

CUSC - SECTION 1

APPLICABILITY OF SECTIONS AND RELATED AGREEMENTS STRUCTURE

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CUSC - SECTION 1

APPLICABILITY OF SECTIONS AND RELATED AGREEMENTS STRUCTURE

1.1 INTRODUCTION

- 1.1.1 The **CUSC** is divided into different sections, including sections dealing specifically with **Connection** to and **Use of System**, the provision of **Balancing Services**, **Interconnectors** and other sections of more general application.
- 1.1.2 Compliance with the various sections by a **User** is dependent on the nature of that **User's** connection and/or use in any given instance. A **User** may be party to the **CUSC** in a number of different categories.
- 1.1.3 This Section also deals with the requirement for a **User** to enter into **Bilateral Agreements**, **Construction Agreements** and **Mandatory Services Agreements**.
- 1.1.4 The **CUSC** and the proforma **Bilateral Agreements** set out as Exhibits 1 and 2 of Schedule 2 are drafted to reflect the standard terms in relation to **NGC's** charges (an indicative price agreement). Where a **User** chooses to have a different charging option, where provided for in the **Charging Statements** current at the time of application for the relevant **Bilateral Agreement**, that **Bilateral Agreement** will provide for the specific terms relating to the charging option and for the relevant paragraphs of Section 2 to apply (or be disapplied) subject to those specific terms. This may lead to the areas covered by the relevant **Bilateral Agreement** being wider in certain circumstances.

1.2 APPLICABILITY

- 1.2.1 Each **User** is required to comply with the various Sections of the **CUSC** as provided for in this Section 1. Each Section may contain further detail in relation to particular categories of connection and/or use.
- 1.2.2 The different categories of connection and/or use reflect the types of utilisation which can exist. For example a **User** could have a directly connected **Power Station** and also be acting as a **Supplier**. In that case that **User** will need to comply in relation to two categories of connection and/or use, and its obligations in relation to each will differ.

- 1.2.3 Section 1, Sections 5 to 8 and Sections 10 and 11 of the **CUSC** apply to all categories of connection and/or use, and therefore should be complied with by all **Users**, subject as specifically provided in those Sections. Section 4 of the **CUSC** applies to **Users** who provide **Balancing Services** to **NGC**, and contains its own provisions on applicability to such **Users**.
- 1.2.4 In relation to Sections 2, 3 and 9 the following table sets out the applicability of those Sections in addition to those Sections referred to in Paragraph 1.2.3:

	Categories	Applicable Sections
1.	Power Station directly connected to the NGC-GB Transmission System	2 and 3
2.	Non-Embedded Customer Site	2 only
3.	Distribution System directly connected to the NGC-GB Transmission System	2 only
4.	Suppliers	3 only
5.	Embedded Power Station	3 only
6.	Small Power Station Trading Parties	3 only
7.	Interconnector User	9 Part II only
8.	Interconnector Error Administrator	9 Part II only
9.	Interconnector Owner	9 Part I only
10.	Distribution Interconnector Owner	3 Only

Users, when making a **Connection Application** or **Use of System Application** (in each case in the form of the relevant exhibit), should identify the category for which they are applying.

- 1.2.5 Each **Bilateral Agreement**, **Use of System Supply Confirmation Notice** or **Use of System Interconnector Confirmation Notice**, will set out the category of connection and/or use to which it relates.
- 1.2.6 Where a Paragraph states a category of connection and/or use, or type of **User**, to which that Paragraph (or part of that Paragraph) applies, the application of that Paragraph (or part of Paragraph) shall be limited to the **User** in relation to that category of connection and/or use, or type of **User**, described.

- 1.2.7 Where a Paragraph does not state a category of connection and/or use, or type of **User**, to which that Paragraph (or some part of that Paragraph) applies, that Paragraph (or part of the Paragraph) shall apply to all types of **Users** and categories of connection and/or use.
- 1.2.8 Where a Paragraph is stated “as between **NGC** and that **User**”, rights and obligations under that Paragraph shall arise only between **NGC** and each **User** individually to whom that Paragraph applies. Accordingly, no **User** shall enjoy any rights nor incur any obligations against any other **User** pursuant to the terms of any such Paragraph.

1.3 BILATERAL AGREEMENTS, CONSTRUCTION AGREEMENTS AND MANDATORY SERVICES AGREEMENTS

1.3.1 Bilateral Agreements

- (a) Each **User** in respect of each category of connection and/or use with a direct connection to the ~~NGC-GB~~ **Transmission System** shall enter into and comply with a **Bilateral Connection Agreement** in relation to such connection and/or use as identified in Paragraph 1.3.1(c).
- (b) Each **User** in respect of each category of connection and/or use with an **Embedded Power Station** and/or in relation to a **Small Power Station Trading Party** and/or a **Distribution Interconnector** shall enter into and comply with a **Bilateral Embedded Generation Agreement** in relation to such use as identified in Paragraph 1.3.1(c).
- (c) Exhibits 1 and 2 in Schedule 2 to the **CUSC** contain the forms of **Bilateral Agreements** contemplated to be entered into pursuant to this Paragraph 1.3, being:
- (i) Exhibit 1 – **Bilateral Connection Agreement**: direct connection to the ~~NGC-GB~~ **Transmission System** (**Power Station** directly connected to the ~~NGC-GB~~ **Transmission System**, **Distribution System** directly connected to the ~~NGC-GB~~ **Transmission System**, **Non-Embedded Customer Site** and/or **Interconnector**);
- (ii) Exhibit 2 – **Bilateral Embedded Generation Agreement**: embedded use of system

(**Embedded Power Station** and/or in relation to a **Small Power Station Trading Party** and/or **Distribution Interconnector**).

1.3.2 Construction Agreements

Each **User** who wishes to construct or modify a direct connection to the **NGC-GB Transmission System** or commence or modify use by an **Embedded Power Station** or **Distribution Interconnector** shall enter into and comply with a **Construction Agreement** in respect of any construction works required as a result of that connection or **Modification**, together with a **Bilateral Agreement** as identified in Paragraph 1.3.1 or, as appropriate, an agreement to vary such **Bilateral Agreement**.

1.3.3 Mandatory Services Agreements

- (a) **NGC** and each **User** if a **Generator** shall, as between **NGC** and that **User**, in respect of the **Generating Units** from which that **User** is required to provide the **Mandatory Ancillary Services** in accordance with the **Grid Code**, enter into and comply with a **Mandatory Services Agreement** where applicable in accordance with Paragraph 1.3.3(b) in a form to be agreed between **NGC** and that **User** but based substantially on the form set out in Exhibit 4 in Schedule 2.
- (b) Each **User** and **NGC** shall, as between **NGC** and that **User**, not later than 6 months (or such lesser time as may be agreed) prior to the expected **Commissioning Programme Commencement Date**, have entered into a **Mandatory Services Agreement** providing for payment for **Mandatory Ancillary Services** to be supplied by the **User** to **NGC**. In the event of a **Mandatory Services Agreement** not having been entered into by the said date, either party shall be entitled to initiate the procedure for resolution of the issue as an **Other Dispute** in accordance with Paragraph 7.4 to settle the terms of the said **Mandatory Services Agreement**. **NGC** shall not **Energise the User's Equipment** or in the case of an **Embedded Power Station** issue an **Operational Notification** until the said **Mandatory Services Agreement** shall have been entered into by both parties.

1.3.4 General Provisions

- (a) **Bilateral Agreements** and **Construction Agreements** which are entered into between **NGC** and **Users** shall be in or substantially in the relevant exhibited form of **Bilateral Agreement** and/or **Construction Agreement** unless the parties thereto agree otherwise.
- (b) Each and every **Bilateral Agreement**, **Mandatory Services Agreement** and **Construction Agreement** entered into by a **User** and in force from time to time shall constitute a separate agreement governed by the terms of the **CUSC** and will be read and construed accordingly. For the avoidance of doubt no **User** shall enjoy any rights nor incur any obligations against any other **User** pursuant to the terms of any **Bilateral Agreement**, **Mandatory Services Agreement** or **Construction Agreement**.

1.4 CATEGORIES OF USE WITHOUT BILATERAL AGREEMENTS

- 1.4.1 Three categories of use of the **NGC-GB Transmission System** do not require a **Bilateral Agreement** to be entered into as all the relevant provisions are included in the **CUSC** itself. These relate to **Suppliers**, **Interconnector Users** and **Interconnector Error Administrators** who in those categories of connection and/or use have no physical presence on the system. Further provisions on this are contained in Section 3 and Section 9 Part II.

END OF SECTION 1

CUSC - SECTION 2

CONNECTION

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CUSC - SECTION 2

CONNECTION

2.1 INTRODUCTION

2.1.1 This Section deals with connection to the ~~NGC~~GB **Transmission System** of **User's Equipment** at **Connection Sites** and certain related issues.

2.1.2 Part I of this Section 2 sets out general provisions relating to connection to the ~~NGC~~GB **Transmission System**, Part II sets out provisions related to charging for connection and Part III sets out the credit requirements related to **Termination Amounts**. Section 3 which deals with **Use of System** will also be applicable in relation to a **Power Station** directly connected to the ~~NGC~~GB **Transmission System**.

PART I - GENERAL

2.2 BEING OPERATIONAL, CONNECTION AND ENERGISATION

2.2.1 Right to Remain Connected

Subject to the other provisions of the **CUSC**, the relevant **Bilateral Connection Agreement** and the **Grid Code**, each **User** as between **NGC** and that **User**, shall have the right for the **User's Equipment** at each of its **Connection Sites** to be and/or remain connected to the ~~NGC~~GB **Transmission System** at the **Connection Site** once **Commissioned** and then for the duration of the relevant **Bilateral Connection Agreement** in relation to that **Connection Site**.

2.2.2 Rights to remain Energised and Operational

(a) Subject to the other provisions of the **CUSC** and in particular Paragraphs 2.2.2(b) and 2.2.3, the relevant **Bilateral Connection Agreement** and the **Grid Code**, each **User** as between **NGC** and that **User**, shall have the right for the **User's Equipment** at each of its **Connection Sites** to remain **Energised** and **Operational** once **Commissioned** for the duration of the relevant **Bilateral Connection Agreement** in relation to that **Connection Site**.

- (b) In the case of a **User** acting in the category of a **Non-Embedded Customer**, the rights under Paragraph 2.2.2(a) above and 2.3 below are subject to there being a **Supply Agreement** with a **Supplier** who has a right to use the **NGC-GB Transmission System** pursuant to which **Use of System Charges** are payable to **NGC** in respect of **Demand** attributable to the **Connection Site**.

2.2.3 Obligation to Remain Connected

Without prejudice to its rights to make **Modifications** to the **User's Plant** (and/or **User's Equipment** as the case may be) pursuant to the **CUSC** and subject to the provisions of Paragraph 5.2.2 and the other provisions of the **CUSC**, and the **Grid Code**, each **User** as between **NGC** and that **User**, shall keep the **User's Equipment** at each of its **Connection Sites** connected to the **NGC-GB Transmission System** until **Disconnection** is permitted pursuant to the **CUSC** and the relevant **Bilateral Connection Agreement** or as otherwise agreed between the Parties.

2.2.4 Connection Entry Capacity

With respect to a particular connection to the **NGC-GB Transmission System**, each **User** acting in the category of a **Power Station** directly connected to the **NGC-GB Transmission System**, as between **NGC** and that **User**, shall not operate its **User's Equipment** such that any of it exceeds the **Connection Entry Capacity** specified for each **Generating Unit** or the **Connection Entry Capacity** to the **Connection Site** such figures being set out in Appendix C to the relevant **Bilateral Connection Agreement** save as expressly permitted or instructed pursuant to an **Emergency Instruction** under the **Grid Code** or save as expressly permitted or instructed pursuant to the **Fuel Security Code** or as may be necessary or expedient in accordance with **Good Industry Practice**.

2.3 **EXPORT OF POWER FROM CONNECTION SITE**

- 2.3.1 Subject to the other provisions of the **CUSC**, the relevant **Bilateral Connection Agreement** and the **Grid Code**, **NGC** shall, as between **NGC** and that **User**, accept into the **NGC-GB Transmission System** at each **Connection Site** of a **User** acting in the category of **Power Station** directly connected to the

NGC-GB Transmission System, power generated by such **User** up to the **Transmission Entry Capacity** as set out in Appendix C of the relevant **Bilateral Connection Agreement** except to the extent (if any) that **NGC** is prevented from doing so by transmission constraints which could not be avoided by the exercise of **Good Industry Practice** by **NGC**.

- 2.3.2 Subject to the other provisions of the **CUSC**, the relevant **Bilateral Connection Agreement** and the **Grid Code** a **User** acting in the capacity of a **Power Station** directly connected to the **NGC-GB Transmission System** shall not export on to the **NGC-GB Transmission System** power generated by such **User** in excess of the **Transmission Entry Capacity** as set out in Appendix C of the relevant **Bilateral Connection Agreement** save as expressly permitted or instructed pursuant to an **Emergency Instruction** under the **Grid Code** or save as expressly permitted or instructed pursuant to the **Fuel Security Code** or as may be necessary or expedient in accordance with **Good Industry Practice**.

2.4 IMPORT OF POWER TO CONNECTION SITE

Subject to the other provisions of the **CUSC** and in particular Paragraph 2.2.2(b), the relevant **Bilateral Connection Agreement** and the **Grid Code**, **NGC** shall as between **NGC** and that **User**, transport a supply of power to each **Connection Site** of a **User** through the **NGC-GB Transmission System** up to the **Connection Site Demand Capability** except to the extent (if any) that **NGC** is prevented from doing so by transmission constraints or by insufficiency of generation which, in either case, could not have been avoided by the exercise of **Good Industry Practice** by **NGC**.

2.5 MAINTENANCE OF ASSETS

Subject to the other provisions of the **CUSC**, the relevant **Bilateral Connection Agreement**, and the **Grid Code**, **NGC** shall as between **NGC** and that **User** use all reasonable endeavours to maintain the **NGC Transmission Connection Assets** at each **Connection Site** in the condition necessary to render the same fit for the purpose of passing power up to the value of **Connection Entry Capacity** and **Connection Site Demand Capability** as appropriate between the **User's Equipment** and the **NGC-GB Transmission System**.

2.6 OUTAGES

Subject to the provisions of the **Grid Code** and the relevant **Bilateral Connection Agreement**, **NGC** and each **User** shall, as between **NGC** and that **User**, be entitled to plan and execute outages of parts of in the case of **NGC** the **GB Transmission System** or **Transmission Plant** or **Transmission Apparatus** and in the case of the **User** its ~~respective~~ **System** or **Plant** or **Apparatus** at any time and from time to time.

2.7 SPECIAL AUTOMATIC FACILITIES

NGC and each **User** shall, as between **NGC** and that **User**, operate respectively the ~~**NGC-GB**~~ **Transmission System** and the **User System** in accordance with the schemes set out in Appendix F3 to the relevant **Bilateral Connection Agreement**.

2.8 PROTECTION AND CONTROL RELAY SETTINGS/FAULT CLEARANCE TIMES

NGC and each **User** shall, as between **NGC** and that **User**, record the respective protection and control relay settings and fault clearance times to be operated by each of them in documents in the format set out in Appendix F4 to the relevant **Bilateral Connection Agreement** and shall operate them accordingly.

2.9 OTHER SITE SPECIFIC TECHNICAL CONDITIONS

2.9.1 Each **User** shall, as between **NGC** and that **User**, ensure that in the case of a **Connection Site Commissioned** prior to the **Transfer Date**, on the **Transfer Date**, and in the case of a **Connection Site Commissioned** after the **Transfer Date** on the **Completion Date(s)**, the **User's Equipment** complies with the site specific technical conditions set out in Appendix F5 to the relevant **Bilateral Connection Agreement**.

2.9.2 Each **User** shall, as between **NGC** and that **User**, use all reasonable endeavours to ensure during the period in which it is a party to a particular **Bilateral Connection Agreement** that the **User's Equipment** which is subject to that **Bilateral Connection Agreement** shall continue to comply with the site-specific technical conditions set out in Appendix F5 to that **Bilateral Connection Agreement**.

2.9.3 If a **User** or **NGC** wishes to modify, alter or otherwise change the site specific technical conditions relating to a **Connection Site** or the manner of their operation:

- (a) under Appendix F4 to the relevant **Bilateral Connection Agreement** it may do so upon obtaining the agreement of the other party such agreement not to be unreasonably withheld;
- (b) under Appendices F1, F3 or F5 to the relevant **Bilateral Connection Agreement** it shall be deemed to be a **Modification** for the purposes of the **CUSC**.

2.9.4 Where, in the case of a **Connection Site Commissioned in [England and Wales](#)** prior to the **Transfer Date**, on or immediately prior to the **Transfer Date** a **User's Equipment** subject to a particular **Bilateral Connection Agreement** has any of the following technical attributes or facilities:

- (a) circuit breaker fail protection
- (b) pole slipping protection
- (c) fault disconnection facilities
- (d) automatic switching equipment
- (e) control arrangements
- (f) voltage and current signals for system monitoring
- (g) control telephony
- (h) operational metering,

the **User** shall, as between **NGC** and that **User**, use all reasonable endeavours to ensure that during the period of such **Bilateral Connection Agreement** the **User's Equipment** which is subject to that **Bilateral Connection Agreement** retains such technical attributes or facilities provided always that if the **User** wishes to modify alter or otherwise change the same or their operation it may do so by following the procedures relating to a **Modification** in accordance with the **CUSC**.

2.10 SAFETY RULES

Safety Rules

2.10.1 In relation to a **Connection Site** in England and Wales **NGC** and each **User** will each supply to the other and in relation to a **Connection Site** in Scotland **NGC** shall procure that the **Relevant Transmission Licensee** supplies to the **User** a copy of their **Safety Rules** current from time to time, including any site-specific **Safety Rules**, and also a copy of the **Local Safety Instructions** applicable at each **Connection Site** from time to time.

2.10.2 In relation to a **Connection Site** in Scotland each **User** will supply to the **Relevant Transmission Licensee** a copy of their **Safety Rules** current from time to time, including any site-specific **Safety Rules**, and also a copy of the **Local Safety Instructions** applicable at each **Connection Site** from time to time.

