one Issuer Credit Rating and one or more of the ratings so held is not Investment Grade.

41.9 The circumstance described by this paragraph is that the licensee holds an issuer credit rating that is BBB– by Standard & Poor's Ratings Group or Fitch Ratings Ltd, or is Baa3 by Moody's Investors Service Inc, or BBB (low) by DBRS Ratings Ltd or any of its affiliates, or is such higher issuer credit rating as may be specified by any of those credit rating agencies from time to time as the lowest investment grade issuer credit rating, or is an equivalent rating from another agency that has been notified to the licensee by the Authority as of comparable standing for the purposes of standard condition 40 (Credit rating of the licensee), and:

(a) the rating in question is under review for possible downgrade; or

(b) the licensee is on Credit Watch or Rating Watch with a negative designation;

(c) or, where neither sub-paragraph (a) nor (b) applies:

(d) the licensee's rating outlook, as specified by any credit rating agency referred to in this paragraph ~~41.9~~ which at the relevant time has assigned the lower or lowest Investment Grade Issuer Credit Rating held by the licensee, has been changed from stable or positive to negative.

41.10 The circumstances described by this paragraph is that the licensee has:

(a) given the Authority a certificate in the form of Certificate 3F under the requirement set out in paragraph 30.2 of standard condition 30 (Availability of resources) and has not subsequently given the Authority a certificate in the form of Certificate 1F or Certificate 2F as set out in the same condition;

(b) given the Authority a certificate in the form of Certificate 3R under the requirement set out in paragraph 30.46 of standard condition 30 (Availability of resources) and:

(i) the opinion expressed in the certificate arises in whole or in part from circumstances affecting an Associate of the licensee, and

(ii) the licensee has not subsequently given the Authority a certificate in the form of Certificate 1R or Certificate 2R as set out in the same condition;

or

(c) informed the Authority of any circumstance of the type referred to at paragraph 30.~~7~~10 of standard condition 30 (Availability of resources) and:

(i) the circumstances giving rise to the licensee's report related to the licensee's financial resources and the licensee has not subsequently given the Authority a certificate in the form of Certificate 1F or 2F as set out in the same condition; or

(ii) the circumstances giving rise to the licensee's report relate to the licensee's operational resources and:

(a) relate in whole or in part to circumstances affecting an Associate of the licensee; and

(b) the licensee has not subsequently given the Authority a certificate in the form of Certificate 1R or 2R as set out in the same condition.

41.11 The circumstance described by this paragraph is that the licensee has, after 1 April 2013, materially breached any formal covenant contained in any loan agreement, commercial paper, bond issue or committed facility that it has entered into with a counterparty, unless one of the following applies:

(a) the licensee has remedied the breach to the satisfaction of the counterparty concerned;

(b) the licensee has renegotiated the covenant or arrangement to the satisfaction of the counterparty concerned;

and in either case (a) or (b) the remedy or renegotiation has been notified in Writing to the Authority;

or

(c) in response to a written request from the licensee, either the Authority has confirmed in Writing, before the breach occurs, that the breach in question shall not trigger the provisions of Part D, or the Authority has not provided a substantive response to such a written request within seven days of receiving it.

41.12 The circumstance described by this paragraph is that the licensee has an Actual Regulatory Gearing ratio of 75% or higher and, based on its reasonable projections, will exceed this ratio at the end of the current Regulatory Year.

Part D: Restricted Category 3

~~41.12~~41.13 Where any of the circumstances described or referred to under Part C applies, the licensee may not, without the prior consent of the Authority following the licensee's disclosure of all material facts, transfer~~s~~, lease, license, or lend any sum or sums, asset, right, or benefit to any Associate of the licensee except by way of any of the following transactions:

(a) a payment properly due for any goods, services, or assets in relation to commitments entered into before the date on which the relevant circumstance under Part C arose, and which are provided on an arm's length basis and on normal commercial terms; or

(b) a transfer, lease, licence, or loan of any sum or sums, asset, right, or benefit on an arm's length basis, on normal commercial terms, and where the value of the consideration due in respect of the transaction in question is payable wholly in cash and is paid in full when the transaction is entered into; or

(c) a repayment of, or payment of interest on, a loan that is not prohibited by paragraph 41.2 and which was contracted before the date on which the relevant circumstance under Part C arose, provided that such payment is not made earlier than the original due date for payment in accordance with its terms; or

(d) payments for group corporation tax relief calculated on a basis not exceeding the value of the benefit received, so long as the payments are not made before the date on which the amounts of tax thereby relieved would otherwise have been due.

Part E: Restricted Category 4

~~41.13~~41.14 Subject to paragraph 41.~~14~~15, the licensee must not enter into any agreement or incur any commitment that incorporates a Cross-Default Obligation.

~~41.14~~41.15 Nothing in paragraph 41.~~13~~14 prevents the licensee from giving any guarantee that is permitted by and compliant with the requirements of Part A.