2.11 INTERFACE AGREEMENT

2.11.1 In relation to **Connection Sites** and **New Connection Site(s)** in England and Wales **NGC** and each **User** undertake to enter into an **Interface Agreement** with each other and in relation to **Connection Sites** and **New Connection Sites(s)** in Scotland **NGC** shall procure that the **Relevant Transmission Licensee** shall enter into an **Interface Agreement** with a **User** in either case in a form to be agreed between them but based substantially on the forms set out in Exhibit O to the **CUSC** as appropriate ~~in relation to **Connection Site(s)** and **New Connection Site(s)**~~ where such **Interface Agreement(s)** is/are required pursuant to the applicable **Bilateral Connection Agreement** or otherwise.

2.11.2 In relation to **Connection Sites** and **New Connection Site(s)** in Scotland the **User** undertakes to enter into an **Interface Agreement** with the **Relevant Transmission Licensee** in a form to be agreed between them but based substantially on the forms set out in Exhibit O to the **CUSC** as appropriate where such **Interface Agreement(s)** is/are required pursuant to the applicable **Bilateral Connection Agreement** or otherwise.

2.12 PRINCIPLES OF OWNERSHIP

2.12.1 Subject to the **Transfer Scheme** or any contrary agreement in any **Bilateral Agreement** or any other agreement the division of ownership of **Plant** and **Apparatus** shall be at the electrical

boundary, such boundary to be determined in accordance with the following principles:

- (a) in relation to **Plant** and **Apparatus** located between the **NGC-GB Transmission System** and a **Power Station**, the electrical boundary is at the busbar clamp on the busbar side of the busbar isolators on **Generators** and **Power Station** transformer circuits;
- (b) save as specified in Paragraph 2.12.1(c) below, in relation to **Plant** and **Apparatus** located between the **NGC-GB Transmission System** and a **Distribution System**, the electrical boundary is at the busbar clamp on the busbar side of the **Distribution System** voltage busbar selector isolator(s) of the **NGC-GB Transmission System** circuit or if a conventional busbar does not exist, an equivalent isolator. If no isolator exists an agreed bolted connection at or adjacent to the tee point shall be deemed to be an isolator for these purposes;
- (c) in relation to **Transmission Plant** and **Transmission Apparatus** located between the **NGC-GB Transmission System** and a **Distribution System** ~~and owned by NGC~~ but designed for a voltage of 132KV or below, in England and Wales and below 132kV in Scotland, the electrical boundary is at the busbar clamp on the busbar side of the busbar selector isolator on the **Distribution System** circuit or, if a conventional busbar does not exist, an equivalent isolator. If no isolator exists, an agreed bolted connection at or adjacent to the tee point shall be deemed to be an isolator for these purposes;
- (d) in relation to **Plant** and **Apparatus** located between the **NGC-GB Transmission System** and the system of a **Non-Embedded Customer**, the electrical boundary is at the clamp on the circuit breaker side of the cable disconnections at the **Non-Embedded Customer's** sub-station; and

- (e) in the case of a metal clad switchgear bay the electrical boundary will be the equivalent of those specified in this Paragraph 2.12.1 save that:
 - (i) for rack out switchgear, the electrical boundary will be at the busbar shutters;
 - (ii) for SF6 switchgear, the electrical boundary will be at the gas zone separators on the busbar side of the busbar selection devices.

2.12.2 If a **User** wants to use transformers of specialised design for unusual load characteristics at the electrical boundary, ~~NGC shall own such transformers these shall not be owned by the User and shall form part of the GB Transmission System~~ but the **User** shall pay **NGC** for the proper and reasonable additional cost thereof as identified by **NGC** in the **Offer** covering such transformers. In this Paragraph 2.12.2 “unusual load characteristics” means loads which have characteristics which are significantly different from those of the normal range of domestic, commercial and industrial loads (including loads which vary considerably in duration or magnitude).

2.12.3 For the avoidance of doubt nothing in this Paragraph 2.12 shall effect any transfer of ownership in any **Plant** or **Apparatus**.

2.13 NEW CONNECTION SITES

2.13.1 If a **User** wishes to connect a **New Connection Site** it shall complete and submit to **NGC** a **Connection Application** and comply with the terms thereof.

2.13.2 Without prejudice to [Standard Condition C7D] of the **Transmission Licence** **NGC** shall make a **Connection Offer** to that **User** as soon as practicable after receipt of the **Connection Application** and (save where the **Authority** consents to a longer period) in any event not more than 3 months after receipt by **NGC** of the **Connection Application**.

2.13.3 The **Connection Offer** shall remain open for acceptance for 3 months from its receipt by that **User** unless either that **User** or **NGC** makes an application to the **Authority** under [Standard Condition C7E] of the **Transmission Licence**, in which event the **Connection Offer** shall remain open for acceptance until the date

14 days after any determination by the **Authority** pursuant to such application.

- 2.13.4 If the **Connection Offer** is accepted by that **User** the connection shall proceed according to the terms of the **CUSC** and the relevant **Bilateral Connection Agreement** and **Construction Agreement** entered into consequent upon acceptance of the **Offer**.
- 2.13.5 Prior to so proceeding a person who is not already a party to the **CUSC Framework Agreement** must become a party to the **CUSC Framework Agreement**.
- 2.13.6 Certain provisions relating to **New Connection Sites** are dealt with in Section 6. This is due to their inter-relationship with the provisions on **Modifications**.

PART II - CONNECTION CHARGES

2.14 CONNECTION CHARGES

2.14.1 Introduction

Subject to the provisions of the **CUSC**, and the relevant **Bilateral Connection Agreement**, each **User** shall, as between **NGC** and that **User**, with effect from the relevant date set out in the relevant **Bilateral Connection Agreement**, be liable to pay to **NGC** the **Connection Charges** calculated and applied in accordance with the **Statement of the Connection Charging Methodology** and as set out in the relevant **Bilateral Connection Agreement**. The **User** shall make those payments in accordance with the provisions of the **CUSC**. **NGC** shall apply and calculate the **Connection Charges** in accordance with the **Statement of the Connection Charging Methodology**.

2.14.2 Security

The **User** shall provide **NGC** with **Security Cover** in respect of **Termination Amounts** in respect of **NGC** the **Transmission Connection Assets** commissioned after the **Transfer Date** in accordance with the provisions of Part III of this Section 2.

2.14.3 Connection Charges - Outturn Reconciliation

- (a) The following provisions relate to the ability for invoices to be issued for **Connection Charges** based on an

estimate of the cost of **NGC-Transmission Connection Asset Works**, and for a reconciliation once those costs are known.

- (b) **NGC** shall be entitled to invoice each **User** for **Connection Charges** payable in accordance with the **CUSC** in respect of any **Plant** and **Apparatus** installed as part of the **Transmission Connection NGC-Asset Works** on the basis set out in the **Statement of the Connection Charging Methodology**, until the final cost of carrying out the said **NGC-Transmission Connection Asset Works** shall have been determined.
- (c) As soon as practicable after the **Completion Date** and in any event within one year thereof **NGC** shall, as between **NGC** and that **User**, provide to the **User** a written statement specifying the **Connection Charges** calculated in accordance with the **Charging Statements** based on the cost of carrying out the **NGC-Transmission Connection Asset Works** (the "**Cost Statement**"). **NGC** shall be entitled to revise Appendix B to the relevant **Bilateral Connection Agreement** accordingly.
- (d) In the event that the **Connection Charges** specified in the **Cost Statement** are greater than the amount paid by the **User** based on **NGC's** estimate under Paragraph 2.14.3(b), the **User** shall pay to **NGC** the difference between the two amounts plus interest on a daily basis from the date of payment by the **User** of the amounts calculated on **NGC's** estimate to the date of payment by the **User** of the difference at the **Base Rate**. In the event that the **Connection Charges** specified in the **Cost Statement** are less than the amount paid by the **User** based on **NGC's** estimate, **NGC** shall pay to the **User** the difference between the two amounts plus interest on a daily basis from the date of payment by the **User** of the amounts calculated on **NGC's** estimate to the date of repayment by **NGC** at the **Base Rate**. Such payment of reconciliation shall be made by one party to the other within 28 (twenty eight) days of the **Cost Statement**.

2.14.4 Connection Charges - One-off Charges

- (a) The following provisions relate to the payment for certain **One-off Works**, which arise in relation to the construction of a **Connection Site**.
- (b) Each **User** shall forthwith on the relevant date set out in the relevant **Bilateral Connection Agreement** be liable to pay to **NGC** the **One-off Charge** (if any) as set out in the relevant **Bilateral Connection Agreement**.
- (c) **NGC** shall invoice the **User** for an amount equal to **NGC's** estimate of the **One-off Charge** before, on or after the relevant date set out in the relevant **Bilateral Connection Agreement** and the **User** shall pay to **NGC** the amount stated in the **NGC** invoice at the later of such relevant date or 28 (twenty eight) days after the date of the said invoice.
- (d) As soon as practicable thereafter **NGC** shall provide the **User** with a statement of the **One-off Charge**. In the event of the amount specified in the statement being more than the amount paid by the **User** to **NGC** in terms of Paragraph 2.14.4(c), the **User** shall pay to **NGC** the difference plus interest on a daily basis from the date of the invoice under Paragraph 2.14.4(c) to the date of invoice for the difference at the **Base Rate** from time to time within 28 days (twenty eight) days of the date of **NGC's** invoice. In the event of the amount specified in the statement being less than the amount paid by the **User** under the terms of Paragraph 2.14.4(c), **NGC** shall forthwith pay to the **User** an amount equal to the difference plus interest calculated on a daily basis at the **Base Rate** from the date of payment by the **User** under Paragraph 2.14.4(c) to the date on which the difference is repaid by **NGC**.

2.14.5 Connection Charges – Site Specific Maintenance Charge

- (a) **NGC** shall be entitled to invoice each **User** for the indicative **Site Specific Maintenance Charge** in each **Financial Year** as set out in the **Statement of the Connection Charging Methodology**.
- (b) As soon as reasonably practicable and in any event by 31 July in each **Financial Year** **NGC** shall:

- (i) in accordance with the **Statement of the Connection Charging Methodology** calculate the actual **Site Specific Maintenance Charge** that would have been payable by the **User** during the preceding **Financial Year** (the “**Actual Charge**”) and compare this with the indicative **Site specific Maintenance Charge** received from the **User** during the preceding **Financial Year** (the “**Notional Charge**”) and
 - (ii) prepare and send to the **User** a **Maintenance Reconciliation Statement** specifying the **Actual Charge** and the **Notional Charge** for the preceding **Financial Year**.
 - (c) Two months after the date of issue of the **Maintenance Reconciliation Statement** and in any event by 30 September **NGC** shall issue a credit note in relation to any sums shown by the **Maintenance Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** (such invoice to be payable within 30 days of the date of the invoice) and in each case interest thereon calculated pursuant to Paragraph 2.14.5(d) below.
 - (d) Interest on all amounts due under this Paragraph 2.14.5 shall be payable by the paying **CUSC Party** to the other on such amounts from the date of payment applicable to the month concerned until the date of invoice for such amounts and such interest shall be calculated on a daily basis at a rate equal to the **Base Rate** during such period.
- 2.14.6 The **Connection Charges** shall be paid as specified in paragraph 6.6.1(a) and shall be treated as a recurrent monthly payment.
- 2.14.7 The **User** shall be liable to pay **NGC Termination Amounts** in the event of the termination of the **User's Bilateral Connection Agreement** (or in the case of Paragraph 5.3.4 **Disconnection of the User's Equipment**) in accordance with Section 5 of the **CUSC**.

- 2.14.8 The **Connection Charges** in the **Financial Year** in which the relevant date for charging set out in the relevant **Bilateral Connection Agreement** occurs shall be apportioned as follows:-

For each complete calendar month from that date to the end of the **Financial Year** in which the date occurs the **User** shall be liable to pay one twelfth of the **Connection Charges** and for each part of a calendar month the **User** shall be liable to pay to **NGC** one twelfth of the **Connection Charges** prorated by a factor determined by the number of days for which the **User** is liable divided by the total number of days in such calendar month.

2.15 REVISION OF CHARGES

- 2.15.1 Pursuant to the **Transmission Licence** and/or the **CUSC** and/or the **Charging Statements** and/or the **Bilateral Agreements**, **NGC** may revise its **Connection Charges** or the basis of their calculation including issuing revisions to Appendices A and B of the **Bilateral Connection Agreements**.

- 2.15.2 Subject to Paragraph 2.15.3 below, **NGC** shall give the **User** not less than 2 months prior written notice of any revised charges, including revisions to Appendices A and B of the **Bilateral Connection Agreements**, which notice shall specify the date upon which such revisions become effective (which may be at any time). The **User** shall pay any such revised charges and Appendix A and B shall be amended automatically (and a copy sent to the **User**) to reflect any changes to such Appendices with effect from the date specified in such notice.

- 2.15.3 Where in accordance with the **Transmission Licence**, the **Authority** requires a shorter period than 2 months for the implementation of revised charges, the notice period will be determined by the **Authority**. Where **NGC** and the **User** agree a shorter period than 2 months for the implementation of revised charges, the notice period will be as agreed between the parties. The notice of revisions issued by **NGC** will specify when the new charges are effective and the **User** shall pay any such revised charges and Appendix A and B shall be amended automatically with effect from the date specified in such notice;

- 2.15.4 Subject to the provisions of Paragraph 2.17 (Replacement of ~~NGC—Transmission Connection~~ Assets) below, if in the reasonable opinion of **NGC** any development, replacement, renovation, alteration, construction or other work to the ~~NGC-GB~~ |

Transmission System or termination of a **Bilateral Agreement** or use of the **NGC-GB Transmission System** by another **User** or an alteration to the requirements of the **User** or any other **User** means that to ensure that **NGC** is charging in accordance with the provisions of the **Charging Statements** pursuant to [Standard Conditions C7 and C7B] of the **Transmission Licence NGC** needs to vary the **Connection Charges** payable by a **User** in relation to any of its **Connection Sites** then **NGC** shall have the right to vary such charges accordingly upon giving to the **User** not less than 2 months prior written notice. Following any such variation the provisions of Appendices A and B shall be amended automatically (and a copy sent to the **User**) to reflect such variation with effect from the date such variation comes into effect.

2.16 DATA REQUIREMENTS

- 2.16.1 On or before the end of the second week of December in each **Financial Year**, each **User** shall supply **NGC** with such data as **NGC** may from time to time reasonably request pursuant to the **Charging Statements** to enable **NGC** to calculate the **Connection Charges** due from the **User** to **NGC** in respect of the **Connection Site** including the data specified in the **Charging Statements**.
- 2.16.2 Where the relevant date for charging set out in the relevant **Bilateral Connection Agreement** in relation to **Connection** falls during a **Financial Year** the **User** shall on the date specified in writing by **NGC** to the **User** supply to **NGC** such data in respect of the **Financial Year** in which the charging date falls and the following **Financial Year** which it would otherwise have supplied and **NGC** would otherwise have requested in accordance with Paragraph 2.16.1, in accordance with the terms of the **Charging Statements**.

2.17 REPLACEMENT OF **NGC-TRANSMISSION CONNECTION** ASSETS

- 2.17.1 **NGC** will provide information to each **User** on an ongoing basis with regards to its long term intentions and any programme for the replacement of any **NGC-Transmission Connection Assets** at a **Connection Site**.
- 2.17.2 Where in **NGC's** reasonable opinion to enable **NGC** to comply with its statutory and licence duties and/or to enable any Relevant Transmission Licensee to comply with its statutory and licence duties it is necessary to replace an **NGC-Transmission**

Connection Asset **NGC** shall give written notice of this (a “**Replacement Notice**”) such notice to be given (subject to Paragraph 2.17.7) as soon as practicable.

2.17.3 Following the issue of the **Replacement Notice** **NGC** shall provide an explanation of the economic and engineering reasons to asset replace and the parties shall meet as soon as practicable to consider options, programme and costs associated with the replacement.

2.17.4 **NGC** shall make an offer to the **User(s)** (subject to Paragraph 2.17.7) no earlier than 6 months after the date of the **Replacement Notice** detailing the variations it proposes to make to Appendices A and B of and any other changes required to the **Bilateral Connection Agreement** and if appropriate enclosing a **Construction Agreement** in respect of the replacement of the **NGC-Transmission Connection Assets**.

2.17.5 If after a period of 3 months from receipt of the offer or such longer period as the parties might agree the **User(s)** and **NGC** have failed to reach agreement on the offer then either party may make an application to the **Authority** under [Standard Condition C7E] of the **Transmission Licence** to settle any dispute about the replacement of the **NGC-Transmission Connection Assets**.

2.17.6 Subject to Paragraph 2.17.7, **NGC** shall not replace the **NGC-Transmission Connection Assets** until the offer has been accepted by the **User(s)** or until the determination of the **Authority** if an application to the **Authority** has been made.

2.17.7 **NGC** shall take all reasonable steps to avoid exercising its rights pursuant to this Paragraph but in the event that **NGC** has reasonable grounds to believe, given its licence and statutory duties that a **NGC-Transmission Connection Asset** should be replaced prior to or during the process outlined above then **NGC** shall consult with the **User(s)** as far as reasonably practicable and shall be entitled to replace such **NGC-Transmission Connection Asset** and shall advise the **User(s)** of this and as soon as practicable make an offer for such replacement which can be accepted or referred in accordance with Paragraph 2.17.5 above.

2.17.8 Subject to Paragraph 2.17.9 **Connection Charges** shall be payable in respect of such replaced **NGC-Transmission Connection Assets** in accordance with the **Statement of the**

Connection Charging Methodology and **NGC** shall give the **User(s)** not less than 2 months prior written notice of such varied charges and specify the date upon which such charges become effective. **NGC** shall be entitled to invoice the **Connection Charges** based on an estimate of the cost and the provisions of Paragraphs 2.14.3 and 2.14.4 shall apply.

- 2.17.9 Where **NGC-Transmission Connection Assets** have been replaced pursuant to Paragraph 2.17.7 **NGC** shall not be entitled to vary the **Connection Charges** until the offer has been accepted or the matter has been determined by the **Authority** and until such time the **User(s)** shall continue to pay **Connection Charges** as if the **NGC-Transmission Connection Assets** had not been replaced. If the matter is determined in **NGC's** favour then **NGC** shall be entitled to issue a revised Appendices A and B and the **User(s)** shall pay to **NGC** the difference between the two amounts plus interest at **Base Rate** on a daily basis from completion of the replacement to the date of payment by the **User(s)**. If the matter is not determined in **NGC's** favour **Connection Charges** shall be payable as directed by the **Authority**.

2.18 TERMINATION AMOUNTS - RE-USE

- 2.18.1 The obligation on the **User** to pay **Termination Amounts** is contained in Paragraph 2.14.7 and Section 5. Further provisions relating to **Termination Amounts**, including calculation of **Termination Amounts**, are dealt with in the **Statement of the Connection Charging Methodology**. The following parts of this Paragraph 2.18 deal with issues relating to re-use of **NGC-Transmission Connection Assets** in respect of which **Termination Amounts** have been paid.
- 2.18.2 **NGC** shall use its reasonable endeavours to re-use **NGC-Transmission Connection Assets** where **Termination Amounts** have been paid on the basis set in the **Statement of the Connection Charging Methodology**. Subject to Paragraph 2.18.4, in the event that a **Termination Amount** is paid in respect of **NGC-Transmission Connection Assets** and subsequently ~~**NGC re-uses**~~ such **NGC-Transmission Connection Assets** in respect of which a payment has been made are re-used in the GB Transmission System then **NGC**

shall pay to the **User** a sum calculated in accordance with the **Statement of the Connection Charging Methodology**.

2.18.3 Re-use shall not occur where any **NGC—Transmission Connection Asset** remains connected for the purpose of providing a continuing connection for other **Users** connected to the **NGCGB -Transmission System** at the **Connection Site** at the date of termination. However in the event of any **User** requiring a continued connection modifying its requirements or another **User** connecting at the **Connection Site** and the **NGC Transmission Connection Assets** in respect of which a payment has been made are required for this modification this shall constitute re-use.

2.18.4 **NGC** shall be under no obligation to rebate any of the **Termination Amounts** relating to the re-use of assets as set out in the **Statement of the Connection Charging Methodology** except to the extent that **Connection** and/or **Transmission Network Use of System Charges** are subsequently received in respect of **NGC—Transmission Connection Assets** in relation to which such **Termination Amounts** have been paid to **NGC** during the **Financial Year** in which termination has occurred.

2.18.5 Upon request in writing, and at the cost of the **User**, **NGC** shall issue a certificate no more frequently than once each calendar year indicating whether or not such assets have or have not been re-used. If **NGC** at any time decides that it is not economic to retain any **Plant** and **Apparatus** constituting any **NGC Transmission Connection Asset** in respect of which **Termination Amounts** have been paid it may at its reasonable discretion dispose of the said **Plant** and **Apparatus** and pay the **User** any sums due in accordance with the **Statement of the Connection Charging Methodology**.

PART III - CREDIT REQUIREMENTS

2.19 SECURITY FOR TERMINATION AMOUNTS

2.19.1 Where a **User** has a connection to the **NGC-GB Transmission System** it shall provide security for **Termination Amounts** for **NGC—Transmission Connection Assets Commissioned** after the **Transfer Date** in accordance with this Paragraph 2.19. For the avoidance of doubt references to **Termination Amounts** in

this Part III only relate to **Termination Amounts** payable in respect of such ~~NGC-Transmission Connection~~ **Assets**.

2.19.2 Each **User** which has a connection to the ~~NGC-GB~~ **Transmission System** shall provide security in respect of each of its **Bilateral Connection Agreement(s)**:-

- (a) in the case of a **User** which meets the **NGC Credit Rating** at the date of the **Bilateral Connection Agreement**, in accordance with Paragraph 2.20; and
- (b) in the case of a **User** which does not meet the **NGC Credit Rating** at the date of the **Bilateral Connection Agreement** or thereafter ceases to meet it, in accordance with Paragraph 2.21.

2.20 PROVISION OF SECURITY FOR TERMINATION AMOUNTS WHERE USER MEETS CREDIT RATING

2.20.1 Each **User** shall, as soon as possible after entering into a **Bilateral Connection Agreement** and in any event no later than one (1) month after such date, confirm to **NGC** the position on whether it meets the **NGC Credit Rating** of which it advised **NGC** at the time that the offer was made by **NGC**. Thereafter not less than 75 days before 1 April and 1 October in each year the **User** shall confirm its **NGC Credit Rating** position to **NGC** (which in the case of a long term private credit rating shall be confirmed by Standard and Poor's or Moody's within a period of 45 days prior to the date of confirmation). The **User** shall inform **NGC** in writing forthwith if it becomes aware of losing its **NGC Credit Rating** or if it is or is likely to be put on credit watch or any similar credit surveillance procedure which may give **NGC** reasonable cause to believe that the **User** may not be able to sustain its **NGC Credit Rating** for at least 6 months.

2.20.2 In the event that the **User** has elected to provide **NGC** with an indicative credit rating and **NGC** is of the reasonable opinion that the **User** has ceased to comply with the requirements of Paragraph 2.20.1 then **NGC** may require the **User** forthwith:-

- (a) to apply to Standards and Poor's and/or Moody's for a further indicative long term private credit rating; or
- (b) to confirm to **NGC** that it shall provide the security referred to in Paragraph 2.20.4 hereof.

2.20.3 In the event of the **User**:-

- (a) not having an **NGC Credit Rating**; or
- (b) having a credit rating below the **NGC Credit Rating**; or
- (c) not having obtained from Standard and Poor's or Moody's within 30 days of the written notification under Paragraph 2.20.2 above an indicative long term private credit rating,

or if **NGC** becomes aware that

- (i) the **User** ceases to have an **NGC Credit Rating**; or
- (ii) the **User** is put on credit watch or other similar credit surveillance procedure as specified above which may give **NGC** reasonable cause to believe that the **User** may not be able to maintain an **NGC Credit Rating** for at least 6 months; or
- (iii) the **User** has not obtained from Standard and Poor's or Moody's within 30 days of the written notification by **NGC** under Paragraph 2.20.2 above a further indicative long term private credit rating,

the **User** shall (where appropriate on receipt of written notification from **NGC**) comply with the terms of Paragraph 2.20.4.

2.20.4 The **User** shall within 21 days of the giving of a notice under Paragraph 2.20.3 or within 30 days of the **User** confirming to **NGC** under Paragraph 2.20.2 that it will provide the security specified in Paragraph 2.22.1 (whichever is the earlier), provide **NGC** with the security specified below to cover the **User's** payment obligations to **NGC** arising in the event of termination of the relevant **Bilateral Connection Agreement**. The security to be provided shall be in an amount not greater than such sums payable on termination and specified in writing by **NGC** to the **User** from time to time in accordance with the timescales

specified in Paragraph 2.21.2. Such security shall be of a type set out in 2.22.1.

- 2.20.5 Until the facts or circumstances giving rise to the obligations of the **User** to provide the security have ceased then the provisions of Paragraphs 2.21.2 to 2.22.2 shall apply.
- 2.20.6 In the event of **NGC's** credit requirements being reviewed at any time **NGC** shall advise the **User** in writing of the new credit requirements and if acceptable to the **User** the security arrangements will be amended accordingly.
- 2.20.7 In the event that the facts or circumstances giving rise to the obligations of the **User** to provide the security have ceased, then **NGC** shall release the security.

2.21 PROVISION OF SECURITY FOR TERMINATION AMOUNTS WHERE USER DOES NOT MEET CREDIT RATING

- 2.21.1 Each **User** hereby agrees that it shall at the date of the relevant **Bilateral Connection Agreement** provide to **NGC** or procure the provision to **NGC** of, and the **User** shall at all times thereafter (unless and until the **Bilateral Connection Agreement** shall be terminated and all sums due or which will or might fall due in respect of which security is to be provided shall have been paid) maintain or procure that there is maintained in full force and effect (including by renewal or replacement), a security arrangement of a type specified in Paragraph 2.22.1 from time to time and for the time being to provide security for the **User's** obligation to pay **NGC Termination Amounts** on termination of a **Bilateral Agreement**, in accordance with Paragraph 2.21.2.

2.21.2 Provision of Bi-annual Estimate and Secured Amount Statement

- (a) **NGC** shall provide to each relevant **User** a **Bi-annual Estimate** showing the amounts of all payments required or which may be required to be made by the **User** to **NGC** in respect of **Termination Amounts** at the following times and in respect of the following periods:-
 - (i) forthwith on and with effect from the date required in accordance with Paragraph 2.20.4 in respect of the period from and including such date until the next following 31st March or 30th September (whichever shall first occur); and

- (ii) not less than 75 (seventy five) days (or if such day is not a **Business Day** the next following **Business Day**) prior to each 31st March and 30th September thereafter in respect of the period of six calendar months commencing on the immediately following 1st April or 1st October (as the case may be), until the relevant **Bilateral Connection Agreement** shall be terminated and all sums due or which will or might fall due in respect of which security is to be provided shall have been paid.
- (b) Such **Bi-annual Estimate** shall be accompanied by the **Secured Amount Statement** specifying the aggregate amount to be secured at the beginning of and throughout each such period.
- (c) If **NGC** shall not provide any subsequent **Bi-annual Estimate** and **Secured Amount Statement** by the requisite date, then the **User** shall at the date it is next required to have in full force and effect security and whether by renewal or replacement or otherwise in respect of the following six calendar month period nonetheless provide security in accordance with the provisions of this Paragraph 2.21 in the same amount as the amount then in force in respect of the then current six calendar month period. Notwithstanding the foregoing, if **NGC** shall provide the **User** with any **Bi-annual Estimate** and **Secured Amount Statement** later than the date specified in Paragraph 2.21.2(a) then the following shall apply. The **User** shall within 30 (thirty) days of receipt of the said **Secured Amount Statement** procure that to the extent that the amount in respect of which security has been or is to be provided pursuant to this Paragraph 2.21.2(c) in respect of the relevant period (“the **Secured Amount**”) falls short of the amount stated in the **Secured Amount Statement** (the “**Required Amount**”) the **Secured Amount** shall be adjusted to the **Required Amount**.
- (d) **Entitlement to Estimate**

If **NGC** is (for whatever reason) unable on any relevant date to calculate precisely any sum due or which has accrued due or in respect of which the **User** has a liability

to **NGC** for payment under any of the provisions of this **CUSC**, **NGC** shall be entitled to invoice the **User** for a sum equal to **NGC's** fair and reasonable estimate of the sums due or which may become due or in respect of which the **User** has a liability to **NGC** for payment. **NGC** shall also be entitled to send the **User** further invoices for such sums not covered in previous invoices. The **User** shall pay **NGC** all sums so invoiced by **NGC**.

(e) **Demands not Affected by Disputes**

It is hereby agreed between **NGC** and the **User** that if there shall be any dispute between the **User** and **NGC** as to:-

- (i) any amount certified by **NGC** in any **Secured Amount Statement** as requiring at any time and from time to time to be secured; or
- (ii) the fairness and reasonableness of **NGC's** estimate; or
- (iii) whether there has been an **Event of Default** as provided in Section 5; or
- (iv) the lawfulness or otherwise of any termination or purported termination of the relevant agreement,

such dispute shall not affect the ability of **NGC** to make demands pursuant to the security arrangement to be provided pursuant to Paragraph 2.21 and to recover the amount or amounts payable thereunder, it being acknowledged by the **User** that but for such being the case **NGC's** security would be illusory by reason of the period of validity of the relevant security being likely to expire or capable of expiring before the final resolution of such dispute. The **User** accordingly covenants with **NGC** that it will not take any action, whether by way of proceedings or otherwise, designed or calculated to prevent, restrict or interfere with the payment to **NGC** of any amount secured under the security arrangement nor seek nor permit nor assist others to do so.

- (f) If there shall be any dispute as mentioned in Paragraph 2.21.2(e) the same shall, whether **NGC** shall have

terminated the relevant **Bilateral Connection Agreement** and recovered or sought to recover payment under the security arrangement or not, and without prejudice to **NGC's** right to recover or seek to recover such payment, be dealt with in the case of Paragraphs 2.21.2(e)(i) and 2.21.2(e)(ii) under Section 7 as a **Charging Dispute** and, in the case of Paragraphs 2.21.2(e)(iii) and 2.21.2(e)(iv) be dealt with under Section 7 as an **Other Dispute**.

2.22 TYPES OF SECURITY

2.22.1 Security can be provided by:

- (a) A **Performance Bond** or **Letter of Credit** from a **Qualified Bank** for the amount stated in the **Secured Amount Statement** as the estimated amount to be secured, such **Performance Bond** or **Letter of Credit** to be **Valid** for at least the period stated in such **Secured Amount Statement** and to be renewed periodically where applicable in the manner stated in Paragraph 2.22.2(c); or
- (b) A cash deposit in a **Bank Account** at least for the amount stated in the **Secured Amount Statement** as the estimated amount to be secured, such cash deposit to be increased or reduced periodically where applicable in the manner stated in Paragraph 2.22.2(d); or
- (c) A **Performance Bond** from a **Qualified Company** for the amount stated in the **Secured Amount Statement** as the estimated amount to be secured, such **Performance Bond** to be **Valid** for at least the period stated in such **Secured Amount Statement** and to be renewed periodically where applicable in the manner stated in Paragraph 2.22.2(c)

2.22.2 General Provisions

- (a) Any **Notice of Drawing** to be delivered to Barclays Bank PLC or any other bank at which the **Bank Account** shall have been opened or a **Qualified Bank** or a **Qualified Company** may be delivered by hand, by post or by facsimile transmission.

- (b) If the **User** becomes aware that the bank issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, the **User** shall notify **NGC** in writing as soon as it becomes so aware. If **NGC** becomes aware that the bank issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, **NGC** may notify the **User** to that effect in writing. Where the bank or the company so ceases to be either a **Qualified Bank** or a **Qualified Company** (as the case may be) as a consequence of **NGC** having reasonable cause to doubt the continued rating of the said bank or company, such notice shall be accompanied by a statement setting out **NGC's** reasons for having such doubt. The **User** shall within 21 days of the giving of such notice by **NGC** or the **User** whichever is the earlier provide a replacement **Performance Bond** and/or **Letter of Credit** from a **Qualified Bank** or **Qualified Company**, as the case may be, and/or provide a cash deposit in the required amount in a **Bank Account**. From the date the replacement **Performance Bond** or **Letter of Credit** or **Bank Account** cash deposit is effectively and unconditionally provided and **Valid**, **NGC** will consent in writing to the security which it replaces being released.
- (c) The following provisions shall govern the issuance, renewal and release of the **Performance Bond** or **Letter of Credit**:-
 - (i) The **Performance Bond** or **Letter of Credit** shall be **Valid** initially from the date required in accordance with Paragraph 2.20.4 or 2.21.1 respectively at least to and including the following 31st March or 30th September whichever is the earlier date. Such **Performance Bond** or **Letter of Credit** shall be for an amount not less than that stated in the **Secured Amount Statement** to be secured during the period specified in the **Secured Amount Statement**.

- (ii) On a date which is at least 45 days (or if such day is not a **Business Day** then on the immediately preceding **Business Day**) before the next following 31st March or 30th September whichever is the earlier date such **Performance Bond** or **Letter of Credit** shall be renewed so as to be **Valid** for not less than 6 months commencing from the immediately following 1st April or 1st October (as the case may be). Such renewed **Performance Bond** or **Letter of Credit** shall be for an amount not less than the amount stated in the **Secured Amount Statement** as the amount to be secured during the period that such renewed **Performance Bond** or **Letter of Credit** shall be **Valid**.
 - (iii) Thereafter, the renewed **Performance Bond** or **Letter of Credit** shall be further renewed in like manner every 6 months.
- (d) The following provisions shall govern the maintenance of cash deposits in the **Bank Account**:-
 - (i) The amount of the cash deposit to be maintained in the **Bank Account** shall be maintained from the date required in accordance with Paragraph 2.20.4 or 2.21.1 respectively at least to and including the following 31st March or 30th September, whichever is the earlier date. Such cash deposit shall be in an amount as stated in the **Secured Amount Statement** to be secured during the period stated in the **Secured Amount Statement**.
 - (ii) If the amount stated in the **Secured Amount Statement** as the amount to be secured from the following 1st April to 30th September or from the following 1st October to 31st March (as the case may be) is an amount greater than the amount then secured, the cash deposit in the **Bank Account** shall be increased to such greater amount on a date which is 45 days before the following 31st March or 30th September (as the case may be) which immediately precedes the

commencement of the relevant above mentioned period.

- (iii) If such amount stated in the **Secured Amount Statement** is smaller than the amount then secured, the cash deposit in the **Bank Account** shall not be reduced to the amount so stated until the expiry of 7 days after the next following 31st March or 30th September (as the case may be) (the "**Release Date**").
 - (iv) The sum equal to the amount of reduction in the cash deposit in the **Bank Account** shall be paid by **NGC** to the **User** from the **Bank Account** on the **Release Date**.
 - (v) Any interest accruing to the **Bank Account** shall be for the account of and belong to the **User** absolutely, and **NGC** agrees to take any steps required to be taken by it for the release from the **Bank Account** and payment to the **User** of such interest as soon as the same shall have been credited to the **Bank Account** and **NGC** shall have received notice of such credit.
- (e) Notwithstanding any provision aforesaid:-
- (i) The **User** may provide different securities to **NGC** at any one time, each securing a different amount, provided that the aggregate amount secured by such securities shall be not less than the aggregate amount required to be secured pursuant to the **Secured Amount Statement** for any period specified therein.
 - (ii) The **User** may upon the expiry of at least 14 days prior written notice to **NGC**, substitute one type of security for another provided that unless **NGC** shall otherwise agree in writing such substituted security must be **Valid** from 1st April or 1st October (as the case may be) and committed at least 45 days before the immediately preceding 31st March or 30th September (as the case may be) in the following manner:-

- (aa) where a **Performance Bond** or a **Letter of Credit** is to substitute for other securities, it must be issued or given at least 45 days before such immediately preceding 31st March or 30th September (as the case may be).
 - (bb) where a cash deposit in a **Bank Account** is to substitute for other securities, it must be deposited into the **Bank Account** at least 45 days before such immediately preceding 31st March or 30th September (as the case may be).
- (iii) Upon request by the **User** to **NGC**, securities substituted in the aforesaid manner shall, providing the substitute security shall be **Valid**, be released on the following 1st April or 1st October (as the case may be). However, where the amount required by the **Secured Amount Statement** to be secured for any period is less than the amount required to be secured in the preceding period, the substituted security shall not be released until 7 days after the then following 31st March or 30th September (as the case may be).