Part F: Interpretation

~~41.15~~41.16 In this condition:

Actual Regulatory Gearing means the ratio of Net Debt to regulatory asset value, as reported at the closing of the previous Regulatory Year and calculated in accordance with the Regulatory

Instructions and Guidance published by the Authority under Standard Condition 46.

Associate means:

(a) an Affiliate or Related undertaking of the licensee;

(b) an Ultimate Controller of the licensee;

(c) a Participating Owner of the licensee; or

(d) a Common Control company.

Common Control Company means any company, any of whose Ultimate Controllers (applying the definition set out in standard condition 1 (Definitions for the standard conditions) by substituting that company for the licensee) is also an Ultimate Controller of the licensee.

Cross-Default Obligation means a term of any agreement or arrangement under which the licensee's liability to pay or repay any debt or other sum arises or is increased or accelerated, or is capable of arising or increasing or of being accelerated, because of a default (however it may be described or defined) by any person other than the licensee, unless**:**

(a) that liability can arise only as the result of a default by a Subsidiary of the licensee;

(b) the licensee holds a majority of the voting shares in that Subsidiary and has the right to appoint or remove a majority of its board of directors; and

(c) that Subsidiary carries on business only for a purpose within sub-paragraph (a) or (b) of the definition of Permitted Purpose set out in standard condition 1 (Definitions for the standard conditions).

Investment Grade has the meaning given in standard condition 40 (Credit rating of the Licensee).

Issuer Credit Rating has the meaning given in standard condition 40 (Credit rating of the Licensee).

Net Debt means the value of the licensee's net debt as reported at the closing of the previous Regulatory Year and defined by the

Regulatory Instructions and Guidance published by the Authority under Standard Condition 46.

Participating Owner – For the purposes of the definition of Associate above, a person is subject to a Participating interest by another person (a **Participating Owner**) if:

(a) that other person holds a Participating Interest in the person; or

(b) the person is subject to a Participating Interest by a person who is himself subject to a Participating Interest by that other person.

Participating Interest has the meaning given in section 421A of the Financial Services and Markets Act 2000.

Chapter 11 Standard conditions 42 and 43: Independence of the Distribution Business

Condition 43A. Requirement for sufficiently independent directors

43A.1 Subject to paragraph 43A.1~~2~~1, except and to the extent that the Authority consents otherwise, the licensee must ensure that at all times it has at least two non-executive directors who meet the criteria set out in paragraphs 43A.2(a), 43A.3, and 43A.5 below. In this condition such directors are referred to as "sufficiently independent directors".

43A.2

(a) A sufficiently independent director must:

(i) be a natural person; and

(ii) in the reasonable opinion of the licensee, have the skills, knowledge, experience, and personal qualities necessary to perform effectively as a non-executive director of the licensee; and

(iii) not have any executive duties within the Distribution Business or within any Associate of the Ddistribution Bbusiness.~~; and~~.

~~in the reasonable opinion of the licensee, be able to meet the duties of a director as specified in Companies Act 2006.~~

(b) The licensee must, by 31 July each year:~~,~~

(i) confirm ~~submit~~ to the Authority that ~~a completed checklist and completed template confirming~~ each sufficiently independent director meets the requirements set out in paragraphs 43A.2(a), 43A.3 and 43A.5 of this condition 43A. Requirement for sufficiently independent directors; and ~~(i), 43A.2 (a)(ii), 43A.2 (a)(iii) and 43A.2 (a)(iv) and~~

(ii) provide to the Authority a statement of ~~state~~ the skills, knowledge, experience and personal qualities each sufficiently independent director has~~olds~~ which in the reasonable opinion of the licensee enables them ~~are appropriate~~ to perform their duties as a~~n~~ sufficiently independent ~~non-executive~~ director of the licensee with reasonable care, skill and diligence.

~~43A.2~~43A.3 Except and to the extent that the Authority consents otherwise, and subject to paragraph 43A.4, a sufficiently independent director must not be, and must not have been during the 12 months before his ~~their~~ appointment as a director of the licensee or the coming into force of this condition (whichever is the later):

(a) an employee of the licensee; or

(b) a director or employee of an Associate of the licensee.

~~43A.3~~43A.4 The reference to 'director' in sub-paragraph 43A.3(b) does not include appointment as a non-executive director of:

(a) an Associate of the licensee that is the holder of a gas transporter licence or an electricity transmission licence or an electricity distribution licence;

(b) a wholly-owned subsidiary of the licensee that has been incorporated by it solely for the purpose of raising finance for a Permitted Purpose (as that term is defined in Standard condition 1 (Definitions for the standard conditions)); or

(c) a Qualifying Group Company.

~~43A.4~~43A.5 A sufficiently independent director must not:

(a) have, or have had during the 12 months before his ~~their~~ appointment as a director or the coming into force of this

condition (whichever is the later), any material business relationship with the licensee or any Associate of the licensee;

(b) hold a remit to represent the interests of any particular shareholder or group of shareholders of the licensee or the interests of any Associate of the licensee; or

(c) receive remuneration from the licensee or any Associate of the licensee apart from a director's fee and reasonable expenses.