END OF SECTION 2

CUSC - SECTION 3

USE OF SYSTEM

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CUSC - SECTION 3

USE OF SYSTEM

3.1 INTRODUCTION

This Section 3 deals with use of the **NGC-GB Transmission System** and certain related issues. Part I of this Section sets out general provisions (split into Parts A and B dealing with generation and supply), Part II sets out charging related provisions and Part III sets out the credit requirements related to **Use of System**. Depending on the category of connection and/or use of a **User**, the Section dealing with **Connection** (Section 2) may also be applicable.

PART IA - GENERAL - GENERATION

This Part IA deals with rights and obligations relating to **Embedded Power Stations, Small Power Station Trading Parties** and to **Distribution Interconnectors**. References to “**User**” in this Part IA should be construed accordingly.

3.2 RIGHTS TO USE THE **NGC-GB TRANSMISSION SYSTEM**

3.2.1 Embedded Use of System

Subject to the other provisions of the **CUSC**, the **Grid Code** and the relevant **Bilateral Embedded Generation Agreement**, and subject to there continuing to be a **Distribution Agreement** with the owner/operator of the **Distribution System**, each **User**, as between **NGC** and that **User**, may in relation to each of its **Embedded** generation sites and each of its **Distribution Interconnectors** transmit (or put, as the case may be) supplies of power on to and/or take supplies of power from the **NGC-GB Transmission System** as the case may be.

3.2.2 Embedded Power Station and Distribution Interconnector Conditions

- (a) The rights and obligations of a **User**, and **NGC** in connection therewith, are subject to the following conditions precedent having been fulfilled before such rights and obligations arise:
 - (i) the **User** having provided (in a form reasonably satisfactory to **NGC**) proof of having entered into

- a **Distribution Agreement** with the owner/operator of the **Distribution System**; and
 - (ii) in the case of an **Embedded Small Power Station NGC** having received satisfactory confirmation from the owner/operator of the **Distribution System** as to the running arrangements within the **Distribution System**;
 - (iii) in the case of an **Embedded Small, Medium and Large Power Station**, in relation to a **Small Power Station Trading Party** and in the case of a **Distribution Interconnector**, of the acceptance by the owner/operator of the **Distribution System** of any necessary **Modification Offer** relevant to the **Embedded Power Station or Distribution Interconnector** (as the case may be);
- (b) If the conditions precedent of 3.2.2(a)(i) to (iii) have not been fulfilled in the case of 3.2.2(a)(i) and 3.2.2(a)(ii) within 6 months of the date of the relevant **Bilateral Embedded Generation Agreement** or in the case of 3.2.2(a)(iii) within 3 months of the date of receipt by the owner/operator of the **Distribution System** of the **Modification Offer NGC** or the relevant **User** may rescind the relevant **Bilateral Embedded Generation Agreement** and any associated **Construction Agreement** by giving to the other notice to that effect in which event all rights and liabilities of the parties thereunder and under the **CUSC** in relation to relevant **Embedded Power Stations** or relevant **Distribution Interconnectors** shall cease.

3.2.3 Transmission Entry Capacity

- (a) Other than as provided in Paragraph 3.2.3(b), each **User**, as between **NGC** and that **User**, shall not operate its **User's Equipment** such that its export of power onto the ~~NGC—GB~~ **Transmission System** exceeds the **Transmission Entry Capacity** set out in Appendix C to the relevant **Bilateral Embedded Generation Agreement** save as expressly permitted and instructed pursuant to an **Emergency Instruction** under the **Grid Code** or save as expressly permitted and instructed pursuant to the **Fuel Security Code** or as may be

necessary or expedient in accordance with **Good Industry Practice**.

- (b) Each **User** in respect of an **Embedded Small Power Station** and a **Distribution Interconnector** and as a **Trading Party** responsible for **Embedded Small Power Stations**, as between **NGC** and that **User**, shall not operate its **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) such that its export of power onto the [NGC-GB Transmission System](#) exceeds the **Transmission Entry Capacity** set out in Appendix C to the relevant **Bilateral Embedded Generation Agreement** save as expressly permitted and instructed pursuant to the **Fuel Security Code** or as may be necessary or expedient in accordance with **Good Industry Practice**.

- 3.2.4 Subject to the other provisions of the **CUSC** and the **Grid Code** and any relevant **Bilateral Agreement**, **NGC** shall, as between **NGC** and that **User**, accept into the [NGC-GB Transmission System](#) power generated by each **User** up to the **Transmission Entry Capacity** set out in Appendix C of the relevant **Bilateral Connection Agreement** except to the extent (if any) that **NGC** is prevented from doing so by transmission constraints which could not be avoided by the exercise of **Good Industry Practice** by **NGC**.

Outages

Subject to the provisions of the **Grid Code**, **NGC** and each **User** (with **Plant** and/or **Apparatus**) shall, as between **NGC** and that **User**, be entitled to plan and execute outages of parts of [in the case of NGC, the GB Transmission System or Transmission Plant or Transmission Apparatus and in the case of a User, its System or Plant or Apparatus](#), at any time and from time to time.

- 3.2.5 Commissioning

NGC agrees to assist the **User** (if requested by the **User**), with the commissioning and on-load testing of the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) and the **User** shall pay reasonable **NGC Charges** in connection therewith. The **User** must ensure the commissioning programme for the **User's**

Equipment or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) at the site of connection agreed between the **User** and the owner/operator of the **Distribution System** contains adequate provisions in respect of the timing of commissioning to ensure that the **User** can be in receipt of an **Operational Notification** before or during (as appropriate) the said commissioning programme.

3.2.6 Operational Notification

Upon compliance by the **User** with the provisions of Paragraph 3.2.2(a) after the commissioning programme in Paragraph 3.2.6 and subject, if **NGC** so requires, to ~~NGC—Transmission Reinforcement Works~~ being carried out and/or notification by the **User** that the site of connection of the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) to the **Distribution System** is operational (any or all as appropriate) **NGC** shall forthwith notify ("**Operational Notification**") the **User** in writing that it has the right to use the ~~NGC—GB~~ **Transmission System**. It is an express condition of the **CUSC** that in no circumstances will the **User** use or operate the **User's Equipment** or **Equipment** for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) without receiving this **Operational Notification**.

3.3 OTHER SITE SPECIFIC TECHNICAL CONDITIONS FOR EMBEDDED POWER STATIONS AND DISTRIBUTION INTERCONNECTORS

3.3.1

- (a) **NGC** and each **User** shall, as between **NGC** and that **User**, operate respectively the ~~NGC—GB~~ **Transmission System** and the **User System** with the special automatic facilities and schemes set out in Appendix F3 to the relevant **Bilateral Embedded Generation Agreement**.
- (b) Each **User** shall ensure the **User's Equipment** complies with the site specific technical conditions set out in Appendix F4 to the relevant **Bilateral Embedded Generation Agreement**.
- (c) Each **User** shall use all reasonable endeavours to ensure during the period of the relevant **Bilateral Embedded Generation Agreement** that the **User's Equipment** shall continue to comply with the site specific technical conditions

set out in Appendix F5 to the relevant **Bilateral Embedded Generation Agreement**.

3.3.2 If a **User** or **NGC** wishes to modify, alter or otherwise change the site specific technical conditions or the manner of their operation under Appendices F1, F3, F4 or F5 to the relevant **Bilateral Embedded Generation Agreement** this shall be deemed to be a **Modification** for the purposes of the **CUSC**.

3.3.3 Where in the case of a site **Commissioned** [in England and Wales](#) prior to the **Transfer Date**, on or immediately prior to the **Transfer Date** a **User's Equipment** subject to a **Bilateral Embedded Generation Agreement** has any of the following technical attributes or facilities:

- (a) control arrangements
- (b) voltage and current signals for system monitoring
- (c) control telephony
- (d) operational metering

the **User** shall, as between **NGC** and that **User**, use all reasonable endeavours to ensure that during the period of such **Bilateral Agreement** the **User's Equipment** which is subject to that **Bilateral Agreement** retains such technical attributes or facilities provided always that if the **User** wishes to modify, alter or otherwise change the same or their operation it may do so by following the procedures relating to a **Modification** in accordance with the **CUSC**.

PART IB - GENERAL - SUPPLY

This Part IB deals with rights and obligations relating to **Suppliers** generally and, in relation to certain provisions, to **Suppliers** supplying **Non-Embedded Customers**. References to "**User**" in this Part IB should be construed accordingly.

3.4 RIGHTS TO USE THE [NGC-GB](#) TRANSMISSION SYSTEM

3.4.1 Subject to the other provisions of the **CUSC** and the **Grid Code**, each **User**, as between **NGC** and that **User**, may take supplies of power from the [NGC-GB Transmission System](#).

3.4.2 Subject to the provisions of the **CUSC** and the **Grid Code**, **NGC** shall, as between **NGC** and that **User**, transport a supply of

power through the **NGC-GB Transmission System** to the level forecast by the **User** from time to time pursuant to the **Data Requirements** set out in Part IIB of this Section 3 submitted by that **User** together with such margin as **NGC** shall in its reasonable opinion consider necessary having due regard to **NGC's** duties under the **Transmission Licence** except to the extent (if any) that **NGC** is prevented from doing so by transmission constraints or by insufficiency of generation which, in either case, could not have been avoided by the exercise of **Good Industry Practice** by **NGC**.

- 3.4.3 Subject to the provisions of the **Grid Code**, **NGC** shall be entitled to plan and execute outages of parts of the **NGC-GB Transmission System** or **Transmission Plant** or **Transmission Apparatus** at any time and from time to time.

3.5 SUPPLIER CUSTOMER DETAILS

- 3.5.1 Each **User** shall, as between **NGC** and that **User**, give written notice to **NGC** of the following details of all exit points from time to time in existence between any **Distribution System** and the **User's** customer:-
- (a) the electrical location and nomenclature of the **Energy Metering Equipment** installed in relation to each such customer;
 - (b) the identity of the operator of the **Distribution System** to which such customers are connected;
 - (c) the **Grid Supply Point** and **Transmission Network Use of System Demand Zone** meeting the **Demand (Active Power)** of each customer;
 - (d) the loss factors applying to the **Energy Metering Equipment** installed in relation to each such customer, save where the **User's** customer is connected to a **Distribution System** owned by a **Public Distribution System Operator** in which case the **Public Distribution System Operator's** published statement of loss factors shall apply.

Such written notice shall be given to **NGC** no later than 28 days prior to the commencement or cessation of use of any such exit point. If the **Grid Supply Point** referred to in (c) changes the **User** shall notify **NGC** forthwith after being notified of such change by the **Public Distribution System Operator** in question. If **NGC's** basis of charging changes pursuant to the **Charging**

Statements or, subject thereto, Parts II and III below at any time, **NGC** shall be entitled to ask for other information it reasonably requires for charging purposes under this Paragraph 3.5.

- 3.5.2 **CUSC Parties** agree that, insofar as **NGC** has alternative reasonable means of obtaining this information then Paragraph 3.5.1 shall not apply.

3.6 SUPPLIERS OF NON-EMBEDDED CUSTOMERS

- 3.6.1 This Paragraph 3.6 relates specifically to the position of a **Supplier** in respect of its supply of electricity to a **Non-Embedded Customer**. Insofar as the provisions of this Paragraph 3.6 conflict with any other provision of this Section 3 dealing with an equivalent issue, the provisions of this Paragraph 3.6 shall prevail in relation to such a category.

- 3.6.2 In the case of such a **User**, subject to the provisions of the **CUSC** and the **Grid Code**, **NGC** shall transport a supply of power through the **NGC-GB Transmission System** to the **Connection Site** of the **Non-Embedded Customer** to the level forecast by the **User** from time to time pursuant to the **Data Requirements** set out in Part IIB of this Section 3 submitted by that **User** together with such margin as **NGC** shall in its reasonable opinion consider necessary having due regard to **NGC's** duties under the **Transmission Licence** except to the extent (if any) that **NGC** is prevented from doing so by transmission constraints or by insufficiency of generation which, in either case, could not have been avoided by the exercise of **Good Industry Practice** by **NGC**.

- 3.6.3 The right in 3.6.2 above is subject to:

- (a) the **User** being authorised by a current **Supply Licence** to supply electricity to the premises to be supplied with electricity through the **Connection Site**; and
- (b) there being a subsisting **Bilateral Connection Agreement** with the **Non-Embedded Customer** for the **Connection Site**.

- 3.6.4 Where **NGC** agrees, the **Supplier** of a **Non-Embedded Customer** may be liable for payment of **Connection Charges** in relation to the **Metering Equipment** of a **Non-Embedded Customer**. The existence of such an arrangement shall be reflected in the relevant **Bilateral Connection Agreement** with the **Non-Embedded Customer** and the **Use of System Supply Confirmation Notice**. Where such an arrangement exists, the

provisions of Section 2 Part II in relation to such charges shall be deemed incorporated within this Paragraph 3.6.4 and the **Supplier** shall comply with those provisions in relation to such charges as if references to the **User** were references to the **Supplier**.

- 3.6.5 The **User** acknowledges that breach of the provisions of the **CUSC** by the **Non-Embedded Customer** may give rise to **Deenergisation** of the **Non-Embedded Customer's Connection Site** pursuant to Section 5.
- 3.6.6 The **User** acknowledges that site specific technical conditions as provided for in Paragraphs 2.7 to 2.9 of the **CUSC** may apply between **NGC** and a **Non-Embedded Customer** at a **Connection Site**.
- 3.6.7 **NGC** shall be entitled to **Deenergise** the **Non-Embedded Customer's Equipment** at any **Connection Site** when instructed to do so by the **Non-Embedded Customer** in accordance with the terms of its **Bilateral Connection Agreement** or the **CUSC**.
- 3.6.8 Where the **Supplier** supplying the **Connection Site** has informed **NGC** that it has received an order or direction from the Secretary of State for Energy under the Energy Act 1976 or the **Act**, requiring it to cease supplying the **Non-Embedded Customer** with electricity and instructs **NGC** to **Deenergise** the **Non-Embedded Customer's User's Equipment** at the **Connection Site**, **NGC** shall as soon as reasonably practicable **Deenergise** the **Non-Embedded Customer's User's Equipment** at the **Connection Site** (unless **NGC** considers that it is not reasonably practicable, whether on technical grounds or otherwise, to effect such **Deenergisation**) and if it does **Deenergise**, shall promptly notify the **User** of the date and time at which such **Deenergisation** was effected. The **User** shall reimburse **NGC** any expense incurred in relation to such **Deenergisation**, if any, and shall indemnify **NGC** against any costs, liability, loss or damage suffered by **NGC** as a result of such **Deenergisation**.

3.7 USE OF SYSTEM APPLICATION

- 3.7.1 If a **User** wishes to use the **NGC-GB Transmission System** in a category of use which does not include connection to the **NGC-GB Transmission System**, it shall complete and submit to **NGC** a **Use of System Application** and comply with the terms thereof.

- 3.7.2 Without prejudice to [Standard Condition C7D] of the **Transmission Licence NGC** shall make a **Use of System Offer** to that **User** as soon as practicable after receipt of the **Use of System Application** and (save where the **Authority** consents to a longer period) in any event not more than 28 days after receipt by **NGC** of the **Use of System Application**.
- 3.7.3 The **Use of System Offer** shall in the case of an application relating to an **Embedded Power Station** or to a **Small Power Station Trading Party** or to a **Distribution Interconnector** be in the form of a **Bilateral Embedded Generation Agreement** together with any **Construction Agreement** relating thereto. In the case of a **Supplier**, it shall be in the form of a **Use of System Supply Offer Notice**. The provisions of [Standard Condition C7D] shall apply to an application by a **Supplier** as if the **Use of System Supply Offer and Confirmation Notice** was an agreement for the purposes of that condition.
- 3.7.4 The **Use of System Offer** shall remain open for acceptance for 3 months from its receipt by that **User** unless either that **User** or **NGC** makes an application to the **Authority** under [Standard Condition C7E] of the **Transmission Licence**, in which event the **Use of System Offer** shall remain open for acceptance until the date 14 days after any determination by the **Authority** pursuant to such application.
- 3.7.5 Upon acceptance of the **Use of System Offer** (as offered by **NGC** or determined by the **Authority**) by the **User** and execution by **NGC** of the **Bilateral Embedded Generation Agreement** or the issuing by **NGC** of a **Use of System Supply Confirmation Notice**, as the case may be, the **User** shall have the right to use the **NGC-GB Transmission System**. Such right shall continue until the **Bilateral Embedded Generation Agreement** is terminated or a **Use of System Termination Notice** is submitted pursuant to Paragraph 3.8.
- 3.7.6 Such rights shall be conditional upon the **Applicant**, if it is not already a party to the **CUSC Framework Agreement**, becoming a party to the **CUSC Framework Agreement**.

3.8 TERMINATION PROVISIONS

- 3.8.1 Provisions relating to **Disconnection** relating to **Users** who have **Bilateral Embedded Generation Agreements** are dealt with in Section 5.
- 3.8.2 In addition to the provisions in Section 5, this paragraph deals with termination of the right to use the system in respect of a

Supplier who in that category of connection and/or use has no physical presence on the **System** and with a specific additional provision for the **Supplier** of a **Non-Embedded Customer**.

- 3.8.3 (a) A **Supplier** may terminate its use of the **NGC-GB Transmission System** by giving **NGC** a **Use of System Termination Notice** not less than 28 days prior to such termination of use.
- (b) If a **Use of System Termination Notice** is given under this Section 3, the right to use the **NGC-GB Transmission System** shall cease upon the termination date in the **Use of System Termination Notice**.
- (c) Prior to cessation of use by a **User** under this Paragraph, the **User** shall pay **NGC** all **Use of System Charges** payable by it under Section 3 in respect of the **Financial Year** in which the cessation takes place.
- 3.8.4 In addition, in the case of a **User** in its category of connection and/or use as a **Supplier** of a **Non-Embedded Customer** the use of the **Transmission System** in respect of the **Connection Site** shall cease upon either **Disconnection** of the **User's Equipment** of the **Non-Embedded Customer** or termination of the **Bilateral Connection Agreement** in respect of that **Connection Site**.

PART II - USE OF SYSTEM CHARGES

PART IIA - GENERAL

3.9 USE OF SYSTEM CHARGES

- 3.9.1 Subject to the provisions of the **CUSC**, and any relevant **Bilateral Agreement**, together with the relevant **Charging Statements**, each **User** shall with effect from the relevant date set out in the relevant **Bilateral Agreement** (or in the **Use of System Supply Confirmation Notice**) be liable to pay to **NGC** the **Use of System Charges** in accordance with the **CUSC** calculated in accordance with the **Statement of Use of System Charges** and the **Statement of the Use of System Charging Methodology**. **NGC** shall apply and calculate the **Use of System Charges** in accordance with the **Statement of Use of System Charges** and the **Statement of the Use of System Charging Methodology**.
- 3.9.2 Each **User** shall, as between **NGC** and that **User**, in accordance with this Part II and Paragraph 6.6, be liable to pay to **NGC** (or **NGC** shall be so liable to pay to the **User**) the **Transmission**

Network Use of System Charges in respect of its use of the **NGC-GB Transmission System** applied and calculated in accordance with the **Statement of Use of System Charges** and **Statement of the Use of System Charging Methodology**.

- 3.9.3 Except in respect of **Distribution Interconnector Owners** each **User** shall, as between **NGC** and that **User**, in accordance with this Part II and Paragraph 6.6, be liable to pay to **NGC** in respect of each **Settlement Day** the **Balancing Services Use of System Charges** calculated in accordance with the **Statement of the Use of System Charging Methodology**.
- 3.9.4 Each **User** shall, as between **NGC** and that **User**, provide **NGC** with **Security Cover** in respect of **Transmission Network Use of System Demand Reconciliation Charges**, **Transmission Services Use of System Charges** and **Balancing Services Use of System Charges** in accordance with Part III below.
- 3.9.5 The charges payable in relation to use of **the NGC-GB Transmission System** may also include **One-off Charges** where those are to be payable by the relevant **User** as provided in the relevant **Bilateral Embedded Generation Agreement**. In that case, the relevant provisions of Section 2 will apply to that **User** in relation to the **One-off Charges**.

PART IIB – TRANSMISSION NETWORK USE OF SYSTEM CHARGES

3.10 DATA REQUIREMENTS

- 3.10.1 On or before the end of the second week of December in each **Financial Year**, each **User** shall supply **NGC** with such data as **NGC** may from time to time reasonably request pursuant to the **Charging Statements** to enable **NGC** to calculate the tariffs for the **Transmission Network Use of System Charges** for the **Financial Year** to which the data relates.
- 3.10.2 On or before the 10th day of March in each **Financial Year**, each **User** shall supply **NGC** on **NGC's** reasonable request with its **Demand Forecast** for the following **Financial Year** pursuant to the **Charging Statements** to enable **NGC** to use such **Demand Forecast** as the basis for calculation of the **Transmission Network Use of System Charges** for the **Financial Year** to which the **Demand Forecast** relates.
- 3.10.3 In the event that a **User** fails to provide a **Demand Forecast** in accordance with Paragraph 3.10.2 above the **User** shall be

deemed to have submitted as its **Demand Forecast** the last **Demand Forecast** supplied under Paragraph 3.11.1.

- 3.10.4 Where a **Use of System Supply Confirmation Notice** is completed during a **Financial Year**, the **User** shall supply **NGC**, with its **Demand Forecast** for that **Financial Year** on or before the 10th day of the month following completion of the **Use of System Supply Confirmation Notice**.

3.11 VARIATION OF FORECASTS DURING THE FINANCIAL YEAR

- 3.11.1 Each **User** shall notify **NGC** of any revision to its **Demand Forecast** at least quarterly or at such intervals as may be agreed between **NGC** and the **User** from time to time.
- 3.11.2 Subject to Paragraph 3.12, **NGC** shall revise the **Transmission Network Use of System Charges** payable by a **User** to take account of any revised **Demand Forecast** and shall commence charging the revised **Transmission Network Use of System Charges** from the first day of the month following the month in which such revised **Demand Forecast** was received provided always that such **Demand Forecast** is provided before the 10th day of such month.

3.12 VALIDATION OF DEMAND FORECASTS

- 3.12.1 The **Demand Forecast** shall represent a **User's** reasonable estimate of its **Demand**.
- 3.12.2 **NGC** shall notify the **User** in the event that the **Transmission Network Use of System Charges** due from the **User** to **NGC** or from **NGC** to the **User** (as the case may be) calculated by **NGC** using the **Demand Forecast** differ by more than 20% from that calculated by **NGC** using the **NGC's** forecast **Demand** as provided for in the **Charging Statements**.
- 3.12.3 In the event that **NGC** does not receive a satisfactory explanation for the difference between the **Demand Forecast** and **NGC's** forecast **Demand** or a satisfactory revised **Demand Forecast** from the **User** within 5 **Business Days** of such notice then **NGC** shall be entitled to invoice a **User** for **Transmission Network Use of System Charges** calculated on the basis of the **NGC** forecast **Demand**.
- 3.12.4 Any dispute regarding a **Demand Forecast** or the resulting **Transmission Network Use of System Charges** shall be a **Charging Dispute**.

3.13 RECONCILIATION STATEMENTS

Calculation of Initial Reconciliation

- 3.13.1 On or before 30 June in each **Financial Year**, **NGC** shall promptly calculate in accordance with the **Statement of the Use of System Charging Methodology** and the **Statement of Use of System Charges** the **Demand** related or generation related **Transmission Network Use of System Charges** (as the case may be) that would have been payable by the **User** during each month during the preceding **Financial Year (Actual Amount)**. **NGC** shall then compare the **Actual Amount** with the amount of **Demand** related or generation related **Transmission Network Use of System Charges** (as the case may be) paid each month during the preceding **Financial Year** by the **User** (the “**Notional Amount**”).

Generation Reconciliation

- 3.13.2 Together with the **Generation Reconciliation Statement**, **NGC** shall issue a credit note in relation to any sums shown by the **Generation Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** and in each case interest thereon calculated pursuant to Paragraph 3.13.6 below.

Initial Demand Reconciliation Statement

- 3.13.3 As soon as reasonably practicable and in any event by 30 June in each **Financial Year** **NGC** shall then prepare an initial **Demand** reconciliation statement (the “**Initial Demand Reconciliation Statement**”) in respect of **Demand** related **Transmission Network Use of System Charges** and send it to the **User**. Such statement shall specify the **Actual Amount** and the **Notional Amount** of **Demand** related **Transmission Network Use of System Charges** for each month during the relevant **Financial Year** and, in reasonable detail, the information from which such amounts were derived and the manner in which they were calculated.
- 3.13.4 Together with the **Initial Demand Reconciliation Statement** **NGC** shall issue a credit note in relation to any sum shown by the **Initial Demand Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** and in each case interest thereon calculated pursuant to Paragraph 3.13.6.
- 3.13.5 General Provisions

- (a) Invoices issued under paragraphs 3.13.3 and 3.13.4 above and 3.13.7 (b) below shall be payable within 30 days of the date of the invoice.
- (b) Interest on all amounts due under this Paragraph 3.13 shall be payable by the paying **CUSC Party** to the other on such amounts from the date of payment applicable to the month concerned until the date of actual payment of such amounts and such interest shall be calculated on a daily basis at a rate equal to the **Base Rate** during such period.

3.13.6 Final Reconciliation Statement

- (a) **NGC** shall as soon as reasonably practicable following receipt by it of the **Final Reconciliation Settlement Run** or **Final Reconciliation Volume Allocation Run** as appropriate in respect of the last **Settlement Day** in each **Financial Year** issue a further **Demand** reconciliation statement (the “**Final Demand Reconciliation Statement**”) in respect of **Demand** related **Transmission Network Use of System Charges** payable in respect of each month of that **Financial Year** showing:-
 - (i) any change in the **Demand** related **Transmission Network Use of System Charges** from those specified in the **Initial Demand Reconciliation Statement** provided in accordance with Paragraph 3.13.4;
 - (ii) whether the change represents a reconciliation payment owing by **NGC** to a **User** or by a **User** to **NGC**;
 - (iii) the amount of interest determined in accordance with Paragraph 3.13.6 above; and
 - (iv) the information from which the amounts in (i) above are derived and the manner of their calculation.
- (b) Together with the **Final Demand Reconciliation Statement** **NGC** shall issue a credit note in relation to any sum shown in the **Final Demand Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** and in each case interest thereon calculated pursuant to Paragraph 3.13.6.
- (c) Payment of any invoice issued pursuant to Paragraph 3.13.7(b) above or the application of any credit note issued pursuant to that paragraph against any liability of the **User** to

NGC for **Demand** related **Transmission Network Use of System Charges** will be in full and final settlement of all **Demand** related **Transmission Network Use of System Charges** for the **Financial Year** to which the invoice or credit note relates provided that nothing in this Paragraph 3.13.7(c) shall affect the rights of the parties under the provisions of Paragraph 7.3.5.

- 3.13.7 The right to submit **Generation Reconciliation Statements**, **Initial Demand Reconciliation Statements** and **Final Demand Reconciliation Statements** and the consequential invoices and/or credit notes shall survive the termination of the **User's** rights under the **CUSC** and the parties agree that the provisions contained in Paragraphs 3.13 and 3.14 shall continue to bind them after such termination (the version in existence at the date of termination being the applicable version in the case of any amendments).

3.14 REVISION OF CHARGES

- 3.14.1 Pursuant to the **Transmission Licence** and/or the **CUSC** and/or the **Charging Statements** and/or the **Bilateral Agreements** **NGC** may revise its **Transmission Network Use of System Charges** or the basis of their calculation. Where **NGC** proposes a change to the **Transmission Network Use of System Charges** then it shall notify the **User** as soon as practicable after the proposal is made to the **Authority** pursuant to the **Transmission Licence**.
- 3.14.2 The **User** acknowledges that due to the timescales associated with the replacement of the **Pooling and Settlement Agreement** with the **Balancing and Settlement Code**, **NGC** was prevented from providing the **User** with notice pursuant to Clause 2.1 of Part 1 of Appendix E (as in force on the day prior to the **NETA Go-live Date**) of the basis of calculation of **Transmission Network Use of System Charges** from the **NETA Go-live Date** until the end of the **Financial Year** in which the **NETA Go-live Date** occurred. However, the **User** further acknowledges that **NGC** consulted with the **User** prior to the **NETA Go-live Date** on **Transmission Network Use of System Charges** to apply from the **NETA Go-live Date** until the end of the **Financial Year** in which the **NETA Go-live Date** occurred. The **User** hereby agrees to pay **Transmission Network Use of System Charges** in respect of the **Financial Year** in which the **NETA Go-live Date** occurred in accordance with the principles notified by **NGC** prior to the **NETA Go-live Date**.

- 3.14.3 Subject to paragraph 3.14.4 below, **NGC** shall give the **User** not less than two months prior written notice of any revised **Transmission Network Use of System Charges**, which notice shall specify the date upon which such revisions become effective (which may be at any time) and will make reference to the new tariffs set out in the relevant **Charging Statements**. The **User** shall pay any such revised charges from the effective date.
- 3.14.4 Where in accordance with the **Transmission Licence**, the **Authority** determines a shorter period than 2 months for the implementation of revised charges, the notice period will be determined by the **Authority**. The notice will specify when the new charges are effective and the **User** shall pay any such revised charges from the effective date.

PART IIC - BALANCING SERVICES USE OF SYSTEM CHARGES

3.15 INTRODUCTION

- 3.15.1 Under the terms of the **CUSC** each **User** except in the case of **Distribution Interconnector Owners** is liable to pay **Balancing Services Use of System Charges**. The basis upon which **Balancing Services Use of System Charges** are levied and the calculation methodology and rules which will be used to quantify those charges are set out in the **Statement of the Use of System Charging Methodology**.

3.15.2 Balancing Services Use of System Charges

Notwithstanding the provisions of Paragraphs 6.6.1 and 6.6.2 the following provisions shall apply to the payment of the **Balancing Services Use of System Charges**.

- (a) **NGC** shall not later than 17.00 hours on the relevant **Notification Date** (and if this is not practicable as soon as possible thereafter as **NGC**, acting reasonably, considers is practicable) despatch an advice notice to the **User** in respect of the **Settlement Day** in relation to which the **Balancing Services Use of System Charges** are due on the relevant **Payment Date**.
- (b) The information on the advice notice in respect of each **Settlement Day** shall include the name of the **User** and the total amount payable to **NGC** in respect of **Balancing Services Use of System Charges** and in all cases together with any **Value Added Tax** thereon during each **Settlement Day**.

- (c) **NGC** shall, within a reasonable time thereafter provide a valid **Value Added Tax** invoice in respect of **Balancing Services Use of System Charges** identified on the advice note.
- (d) The **User** shall pay the **Balancing Services Use of System Charges** specified in the advice notice together with the **Value Added Tax** thereon to **NGC** no later than 12.30 hours on the **Payment Date** specified on the advice note in respect of such **Settlement Date** as if they were payments made in the manner specified in Paragraph 6.6.3.

3.16 RECONCILIATION

3.16.1 As soon as reasonably practicable after receipt by **NGC** of the **Final Reconciliation Volume Allocation Run** in respect of a **Settlement Day** **NGC** shall prepare and submit to each **User** a statement (which may form part of an invoice or other document) calculated in accordance with the data specified in the **Statement of the Use of System Charging Methodology** in respect of that **Settlement Day** ("**Balancing Services Use of System Reconciliation Statement**"), showing the new value (if any) of data (as specified in the **Statement of the Use of System Charging Methodology** in force on that **Settlement Day**) attributable to the **User** in respect of such **Settlement Day** and the amount of **Balancing Services Use of System Charges** payable by the **User** on the basis of the new value (the "**Reconciled Charge**").

3.16.2 In the event that:

- (a) the **Reconciled Charge** exceeds the **Balancing Services Use of System Charges** paid by the **User** in respect of that **Settlement Day** ("**Initial Charge**") **NGC** shall at its option either:
 - (i) send to the **User** as soon as reasonably practicable after issue of the **Balancing Services Use of System Reconciliation Statement** an invoice for the amount by which the **Reconciled Charge** exceeds the **Initial Charge** and interest thereon calculated in accordance with the provisions set out in Paragraph 3.16.3; or
 - (ii) include such amount in another invoice in respect of **Balancing Services Use of System Charges** to the **User**.

- (b) the **Reconciled Charge** is less than the **Initial Charge** **NGC** shall at its option either:-
 - (i) send to the **User** as soon as reasonably practicable after issue of the **Balancing Services Use of System Reconciliation Statement** a credit note for the amount by which the **Initial Charge** exceeds the **Reconciled Charge** and interest thereon calculated in accordance with the provisions set out in Paragraph 3.16.3; or
 - (ii) include such amount as a credit in an invoice in respect of **Balancing Services Use of System Charges** from **NGC** to the **User**.
- 3.16.3 Interest payable in respect of each reconciliation payment shall accrue from and including the relevant **Use of System Payment Date** up to but excluding the date upon which the amounts specified in the **Balancing Services Use of System Reconciliation Statement** are paid, and shall be at a rate equal to the **Base Rate** for the time being and from time to time. Interest shall accrue from day to day.
- 3.16.4 If **NGC** receives written notice from any **User** or from the relevant **BSC Agent** that an error has occurred in any data forming part of or used within the **Initial Volume Allocation Run** which affects the costs to **NGC** of offers and bids in the **Balancing Mechanism** accepted by **NGC** in respect of any **Settlement Day**, and that error has been ratified in accordance with the procedures for ratification set out in the **Balancing and Settlement Code** it shall use its reasonable endeavours to, as soon as reasonably practicable after receipt of such notice, issue a dispute reconciliation statement ("**Dispute Statement**") to the **User** in respect of that **Settlement Day**.
- 3.16.5 Any **Dispute Statement** issued pursuant to Paragraph 3.16.4 above shall show the amount of **Balancing Services Use of System Charges** payable by the **User** on the basis of the ratified data.
- 3.16.6
 - (a) In the event that the amount shown in any **Dispute Statement** exceeds the aggregate amount paid by the **User** in respect of the **Settlement Day** to which the **Dispute Statement** relates under any invoices issued pursuant to Paragraph 3.15.2 and Paragraph 3.16.2 above (after taking into account any credit notes issued) **NGC** shall submit to

the **User** a further invoice for such excess and interest thereon calculated in accordance with Paragraph 3.16.3;

- (b) In the event that the amount shown in any **Dispute Statement** is less than the aggregate amount paid by the **User** in respect of the **Settlement Day** to which the **Dispute Statement** relates under any invoices issued pursuant to Paragraph 3.15.2 and Paragraph 3.16.2 above (after taking into account any credit notes issued) **NGC** shall submit to the **User** a credit note for the amount by which the amount paid exceeds the amount shown in the **Dispute Statement** together with interest thereon calculated in accordance with Paragraph 3.16.3.

3.16.7 If at any time prior to receipt by **NGC** of the **Final Reconciliation Volume Allocation Run** in respect of a **Settlement Day** **NGC** receives written notice from any **User** or the relevant **BSC Agent** of an error occurring in any data forming part of or used within the **Initial Volume Allocation Run** or the **Reconciliation Volume Allocation Run** which in either case affects the data (as specified in the **Statement of the Use of System Charging Methodology**) used in the calculation of **Balancing Services Use of System Charges** for that **Settlement Day**, which error:-

- (a) is not taken into account in the **Final Reconciliation Volume Allocation Run**; and
- (b) has been ratified in accordance with the procedures for ratification set out in the **Balancing and Settlement Code**,

then **NGC** shall use its reasonable endeavours to prepare the **Balancing Services Use of System Reconciliation Statement** on the basis of the ratified data.