~~43A.5~~43A.6 For the purposes of sub-paragraphs 43A.5(a) and 43A.5(c) respectively:

(a) the holding of a small number of shares or associated rights shall not, of itself, be considered a material business relationship; and

(b) the receipt or retention of any benefit accrued as a result of prior employment by or service with the licensee or any Associate of the licensee shall not be considered to be remuneration.

~~43A.6~~43A.7 The licensee must notify the Authority of the names of its sufficiently independent directors ~~within 14 days of the later of the two dates referred to in paragraph 43A.1~~ and must notify the Authority within 14 days where any new directors are appointed to fulfil the obligation in paragraph 43A.11 of this condition.

43A.8 The terms of appointment of each sufficiently independent director must include a condition stipulating that both the licensee and the appointee will use their best endeavours to ensure that the appointee remains sufficiently independent during his~~their~~ term of office, having particular regard to the criteria set out in paragraphs 43A.2(a), 43A.3 and 43A.5.

~~A sufficiently independent director, alongside at least one other director of the licensee, must be a signatory in respect of the following submissions, which require approval by board resolution, on behalf of the board::~~

~~availability of resources certificates, dividend certificate and statement of factors; and~~

~~Financial Resilience Report.~~

~~At least one sufficiently independent director must beis a signatory alongside at least one other director of the licensee in respect of the following notifications:~~

~~issuer credit rating withdrawal;~~

~~any change in credit rating and / or outlook which would trigger a negative rating action, to a rating of BBB- or one notch above the minimum covenant requirement and is on negative watch; and~~

~~(a) proposed asset disposals to an affiliated party, excluding to a subsidiary of the licensee.~~

~~43A.7~~43A.9 A term of appointment for a sufficiently independent director may not be for longer than eight years, but an individual may be reappointed thereafter provided that he ~~they~~ continues to meet the criteria set out in paragraphs 43A.2(a), 43A.3, and 43A.5.

~~43A.8~~43A.10 The licensee must notify the Authority in Writing within 14 days if any sufficiently independent director is removed from office or resigns, giving reasons for the removal or (to the extent that they are known to the licensee) the resignation. For the purposes of this requirement, the reasons for a resignation may, if appropriate, be stated to be personal reasons.

43A.11 If at any time the licensee has fewer than two sufficiently independent directors because of a removal or resignation or other reason (including death or incapacity), the licensee must use its reasonable endeavours to ensure that a new director is, or new directors are, appointed to fulfil the obligation in paragraph 43A.1 as soon as is reasonably practicable to bring the number of sufficiently independent directors up to at least two.

43A.12 The licensee must ensure a~~A~~t least one sufficiently independent director makes representations ~~must be in attendance~~ at the licensee remuneration committee, or equivalent meeting, where remuneration of the chair and executives of the licensee is discussed for ratification or approval. ~~-~~If a remuneration committee is held by a parent or other entity in the licensee's group structure, the licensee must ensure a ~~the~~ sufficiently independent director ~~must~~ makes ~~verbal~~ representations on the licensee recommendation for remuneration to the committee.

Interpretation

~~43A.9~~43A.13 In this condition:

Associate means:

(a) an Affiliate or Related undertaking of the licensee;

(b) an Ultimate Controller of the licensee;

(c) a Participating Owner of the licensee; or

(d) a Common Control Company.

Common Control Company means any company, any of whose Ultimate Controllers (applying the definition set out in standard condition 1 (Definitions for the standard conditions) but substituting that company for the licensees) is also an Ultimate Controller of the licensee.

Participating Owner – For the purposes of the definition of Associate above, a person is subject to a Participating Interest by another person (a **Participating Owner**) if:

(a) that other person holds a Participating Interest in the person; or

(b) the person is subject to a Participating Interest by a person who is himself subject to a Participating Interest by that other person.

Participating Interest has the meaning given in section 421A of the Financial Services and Markets Act 2000.

Qualifying Group Company means:

(a) an immediate parent company of the licensee that holds 100% of the shares of the licensee and no other shares except for shares in one or more wholly-owned subsidiaries, each of which is the holder of a gas transporter licence or an electricity transmission licence or an electricity distribution licence;

(b) the parent company of a group whose other members may only include :

  (i) a company meeting the criteria set out in sub-paragraph (a) or a subsidiary of such a company, of the type referred to in that sub-paragraph; and

  (ii) intermediate holding companies between the parent company concerned and a company meeting the criteria set out in sub-paragraph (b)(i) provided that such intermediate holding companies:

    (a) have no shareholders other than the parent company concerned or another intermediate holding company; and

(b) hold no shares other than shares in a company meeting the criteria set out in sub-paragraph (a) or shares in another intermediate holding company; and

(c) intermediate holding companies meeting the criteria set out in sub-paragraph (b)(ii).