3.17 The right to submit **Balancing Services Use of System Reconciliation Statements** and **Dispute Statements** and the consequential invoices and/or credit notes shall survive the termination of the **User's** rights under the **CUSC** and the parties agree that the provisions of this Part II shall remain in full force and effect and shall continue to bind them after such termination (the version in existence as at the date of termination being the applicable version, in the case of any amendments).

3.18 **NGC** and each **User** hereby agree and acknowledge that the provisions of Part IIC will apply to all **Balancing Services Use of System Charges** payable in respect of any **Settlement Day** on or after the **NETA Go-live Date**. The provisions of Paragraphs 1.1 to 1.6 inclusive of Part 2 of the form of Appendix E in force on the day prior to the **NETA Go-live Date** shall continue to apply *mutatis mutandis* to all **Transmission Services**

Use of System Charges payable in respect of any **Settlement Day** up to the **NETA Go-live Date**.

3.19 RECONCILIATION PAYMENTS

Each **User**, or as the case may be, **NGC**, shall pay the amounts set out in any invoice or credit note issued pursuant to Paragraphs 3.15.2 or 3.15.6 respectively above, either in accordance with the applicable requirements for payment of other sums due under that invoice in the case of sums shown in an invoice also dealing with other payments, or in other cases within 5 **Business Days** of the date of the **Balancing Services Use of System Reconciliation Statement or Dispute Statement** as appropriate.

3.20 REVISION OF CHARGES

3.20.1 Subject to Paragraph 3.20.2 below, **NGC** shall give the **User** not less than 2 months prior written notice of any revision to the **Statement of the Use of System Charging Methodology** which will affect the application and calculation of the **Balancing Services Use of System Charges**, which notice shall specify the date upon which such revisions become effective (which may be at any time). The **User** shall pay any such revised charges with effect from the date specified in such notice.

3.20.2 Where in accordance with the **Transmission Licence**, the **Authority** determines a shorter period than two months for the implementation of a revision to the charges which will affect the application and calculation of the **Balancing Services Use of System Charge**, the notice period will be determined by the **Authority**. The notice will specify when the revision is effective and the **User** shall pay any such revised charges with effect from the date specified in such notice.

PART III - CREDIT REQUIREMENTS

3.21 **BSUOS CHARGES, TSUOS CHARGES AND TNUOS DEMAND RECONCILIATION CHARGES: PROVISION OF SECURITY COVER**

3.21.1 Each **User** required to pay **Use of System Charges** shall provide **Security Cover** for **Transmission Services Use of System Charges**, **Balancing Services Use of System Charges** and **Transmission Network Use of System Demand Reconciliation Charges** from time to time in accordance with this Part III.

3.21.2 Each such **User** shall not later than the date of its accession to the **CUSC Framework Agreement** or 15 July 1998 (whichever is later) deliver to **NGC** evidence reasonably satisfactory to it that:-

- (a) it presently holds an **Approved Credit Rating**; or
- (b) it has provided and is not in default under the **Security Cover** referred to in Paragraph 3.21.3 below.

3.21.3 If such **User** does not hold or ceases to hold an **Approved Credit Rating** it shall, not later than the date of:-

- (a) the date of its becoming a party to the **CUSC Framework Agreement**; or
- (b) the date upon which it ceases to have an **Approved Credit Rating**:-
 - (i) deliver to **NGC** a **Qualifying Guarantee** in such amount as shall be notified by **NGC** to the **User** in accordance with Paragraph 3.22; or
 - (ii) deliver to **NGC** a **Letter of Credit** (available for an initial period of not less than 6 months) in such amount as shall be notified by **NGC** to the **User** in accordance with Paragraph 3.22; and/or
 - (iii) deliver to **NGC** cash for credit to the **Escrow Account** in such amount as shall be notified by **NGC** in accordance with Paragraph 3.22.

3.21.4 The provisions of this Part III shall be in addition to any other requirements to provide security in respect of any other sums due under the terms of the **CUSC** or any **Bilateral Agreement** or **Construction Agreement**.

3.21.5 Maintenance of Security Cover

Where a **User** is required to provide **Security Cover** in accordance with the terms of this Paragraph 3.21 it shall at all times thereafter maintain a **Security Amount** equal to or more than the **Security Cover** applicable to it. Immediately upon any reduction occurring in the **Security Amount** provided by the **User** or any **Letter of Credit** or **Qualifying Guarantee** being for any reason drawn down or demanded respectively, the **User** will procure that new **Letters of Credit** or **Qualifying Guarantees** are issued or existing **Letters of Credit** or **Qualifying Guarantees** are reinstated (to the satisfaction of **NGC**) to their full value or cash is placed to the credit of the **Escrow Account** in an

amount required to restore the **Security Amount** to an amount at least equal to the **Security Cover** applicable to the **User**, and in such proportions of **Letters of Credit**, **Qualifying Guarantees** and/or cash as the **User** may determine. Not later than 10 **Business Days** before any outstanding **Letter of Credit** and/or **Qualifying Guarantee** is due to expire, the **User** shall procure to the satisfaction of **NGC** that its required **Security Amount** will be available for a further period of not less than 6 months which may be done in one of the following ways:-

- (a) subject to the issuing bank continuing to have an **Approved Credit Rating** provide **NGC** with confirmation from the issuing bank that the validity of the **Letter of Credit** has been extended for a period of not less than 6 months on the same terms and otherwise for such amount as is required by this Part III; or
- (b) provide **NGC** with a new **Letter of Credit** issued by an issuing bank with an **Approved Credit Rating** for an amount at least equal to the required **Security Amount** applicable to it (less its balance on the **Escrow Account**) which **Letter of Credit** shall be available for a period of not less than 6 months; or
- (c) subject to the entity issuing the **Qualifying Guarantee** continuing to have an **Approved Credit Rating** provide **NGC** with confirmation from the issuing entity that the validity of the **Qualifying Guarantee** has been extended for a period of not less than 6 months on the same terms and otherwise for such amount as is required by this Part III; or
- (d) provide **NGC** with a new **Qualifying Guarantee** for an amount at least equal to the required **Security Amount** applicable to it (less its balance on the **Escrow Account**) which **Qualifying Guarantee** shall be available for a period of not less than 6 months; or
- (e) procure such transfer to **NGC** for credit to the **Escrow Account** of an amount as shall ensure that the credit balance applicable to the **User** and standing to the credit of the **Escrow Account** shall be at least equal to the required **Security Amount**.

3.21.6 Failure to supply or maintain Security Cover

If the **User** fails at any time to provide or maintain **Security Cover** to the satisfaction of **NGC** in accordance with the provisions of this Part III, **NGC** may at any time while such default continues,

and if at such time any **Letter of Credit** and/or **Qualifying Guarantee** forming part of the **Security Cover** is due to expire within 9 **Business Days** immediately, and without notice to the **User**, demand payment of the entire amount of any outstanding **Letter of Credit** and/or **Qualifying Guarantee** and shall credit the proceeds of the **Letter of Credit** and/or **Qualifying Guarantee** to the **Escrow Account**.

3.21.7 Substitute Letter of Credit or Qualifying Guarantee

- (a) If the bank issuing the **User's Letter of Credit** ceases to have the credit rating set out in the definition of **Letter of Credit** in this **CUSC** such **User** shall forthwith procure the issue of a substitute **Letter of Credit** by a bank that has such a credit rating or a **Qualifying Guarantee** or transfer to **NGC** cash to be credited to the **Escrow Account**.
- (b) If the entity providing the **User's Qualifying Guarantee** ceases to have an **Approved Credit Rating** the **User** shall forthwith procure a replacement **Qualifying Guarantee** from an entity with such a credit rating or a **Letter of Credit** or transfer to **NGC** cash to be credited to the **Escrow Account**.

3.22 CREDIT MONITORING

3.22.1 Determination of Security Cover

The amount of **Security Cover** which the **User** shall be required to maintain shall be determined from time to time by **NGC** in accordance with this Part III on the basis of the criteria set out in Paragraph 3.22.2, and shall be notified to the **User**.

3.22.2 Criteria for provision of Security Cover

If Paragraph 3.21.3 applies, the amount of **Security Cover** required to be provided by the **User** in respect of this requirement shall be provided in an amount to be reasonably assessed by **NGC** as the aggregate amount reasonably anticipated by **NGC** as being payable by the **User** pursuant to all its connections to and/or use of the **NGC-GB Transmission System** in respect of:-

- (a) the **Balancing Services Use of System Charges** provided for in the **CUSC**, where the **User** is a **Supplier**, over a 32 day period or such period as **NGC** acting reasonably shall specify to the **User** in writing from time to time taking into account the requirements for **Security Cover** contained in the **Balancing and Settlement Code**

and where **NGC** proposes to change such period **NGC** shall consult with **Users**; and

- (b) the **Balancing Services Use of System Charges** provided for in the **CUSC**, where the **User** is a **Generator**, over a 29 day period or such period as **NGC** acting reasonably shall specify to the **User** in writing from time to time taking into account the requirements for **Security Cover** contained in the **Balancing and Settlement Code** and where **NGC** proposes to change such period **NGC** shall consult with **Users**; and
- (c) **Transmission Network Use of System Demand Reconciliation Charges** calculated in the following manner:-
 - (aa) 10% of **User's Demand** related **Transmission Network Use of System Charges** for the **Financial Year** ending on 31 March 1999; and
 - (bb) in the case of subsequent **Financial Years** such other percentage of the **Demand** related **Transmission Network Use of System Charges** as **NGC** acting reasonably shall specify to the **User** in writing from time to time taking into account the requirements for **Security Cover** contained in the **Balancing and Settlement Code** and where **NGC** proposes to change such other percentage **NGC** shall consult with **Users**; and
- (d) interest on the amounts referred to in (a), (b), (c) and (d) above calculated in accordance with the provisions of this **CUSC**.

3.22.3 Review of Security Cover

NGC shall keep under review the **Security Cover** relating to the **User** and shall promptly advise the **User** whenever the **Security Amount** maintained by the **User** is more or less than the amount required to be maintained pursuant to this Paragraph 3.22.

3.22.4 Increase or Decrease of Security Cover

If, after considering any representations which may be made by the **User**, **NGC** reasonably determines that the **User's Security Cover** should be increased or decreased, it shall so notify the **User**. If **NGC** so determines that such **Security Cover** should be decreased and the **User** consents then that reduction shall take

place. **NGC** shall consent to an appropriate reduction in the available amount of any outstanding **Qualifying Guarantee** or **Letter of Credit** and/or shall repay to the **User** such part of the deposit held in the **Escrow Account** for the account of the **User** (together with all accrued interest on the part to be repaid) sufficient to reduce the **User's Security Amount** to the level of **Security Cover** applicable to it. If **NGC** so determines that the **User's Security Cover** should be increased, the **User** shall, within 5 **Business Days** of notice as aforesaid, procure an additional or replacement **Qualifying Guarantee** or **Letter of Credit** or transfer to **NGC** cash to be credited to the **Escrow Account** in an amount sufficient to increase its **Security Amount** so as to be at least equal to the level of **Security Cover** applicable to it.

3.22.5 Notification in respect of Security Cover

NGC shall notify each **User** promptly if:-

- (a) that **User** fails to provide, maintain, extend or renew a **Qualifying Guarantee** or a **Letter of Credit** which it is required to provide, maintain, extend or renew pursuant to Paragraphs 3.21 or 3.22 inclusive;
- (b) **NGC** shall make a demand under any such **Qualifying Guarantee** or a call under a **Letter of Credit**; or
- (c) **NGC** becomes aware that that **User**:
 - (i) shall cease to have an **Approved Credit Rating**, or
 - (ii) shall be placed on a credit watch by the relevant credit rating agency (or becomes subject to an equivalent procedure) which in any case casts doubt on the **User** retaining an **Approved Credit Rating**, or
 - (iii) shall be in default under the additional or alternative security required to be provided pursuant to this Part III; or
- (d) **NGC** becomes aware that any bank that has issued a **Letter of Credit** in relation to that **User** which has not expired shall cease to have the credit rating required by this Section; or
- (e) **NGC** becomes aware that any entity providing a **Qualifying Guarantee** in relation to that **User** which has not expired shall cease to have an **Approved Credit Rating**.

Provided always that the failure by **NGC** to notify the **User** pursuant to Paragraphs 3.22.3, 3.22.4 or 3.22.5 shall not relieve the **User** of its obligations under and in accordance with the terms of this Section 3 and the **Charging Statements**.

3.22.6 Release from Security Cover Obligations

Upon a **User** becoming a **Dormant CUSC Party** or ceasing to be a **CUSC Party** and provided that all amounts owed by the **User** in respect of **Transmission Services Use of System Charges**, **Balancing Services Use of System Charges** and **Transmission Network Use of System Demand Reconciliation Charges** have been duly and finally paid and that it is not otherwise in default in any respect of any **Transmission Services Use of System Charges** **Balancing Services Use of System Charges** or **Transmission Network Use of System Demand Reconciliation Charges** (including in each case interest) payable under the **CUSC**, the **User** shall be released from the obligation to maintain **Security Cover** and **NGC** shall consent to the revocation of any outstanding **Qualifying Guarantee** or **Letter of Credit** and shall repay to the **User** the balance (including interest credited thereto) standing to the credit of the **User** on the **Escrow Account** at that date.

3.23 **PAYMENT DEFAULT**

If, by 12.30 hours on any **Use of System Payment Date**, **NGC** has been notified by a **User** or it otherwise has reason to believe that that **User** will not have remitted to it by close of banking business on the **Use of System Payment Date** all or any part ("the amount in default") of any amount which has been notified by **NGC** to the **User** as being payable by the **User** by way of either the **Transmission Services Use of System Charges** and/or **Balancing Services Use of System Charges** and/or **Transmission Network Use of System Demand Reconciliation Charges** on the relevant **Use of System Payment Date**, then **NGC** shall be entitled to act in accordance with the following provisions (or whichever of them shall apply) in the order in which they appear until **NGC** is satisfied that the **User** has discharged its obligations in respect of the **Transmission Services Use of System Charges** and/or **Balancing Services Use of System Charges** and/or **Transmission Network Use of System Demand Reconciliation Charges** (as appropriate) under the **CUSC** which are payable in respect of the relevant **Settlement Day** (in the case of **Transmission Services Use of System Charges** or **Balancing Services Use of System Charges**) or **Financial Year** (in the case of **Transmission Network Use of System Demand Reconciliation Charges**):-

- (a) **NGC** may to the extent that the **User** is entitled to receive payment from **NGC** pursuant to the **CUSC** (unless it reasonably believes that such set-off shall be unlawful) set off the amount of such entitlement against the amount in default;
- (b) **NGC** shall be entitled to set off the amount of funds then standing to the credit of the **Escrow Account** against **Transmission Services Use of System Charges** and/or **Balancing Services Use of System Charges** and/or **Transmission Network Use of System Demand Reconciliation Charges** (as appropriate) unpaid by the **User** and for that purpose **NGC** shall be entitled to transfer any such amount from the **Escrow Account** to any other account of **NGC** at its absolute discretion and shall notify the **User** accordingly;
- (c) **NGC** may demand payment under any outstanding **Letter of Credit** supplied by the **User** in a sum not exceeding the available amount of all such **Letters of Credit**;
- (d) **NGC** may demand payment under any outstanding **Qualifying Guarantee** provided for the benefit of the **User** pursuant to Paragraph 3.21.3(b).

3.24 UTILISATION OF FUNDS

In addition to the provisions of Paragraph 3.23 above if **NGC** serves a notice of default under the terms of Paragraph 5.5 or a notice of termination under Paragraph 5.7 then **NGC** shall be entitled to demand payment of any of the **Transmission Services Use of System Charges** and/or **Balancing Services Use of System Charges** and/or **Transmission Network Use of System Demand Reconciliation Charges** which are outstanding from the relevant **User** whether or not the **Use of System Payment Date** in respect of them shall have passed and:-

- (a) make demand under any outstanding **Qualifying Guarantee** or a call under any outstanding **Letter of Credit** supplied by the **User**; and
- (b) to set off the funds in the **Escrow Account** against the **Transmission Services Use of System Charges** and/or **Balancing Services Use of System Charges** and/or **Transmission Network Use of System Demand Reconciliation Charges** unpaid by the **User** and for that purpose **NGC** shall be entitled to transfer any such amount from the **Escrow Account** to any other account of **NGC** as it shall in its sole discretion think fit.

3.25 USER'S RIGHT TO WITHDRAW FUNDS

If a **User** is not in default in respect of any amount owed to **NGC** in respect of the **Transmission Services Use of System Charges** or **Balancing Services Use of System Charges** or **Transmission Network Use of System Charges** under the terms of the **CUSC** and any **Bilateral Agreement** to which the **User** is a party:-

- (a) **NGC** shall transfer to the **User** quarterly interest credited to the **Escrow Account**; and
- (b) **NGC** shall transfer to such **User** within a reasonable time after such **User's** written request therefor any amount of cash provided by the **User** by way of **Security Cover** which exceeds the amount which such **User** is required to provide by way of security in accordance with this Part III.

END OF SECTION 3

CUSC - SECTION 4
BALANCING SERVICES

CONTENTS

- 4.1 Mandatory Ancillary Services
- 4.2 Other Balancing Services
- 4.3 Payments for Balancing Services
- 4.4 Charging Principles
- 4.5 Indexation

CUSC - SECTION 4

BALANCING SERVICES

4.1 MANDATORY ANCILLARY SERVICES

4.1.1 Application

The provisions of this Paragraph 4.1 shall apply to **Users** which are **Generators** in respect of **Generating Units** from which they are required to provide the **Mandatory Ancillary Services** to **NGC** in accordance with the **Grid Code** (for the avoidance of doubt, as determined by any direction in force from time to time and issued by the **Authority** relieving any such **User** from the obligation under its **Licence** to comply with such part or parts of the **Grid Code** or any **Distribution Code** or, in the case of **NGC**, the **Transmission Licence**, as may be specified in such direction).

4.1.2 Reactive Power

Schedule 3, Part I

- 4.1.2.1 **NGC** and each **User** shall, as between **NGC** and that **User**, comply with the provisions regarding the **Obligatory Reactive Power Service** and any **Enhanced Reactive Power Service** contained in Schedule 3, Part I.

Provision of Obligatory Reactive Power Service

- 4.1.2.2 Subject as herein provided, each **User** hereby agrees, as between **NGC** and that **User**, to provide the **Obligatory Reactive Power Service** from each of the **BM Units** specified in a **Mandatory Services Agreement**.

Redeclarations

- 4.1.2.3 (a) For the avoidance of doubt, nothing in this Paragraph 4.1.2.3 or any **Mandatory Services Agreement** shall affect the provisions of **Grid Code** **IOC 2** and/or **BC 1** concerning the redeclaration in relation to any **BM Unit** (or where applicable, any **CCGT Unit**) of a revised capability to provide **Leading** and/or **Lagging** Mvar at the generator stator terminals. All such redeclarations submitted pursuant thereto may include the revised capability (in the case of **CCGT Units** of the relevant **BM Unit**) at **Rated MW** at the **Commercial Boundary**.

Such capability shall be derived from the capability at the generator stator terminals by application of the formula set out in Part 1 of Appendix 8 to Schedule 3, Part I or, in the case of a **CCGT Module**, derived by the summation of the revised capability of each relevant **CCGT Unit** at the high voltage side of the **CCGT Unit** step-up transformer (after application of the formula set out in Section 1 of Part 2 of Appendix 8 to Schedule 3, Part I to the capability of each relevant **CCGT Unit** at the generator stator terminals and by application of the formula set out in Section 2 of Part 2 of Appendix 8 to Schedule 3, Part I).

- (b) Where a redeclaration of capability to provide **Leading** and/or **Lagging** Mvars at **Rated MW** does not specify such revised capability at the **Commercial Boundary**, then **NGC** shall calculate the revised capability at **Rated MW** at the **Commercial Boundary** by application of the relevant formula set out in Part 1 or 2 (as the case may be) of Appendix 8 of Schedule 3, Part I.
- (c) Any revised capability of a **BM Unit** at **Rated MW** at the **Commercial Boundary** shall constitute the respective values of QR_{lead} and QR_{lag} as referred to in Section 2 of Appendix 3 of Schedule 3, Part I.
- (d) In order to calculate any payments which fall due in accordance with this Paragraph 4.1.2 and a **Mandatory Services Agreement**, following commencement of the relevant clause of the **Mandatory Services Agreement**, **NGC** shall calculate the values of QR_{lead} and QR_{lag} in accordance with the formulae contained in Appendix 8 of Schedule 3, Part I.

Utilisation

- 4.1.2.4 **NGC** shall have the right (but shall not be obliged) at any time to instruct a **User** by the issue of a **Reactive Despatch Instruction** to provide **Leading** and/or **Lagging** Mvars from some or all of the **BM Units** specified in a **Mandatory Services Agreement**.

Monitoring

- 4.1.2.5 In order to comply with its obligations contained in **Grid Code [OC 5]**, **NGC** may use its the Operational Metering Equipment, or Operational Metering Equipment owned by

a Relevant Transmission Licensee in accordance with Paragraph 6.7.3 to ensure that, in respect of each **BM Unit**, a **User** is complying with its obligations to provide the **Obligatory Reactive Power Service** both in accordance with the **Grid Code** and in accordance with the terms of the **Mandatory Services Agreement**.

- 4.1.2.6 Each **User** acknowledges that **NGC** may wish to install additional monitoring equipment at a **Power Station** to monitor the ability of any or all of the **BM Units** of that **User** to provide the **Obligatory Reactive Power Service**, such monitoring equipment to be installed on terms to be agreed with that **User** (such agreement not to be unreasonably withheld or delayed). The cost of such additional monitoring equipment and its installation shall be borne by **NGC**.

Reactive Testing

- 4.1.2.7 Where, in accordance with **Grid Code [OC 5.4.2.4]**, **NGC** shall be entitled to require a **Reactive Test**, such test shall be in addition to, and shall not prejudice **NGC's** right to require, the two annual **Reactive Tests** referred to in **Grid Code [OC 5.5.1.1]**. If a **BM Unit** or a **CCGT Unit** (as the case may be) fails a **Reactive Test**, then **NGC** shall advise the **User** that the **BM Unit** or **CCGT Unit** (as appropriate) has so failed whereupon, subject always to resolution of any dispute in accordance with **Grid Code [OC 5.5.4]** and (where applicable) **[OC 5.5.5]**, the **User** shall immediately advise **NGC** of the revised capability of that **BM Unit** or **CCGT Unit** (as appropriate) to provide **Leading** and/or **Lagging** Mvars (as the case may be) in accordance with the terms of the **Mandatory Services Agreement**.

Grid Code

- 4.1.2.8 It is acknowledged by **NGC** and each **User** that the provision by that **User** of the **Obligatory Reactive Power Service** in accordance with the terms of the **CUSC** and the **Mandatory Services Agreement** shall not relieve it of any of its obligations set out in the **Grid Code** including without limitation its obligation set out in **Grid Code [CC 8.1]** to provide **Reactive Power** (supplied otherwise than by means of synchronous or static compensators) in accordance with **Grid Code [CC 6.3.2]**.

Disclosure and Use of Information

- 4.1.2.9 Each **User** hereby consents to the disclosure and use by **NGC** of data and other information relating to the provision

by that **User** of the **Obligatory Reactive Power Service** and the relevant provisions of the **Mandatory Services Agreement** relating thereto to the extent necessary to enable **NGC** to comply with its obligations set out in the **CUSC**.

Hierarchy

- 4.1.2.10 If any provision of the **Mandatory Services Agreement** to the extent relating to the **Obligatory Reactive Power Service** shall be inconsistent with the provisions of Schedule 3, Part I, the provisions of Schedule 3, Part I shall prevail to the extent of such inconsistency.

4.1.3 Frequency Response

Introduction

- 4.1.3.1 Each applicable **User** is obliged to provide (for the avoidance of doubt, as determined by any direction in force from time to time and issued by the **Authority** relieving that **User** from the obligation under its **Licence** to comply with such part or parts of the **Grid Code** or any **Distribution Code** or, in the case of **NGC**, the **Transmission Licence**, as may be specified in such direction) the **Mandatory Ancillary Service of Frequency Response** referred to in **Grid Code [CC 8.1]** by means of **Frequency** sensitive generation in accordance with the terms of this Paragraph 4.1.3 and a **Mandatory Services Agreement** but subject always to and in accordance with the relevant part or parts of the **Grid Code** applicable thereto.

Definitions

- 4.1.3.2 For the purposes of this Paragraph 4.1.3:

- (i) “**Frequency Response Service**” means the **Mandatory Ancillary Service of Frequency Response** and any **Commercial Ancillary Service of Frequency Response** as may be agreed to be provided by a **User** from time to time;
- (ii) the **Mandatory Ancillary Service of Frequency Response** shall constitute operation of a **BM Unit** in accordance with **Grid Code [CC 6.3.7]** and **[BC 3.5]** (with the exception of **[BC 3.5.2]**), including, without limitation, under normal operating conditions with the speed governor set so that it operates with an overall

speed droop of between 3% and 5% so as to provide the applicable levels of **Response** referred to in Paragraph 4.1.3.7;

- (iii) the term "instruction" means a communication whether by telephone or automatic logging device or facsimile from **NGC** to the **User** instructing a **User** in accordance with **Grid Code [BC 2.8]** and this Paragraph 4.1.3 to provide any **Frequency Response Service**, and derivations of the term shall be construed accordingly;
- (iv) the amendment of an existing instruction shall be deemed to be a new instruction;
- (v) an instruction will prevail until either it is countermanded by **NGC** or until the **BM Unit** to which the instruction relates is **De-synchronised** (whichever is first to occur).

NGC's Instructions to provide Mode A Frequency Response

4.1.3.3 For the purposes of instructions and calculation of payments, the **Mandatory Ancillary Service of Frequency Response** as described in this Paragraph 4.1.3 shall be referred to as "**Mode A Frequency Response**".

4.1.3.4 **NGC** may at any time instruct a **User** to operate any one or more **BM Unit(s)** so as to provide the following components of **Mode A Frequency Response**:-

- (a) **Primary Response**;
- (b) **Secondary Response**;
- (c) **High Frequency Response**,

in any of the permissible combinations set out in the relevant table in the **Mandatory Services Agreement**.

4.1.3.5 **NGC** shall not instruct a **User** to provide **Mode A Frequency Response** and any **Commercial Ancillary Service of Frequency Response** simultaneously.

4.1.3.6 In the event that any instruction to provide **Frequency Response** does not state whether the instruction is to

provide **Mode A Frequency Response** or any **Commercial Ancillary Service of Frequency Response**, such instruction shall be deemed to be an instruction to provide **Mode A Frequency Response**.

User's Obligation to Provide Response

4.1.3.7 When a **User** is instructed in accordance with Paragraphs 4.1.3.4 and/or 4.1.3.6 to operate a **BM Unit** so as to provide any component(s) of **Mode A Frequency Response**, that **User** shall operate that **BM Unit** so as to provide, for any **Frequency Deviation** and at any level of **De-Load**, at least the amount of **Primary Response** and/or **Secondary Response** and/or **High Frequency Response** set out respectively in the relevant **Frequency Response Capability Data** tables in the **Mandatory Services Agreement** (as such tables are to be interpreted in accordance with Paragraph 4.1.3.11).

4.1.3.7A For the avoidance of doubt a **User** shall ensure that the **Transmission Entry Capacity** for the relevant **Connection Site** shall be sufficient to enable it to comply with its obligations under Paragraph 4.1.3.7 above at all times and in respect of all **BM Units**.

Calculation of Payments

4.1.3.8 The payments to be made by **NGC** to a **User** hereunder in respect of the provision of any **Mode A Frequency Response** from a **BM Unit** shall be comprised of **Holding Payments** and **Response Energy Payments** and shall be determined in accordance with the formulae in, respectively, Paragraphs 4.1.3.9 and 4.1.3.9A and in accordance with Paragraphs 4.1.3.10 to 4.1.3.12 inclusive.

Payment Formulae - Holding Payments

4.1.3.9 The **Holding Payments** for a **BM Unit** to be made by **NGC** to a **User** referred to in Paragraph 4.1.3.8 shall be calculated in accordance with the following formula:-

$$HP_M = P_M + H_M + S_M$$

Where:

HP_M is the **Holding Payment** to be made to the **User** calculated in £ per minute.

P_M is the payment per minute to be made by **NGC** to the

User for the **Ancillary Service** of **Primary Response** provided by the **User** from the **BM Unit** concerned pursuant to an instruction from **NGC** to provide **Mode A Frequency Response**, and is calculated as follows:-

$$P_M = (P_{PR} \times P_{MW} (1 - SF_P)) \times K_T \times K_{GRC} \times \left[\frac{1}{60} \right]$$

H_M is the payment per minute to be made by **NGC** to the **User** for the **Ancillary Service** of **High Frequency Response** provided by the **User** from the **BM Unit** concerned pursuant to an instruction from **NGC** to provide **Mode A Frequency Response**, and is calculated as follows:-

$$H_M = (H_{PR} \times H_{MW} (1 - SF_H)) \times K_T \times K_{GRC} \times \left[\frac{1}{60} \right]$$

S_M is the payment per minute to be made by **NGC** to the **User** for the **Ancillary Service** of **Secondary Response** provided by the **User** from the **BM Unit** concerned pursuant to an instruction from **NGC** to provide **Mode A Frequency Response**, and is calculated as follows:-

$$S_M = (S_{PR} \times S_{MW} (1 - SF_S)) \times K_T \times K_{GRC} \times \left[\frac{1}{60} \right]$$

In this Paragraph 4.1.3.9, the following terms shall have the following meanings:-

P_{PR} = the appropriate payment rate for **Primary Response** set out in the **Mandatory Services Agreement**;

P_{MW} = the **Primary Response** capability (expressed in MW) for the level of **De-Load** of the **BM Unit** concerned at the end of the minute in which the service is provided;

H_{PR} = the appropriate payment rate for **High Frequency Response** set out in the **Mandatory Services Agreement**;

H_{MW} = the **High Frequency Response** capability

- (expressed in MW) for the level of **De-Load** of the **BM Unit** concerned at the end of the minute in which the service is provided;
- S_{PR} = the appropriate payment rate for **Secondary Response** set out in the **Mandatory Services Agreement**;
- S_{MW} = the **Secondary Response** capability (expressed in MW) for the level of **De-Load** of the **BM Unit** concerned at the end of the minute in which the service is provided;
- K_T = the ambient temperature adjustment factor. **NGC** and each **User** acknowledge and agree, as between **NGC** and that **User**, that K_T shall be deemed to be 1 for the purposes of calculating payments until such time as they agree upon an appropriate formula and a suitable method of measuring the ambient temperature on a minute by minute basis which shall be set out in the **Mandatory Services Agreement**. In the event that any agreed method of measuring the ambient temperature on a minute by minute basis should fail following its implementation, then **NGC** and each **User** acknowledge and agree, as between **NGC** and that **User**, that K_T shall be deemed to be 1 until the method of measuring the ambient temperature on a minute by minute basis is restored;
- K_{GRC} = where the **BM Unit** is a **CCGT Module**, the plant configuration adjustment factor set out in the relevant table in the **Mandatory Services Agreement** for the configuration of the **BM Unit** concerned at the time at which the capability to provide the service is carried, otherwise 1;
- SF_P = 0, subject to Paragraph 4.1.3.25 (e);
- SF_S = 0, subject to Paragraph 4.1.3.25 (e);
- SF_H = 0, subject to Paragraph 4.1.3.25 (e).

Payment Formulae – Response Energy Payment

- 4.1.3.9A (a) The **Response Energy Payments** for **BM Unit i** in **Settlement Period j** to be made by **NGC** to a **User** referred to in Paragraph 4.1.3.8 shall be calculated in accordance with the following formulae:-

$$REP_{ij} = RE_{ij} \times \text{Reference Price}$$

But so that where REP_{ij} is negative such amount shall be paid by the **User** to **NGC**.

Where:

REP_{ij} is the **Response Energy Payment** to be made to or, as the case may be, by the User; and

RE_{ij} is the expected response energy for **BM Unit i** in **Settlement Period j** calculated as follows:-

$$RE_{ij} = \int_0^{SPD} \left[\max(FR_{ij}(t), 0) \times (1 - SF_{LF}) + \min(FR_{ij}(t), 0) \times (1 - SF_H) \right] \times K_T \times K_{GRC} dt$$

Where:

$\int_0^{SPD} dt$ is the integral at times t, over the **Settlement Period** duration.

SF_{LF} is equal to SF_P in the case of a **BM Unit** being instructed to deliver **Primary Response** without **Secondary Response** or the mean of SF_P and SF_S in the case of a **BM Unit** being instructed to deliver **Primary Response** and **Secondary Response**.

SF_P , SF_S , SF_H , K_T and K_{GRC} have the meanings ascribed to them in Paragraph 4.1.3.9.

$FR_{ij}(t)$ is the expected change in **Active Power** output for **BM Unit i**, at time t (resolved to the nearest integer minute), expressed in MW derived from the relevant **Frequency Response Power Delivery Data** table in the **Mandatory Services Agreement** (as such table is interpreted in accordance with Paragraph 4.1.3.11) by reference to the level of **De-Load** of the **BM Unit** concerned at the end of the minute and the mean **Frequency Deviation** over that minute when that **BM Unit** is providing **Mode A Frequency Response** and zero at all other times.

For this purpose:-

- (i) for a positive **Frequency Deviation** the expected change in **Active Power** output of **BM Unit i** shall

be derived from the table entitled “**High Frequency Response Power Delivery – Mode A**” set out in the **Mandatory Services Agreement** and shall be signed negative; and

(ii) for a negative **Frequency Deviation**, the expected change in **Active Power** output of **BM Unit** i shall be derived from:

A) the table entitled “Primary Response Power Delivery – Mode A” in the case of a **BM Unit** being instructed to deliver **Primary Response** without **Secondary Response**; or

B) the table entitled “Primary and Secondary Response Power Delivery – Mode A” in the case of a **BM Unit** being instructed to deliver **Primary Response** and **Secondary Response**,

in each case set out in the **Mandatory Services Agreement** and shall be signed positive.

$$\text{reference price} = \frac{(\overline{SBP}_{month} + \overline{SSP}_{month})}{2}$$

Where:

\overline{SBP}_{month} and \overline{SSP}_{month} are the calculated time weighted average of SBP_j and SSP_j respectively for the preceding calendar month in which the service is provided.

(b) (not used)

(c) (not used)

(d) In this Paragraph 4.1.3.9A, the following terms shall have the meanings ascribed to them in the **Balancing and Settlement Code**:-

“ SSP_j ”
 “ SBP_j ”
 “ SPD ”

- 4.1.3.10 **NGC** and each **User** acknowledge and agree, as between **NGC** and that **User**, that no **Holding Payment** or **Response Energy Payment** shall be payable except in relation to periods in respect of which instructions have been issued by **NGC** pursuant to this Paragraph 4.1.3.

*Interpretation of Tables – Levels of **Response***

- 4.1.3.11 The figures for **Response** set out in the Frequency Response Capability Data tables and Frequency Response Power Delivery Data tables in the **Mandatory Services Agreements** shall be given in relation to specific **Frequency Deviations** and to specific levels of **De-Load** for a **BM Unit**. Such tables shall, for the purposes of Paragraphs 4.1.3.7 and 4.1.3.9A(a), be construed in accordance with this Paragraph 4.1.3.11. Subject to Paragraphs 4.1.3.11(d) and (e):-

- (a) for a **Frequency Deviation** at a given time differing from the figures given in a table, the level of **Response** shall be calculated by linear interpolation from the figures specified in the table in respect of **Frequency Deviations**;
- (b) for a level of **De-Load** at a given time differing from the figures given in a table, the level of **Response** shall be calculated by linear interpolation from the figures specified in the table in respect of levels of **De-Load**. For the avoidance of doubt, **Frequency Sensitive Mode** shall not be instructed for any **De-Load** greater than the maximum level of **De-Load** given in the relevant Frequency Response Capability Data table;
- (c) in respect of any time in relation to which both Paragraphs 4.1.3.11(a) and (b) apply, the level of **Response** shall be calculated by dual linear interpolation from the figures specified in the table in respect of **Frequency Deviations** and in respect of levels of **De-Load**;

and

- (d) for any **Frequency Deviation** greater than the greatest **Frequency Deviation** given in a table (whether positive or negative), the level of **Response** shall be calculated by reference to the greatest

Frequency Deviation (positive or negative, as the case may be) given in that table; and

- (e) for the purposes of calculating levels of **Response** in respect of **Frequency Deviations** lower than those specified in a table, the relevant table(s) shall be deemed to specify a level of zero **Response** for a **Frequency Deviation** of zero.

Interpretation of Tables – Levels of Holding Payment

- 4.1.3.12 The Frequency Response Summary Data table in the **Mandatory Services Agreement** shall set out figures in respect of given levels of **De-Load** for the purposes of calculating payment in accordance with the formulae in Paragraph 4.1.3.9. Where the level of **De-Load** of the **BM Unit** is other than one of the levels given in such table, then, the figure for P_{MW} , S_{MW} or H_{MW} as the case may be, shall be calculated by linear interpolation from the figures in such table in respect of levels of **De-Load**.

User's Request to Amend Levels of and/or Payment Rates for Response

- 4.1.3.13 Each **User** shall have the right, as between **NGC** and that **User**, not more than once every two months (or otherwise at any time with the specific agreement of **NGC**) to request in writing an amendment to the levels of **Response** set out in the Frequency Response Capability Data tables and / or the Frequency Response Power Delivery Data tables in the **Mandatory Services Agreement** and/or, provided such request is made in accordance with the relevant charging principles set out in Paragraph 4.4, the payment rates referred to in the **Payment Rates** table(s) in the **Mandatory Services Agreement**. **NGC's** agreement to such a request shall not be unreasonably withheld or delayed.

NGC's Requests to Amend Levels of Response

- 4.1.3.14 Where **NGC** reasonably considers in light of operating experience that the levels of **Response** set out in the Frequency Response Capability Data tables and / or the Frequency Power Delivery Data tables in the **Mandatory Services Agreement** do not represent the true operating capabilities of a **BM Unit(s)**, **NGC** shall have the right not more than once every two months (or otherwise at any time with the specific agreement of the relevant **User**) to request (provided always that such request be accompanied by a

reasonable justification therefor) that the levels of **Response** set out in the relevant response table(s) in the **Mandatory Services Agreement** be reviewed and, if appropriate, amended by agreement with such **User** such agreement not to be unreasonably withheld or delayed.

*Procedure for Amendments to Levels of and/or Payment Rates for **Response***

- 4.1.3.15 Any amendments agreed by **NGC** and a **User** pursuant to Paragraphs 4.1.3.13 or 4.1.3.14 or determined by an arbitrator or panel of arbitrators under the **Dispute Resolution Procedure** in the circumstances referred to in Paragraph 4.1.3.16 shall not become effective until (in the case of agreed amendments) a date at least five **Business Days** after an amending agreement is entered into between **NGC** and the **User** in accordance with the **Mandatory Services Agreement** or, in the case of determined amendments, such other date as may be determined by an arbitrator or panel of arbitrators under the **Dispute Resolution Procedure** subject always to Paragraphs 4.1.3.17 and 4.1.3.19.

Failure to Agree Amendments

- 4.1.3.16 If **NGC** and a **User** are unable to agree any amendments requested pursuant to Paragraphs 4.1.3.13 or 4.1.3.14 within 28 days of either of them serving on the other notice of its intention to invoke the **Dispute Resolution Procedure** then either party may initiate the procedure for resolution of the issue as an **Other Dispute** in accordance with Paragraph 7.4.

Dispute Resolution Procedure

- 4.1.3.17 **NGC** and each **User** acknowledge and agree, as between **NGC** and that **User**, that rule 12.1(p) of the **Electricity Arbitration Association** shall apply to any arbitration proceedings initiated pursuant to Paragraph 7.4 in the circumstances referred to in Paragraph 4.1.3.16, but that the changes determined by any arbitrator or panel of arbitrators shall not apply in respect of any period prior to the date on which the **Dispute Resolution Procedure** is invoked.

Implementation of Determinations

- 4.1.3.18 Subject to Paragraph 4.1.3.17, any changes to payment rates determined by an arbitrator or panel of arbitrators under the **Dispute Resolution Procedure** in the circumstances referred to in Paragraph 4.1.3.16 shall apply

with effect from the date specified in the determination and consequential adjustments shall be made in the next practicable **Provisional Monthly Statement** issued following the date of the determination. If any such changes are so determined to apply in respect of any period prior to the date of determination then in respect of such period until actual payment (or, as the case may be, repayment) **NGC** shall pay to the **User** (where such payment rates are determined to be greater than current payment rates) the excess together with interest thereon at the **Base Rate** and the **User** shall repay to **NGC** (where such payment rates are determined to be less than current payment rates) the amount by which **NGC** has overpaid the **User** together with interest thereon at the **Base Rate**.

- 4.1.3.19 Any amendments to levels of **Response** determined by an arbitrator or panel of arbitrators under the **Dispute Resolution Procedure** in the circumstances referred to in Paragraph 4.1.3.16 shall take effect from the date five **Business Days** following the relevant determination.

Triennial Review

- 4.1.3.20 Without prejudice to Paragraphs 4.1.3.13 to 4.1.3.19 inclusive, **NGC** and each **User** shall review the payment rates for the **Mandatory Ancillary Service of Frequency Response** set out in each relevant **Mandatory Services Agreement** and shall adjust such payment rates by such amount or in such manner as shall be fair and reasonable (on the basis of the charging principles set out in Paragraph 4.4) on the date specified for such purpose in the **Mandatory Services Agreement** and on each third successive anniversary thereof during the currency of that **Mandatory Services Agreement** ("**Triennial Review Date**").
- 4.1.3.21 **NGC** and the **User** shall meet to discuss and endeavour to agree any such adjustment to the payment rates (which shall be calculated on the basis of the charging principles set out in Paragraph 4.4) no later than five months prior to the **Triennial Review Date**. If **NGC** and the **User** have not agreed the amount of any such adjustment by the date which is one month prior to the **Triennial Review Date**, either of them may initiate the procedure for resolution of the issue as an **Other Dispute** in accordance with Paragraph 7.4. **NGC** and the **User** acknowledge and agree that rule 12.1(p) of the **Electricity Arbitration Association** shall

apply to any arbitration proceedings initiated in consequence thereof.

- 4.1.3.22 If any adjustment to the payment rates has not been ascertained (by agreement or determination) by the **Triennial Review Date** in accordance with the provisions of Paragraphs 4.1.3.20 and 4.1.3.21, **NGC** and the **User** shall pay to the other for any interval between the **Triennial Review Date** and the date when such payment rates have been ascertained as aforesaid any sums due to that other party for the **Mandatory Ancillary Service of Frequency Response** calculated at the corresponding payment rates applicable during the period immediately preceding the **Triennial Review Date** without indexation. Upon any adjustment to the payment rates (or any of them) being ascertained as aforesaid, any additional amount or reduced amount payable or repayable for the period commencing on the **Triennial Review Date** and ending on the date when the payment rates shall have been ascertained, shall be paid or repaid by the party liable for such payment or repayment together with interest on the additional amounts which would have been payable (or the amounts by which the payments would have been reduced as the case may be) had the adjustment been ascertained at the **Triennial Review Date** at the rate applicable to overdue payments provided in Paragraph 4.3.

Implementation of Continuous Monitoring System

- 4.1.3.23 To the extent the same shall be acceptable to **NGC** and a **User** on the basis of a cost benefit analysis, **NGC** and a **User** agree, as between **NGC** and that **User**, to the implementation of a continuous monitoring system as soon as is reasonably practicable. The continuous monitoring system shall be in accordance with the relevant principles set out in Paragraph 4.1.3.25 for the purposes of confirming performance of the **BM Units** and adjusting payments pursuant to this Paragraph 4.1.3.

Incident Based Monitoring System

- 4.1.3.24 Pending implementation of the continuous monitoring system, **NGC** and each **User** agree, as between **NGC** and that **User**, to implement an incident based monitoring scheme for the purpose of confirming the performance of the **BM Units** pursuant to this Paragraph 4.1.3. Such incident based monitoring scheme shall be in accordance with the relevant principles set out in Paragraph 4.1.3.25. Neither

NGC nor the **User** shall unreasonably withhold or delay such agreement and/or implementation.

Genset Response Monitoring

Introduction

- 4.1.3.25 (a) This Paragraph 4.1.3.25 sets out the principles relating to:
- (i) the proposed continuous monitoring system to be implemented pursuant to Paragraph 4.1.3.23; and
 - (ii) the incident based monitoring system to apply until such time as implementation of the continuous monitoring system takes place.

Some elements of the continuous monitoring system are currently undergoing testing and development and it is accepted that if final testing of these elements proves unsatisfactory alternatives will need to be developed. Further, implementation of the continuous monitoring system shall be subject to its acceptability to **NGC** and **Users** on the basis of a cost benefit analysis.

Wherever possible the technical specification of both the incident based monitoring system and the continuous monitoring system will be designed so as to enable future development or enhancement.

Aims of Project

- (b) The aim of the monitoring project (which includes, without limitation, the development of the incident based monitoring system and the continuous monitoring system) is to develop a response monitoring system which will measure the response performance of generators against the levels of **Frequency Response** required to be provided under **Mandatory Services Agreements**.

Incident Based Monitoring Scheme

- (c) Details of the incident based monitoring scheme (including without limitation the definitions of Shortfall Period and Incident, the calculation of service delivery and the determination of Incident start and end times) will be more particularly set out in a document entitled

"Procedure for Incident Based Response Monitoring" ("the PIRM Document") to be produced by **NGC** and agreed by all relevant **Users** (such agreement not to be unreasonably withheld or delayed).

For the avoidance of doubt during the period during which the incident based monitoring scheme applies, and prior to the implementation of the continuous monitoring system, for the purposes of the formulae in Paragraphs 4.1.3.9 and 4.1.3.9A, the values of SF_P , SF_S and SF_H shall be zero, such that no payment reduction shall apply during such period in respect of shortfall.

Continuous Based Monitoring Scheme – Confirmation of Response Delivery

- (d) The main objective of the continuous monitoring scheme is to provide a quantitative measure of **Frequency Response** delivery against which payment can be justifiably made and to reduce payments if delivery does not comply with the **CUSC** and the **Mandatory Services Agreement**. As the capability of a **BM Unit** to provide the level of **Response** required pursuant to this Paragraph 4.1.3 for any change in **System Frequency** occurring during the period of delivery of Response pursuant to a prior change in **System Frequency** will be affected by the level of **Response** then being delivered, relevant fluctuations in **System Frequency** should to this extent be taken into account by the continuous monitoring scheme for the purpose of calculating payment levels.

Determination of Response Shortfall

- (e) For the purposes of the continuous monitoring system, the **Response** shortfall may take three forms:-
- (i) average **Primary Response** under-delivery;
 - (ii) average **Secondary Response** under-delivery;
 - (iii) average **High Frequency Response** under-delivery,

in each case over a Shortfall Period (such term to be defined prior to implementation of the continuous monitoring system).

Upon the implementation of the continuous monitoring system, for the purposes of determining any such average under-delivery, SF_P , SF_S and SF_H shall be the average under-delivery of **Primary Response**, **Secondary Response** and **High Frequency Response** respectively during the Shortfall Period in which the **Ancillary Service** was, or should have been, provided. For the purposes of the formulae in Paragraphs 4.1.3.9 and 4.1.3.9A, such average under-delivery will be determined using a continuous plant response assessment algorithm which is under development and which will be agreed with the **User** prior to its implementation and expressed in terms of $0 \leq SF \leq 1$.

Measurement of System Variables

- (f) In relation to the continuous monitoring system measurement of **System Frequency** and generator output power will be required local to the **BM Unit Synchronised** time tagging of both power and **Frequency** will be required.

Frequency is required as the fundamental driving variable of the contract model software. Access to a voltage source to enable **Frequency** to be measured is not expected to cause any difficulty. The measurement of generator output power will also be required every second. Cost effective access to this measurement is, however, less straight forward. Covered below are two options describing how this will be achieved. It is expected that normally the FMS interface unit will be the method used; however, where the **BM Unit** concerned has derogations from FMS, method two may be used.

FMS Interface Unit

- (g) The use of the Final Metering System (FMS) represents a logical method of measurement since it eliminates the high cost associated with running cables to access CTs and VTs.

The high accuracy integrated data from FMS will be

used to re-generate a power profile and curve fitting techniques will be applied to improve accuracy. This instantaneous power curve will then be sampled every second to obtain the required values.

Direct Measurement

- (h) Where for the reasons detailed in Paragraph 4.1.3.25(f) it is not possible to use the FMS interface unit, the use of 'ISAT' type transducers will be employed to interface between the monitoring equipment and the measurement transformers' secondary circuit.

It is envisaged that generators seeking derogations from FMS will be supportive in establishing convenient VT and CT secondary connections for this purpose.

Contract Model

- (i) The contract model is the heart of the continuous monitoring system and it is crucial to the philosophy behind the system, namely that of modelling the **Mandatory Services Agreement** and not the **BM Unit** itself.

Given the difficulty in measuring **Frequency Response** directly on loaded plant, the need to compare changes in power delivery against expectation is evident. Comparison against this model output, which in turn is based on agreed and legally binding contracts, permits an identifiable quantity of non conformity to be measured and payments to be suitably reduced.

Therefore, since the **Mandatory Services Agreement** itself is the quantifying factor, there can be no redress due to assumptions regarding the technical attributes of the **BM Unit** other than those taken into account in setting the levels of **Response**.

Functional Objective

- (j) In relation to the continuous monitoring system, the model will comprise software which uses system and instructed variables to access the contract look-up tables. The look-up tables used will precisely mimic the response tables set out in **Mandatory Services**

Agreements. These variables in turn will be processed using an algorithm to determine the levels of **Response** expected at any instant in time.

It is intended that this process will be effective during both small and large **Frequency Deviations**. Indeed with regard to reduction in payment and estimated **Response** capability, response to small **Frequency Deviations** is extremely important.

Input Data

- (k) In relation to the continuous monitoring system, inputs to the contract model will include **Frequency**, all contract table data, target load, **Target Frequency**, the latest genset availability, the response instruction, LF setting (if electronically despatched) and any other information required which may be specified in the **Mandatory Services Agreement**.

Comparator

- (l) In relation to the continuous monitoring system, the comparator will determine the difference between the measured change in the level of **Output** from the **BM Unit** by way of **Frequency Response** and the change in **Output** level that is specified in the **Mandatory Services Agreement**.

Additional Costs

4.1.3.26 Save where expressly provided otherwise in the **CUSC** or any **Mandatory Services Agreement** if:-

- (a) a **User** is of the opinion that in order to comply with any change in or amendment to the **Grid Code** (other than the withdrawal of or reduction in the scope of a **Derogation**) or any statutory or regulatory obligation coming into force after the **Commencement Date** of the relevant **Mandatory Services Agreement** that **User** is obliged to incur costs and expenses for the purpose of carrying out modifications to any **BM Unit** or **CCGT Unit** or otherwise for the purposes of changing the manner of operation of a **BM Unit** or **CCGT Unit** in relation to the provision of the **Mandatory Ancillary Service** of **Frequency Response**; or

- (b) **NGC** is of the opinion that by reason of any change in or amendment to the **Grid Code** or any statutory or regulatory obligation coming into force after the **Commencement Date** of the relevant **Mandatory Services Agreement** a **User** is able to make savings in the cost and expense of providing the **Mandatory Ancillary Service of Frequency Response** from any **BM Unit** or **CCGT Unit**,

then either the **User** or **NGC** as the case may be may by notice in writing require the other to agree any adjustment in the rates and prices for the **Mandatory Ancillary Service of Frequency Response** and the **BM Unit** or **CCGT Unit** concerned as set out in the relevant **Mandatory Services Agreement** having regard to the charging principles set out in Paragraph 4.4. If **NGC** and that **User** cannot agree to an adjustment in such rates and prices within a month of receipt by either of them of the other's written notice, either of them may initiate the procedure for resolution of the issue as an **Other Dispute** in accordance with Paragraph 7.4.

- 4.1.3.27 If, at any time during the term of a **Mandatory Services Agreement**, there is a variation in the security standards with which **NGC** is obliged to comply and such variation would, in a **User's** reasonable opinion, materially affect the operation of the services to be provided under that **Mandatory Services Agreement**, **NGC** and that **User** shall negotiate in good faith with a view to agreeing and implementing appropriate amendments to any relevant **Mandatory Services Agreement**. If they are unable to reach agreement within 28 days of either of them serving on the other notice of its intention to invoke the **Dispute Resolution Procedure**, either of them may initiate the procedure for resolution of the issue as an **Other Dispute** in accordance with Paragraph 7.4.

4.2 OTHER BALANCING SERVICES

4.2.1 Application

The provisions of this Paragraph 4.2 shall apply to **NGC** and a **User** or other person in respect of the provision by that **User** or other person to **NGC** of **Balancing Services** other than **Mandatory Ancillary Services**.

4.2.2 Form of Agreement

Any agreement between **NGC** and a **User** or other person in respect of the provision by that **User** or other person to **NGC** of **Balancing Services** other than **Mandatory Ancillary Services** shall be in a form to be agreed between them (but, in respect of **Commercial Services Agreements**, subject always to Paragraph 4.2.3 where applicable).

4.2.3 Agreed Ancillary Services

Each **User** and **NGC** shall enter into a **Commercial Services Agreement** providing for the payment for and provision of the **Agreed Ancillary Services** (if any) set out in Appendix F1 of the relevant **Bilateral Agreement**. If, after a period which appears to **NGC** to be reasonable for the purpose, **NGC** has failed to enter into a **Commercial Services Agreement** with such **User**, **NGC** shall be entitled to initiate the procedure for resolution of the issue as an **Other Dispute** in accordance with Paragraph 7.4 to settle the terms of the said **Commercial Services Agreement**.

4.3 PAYMENTS FOR BALANCING SERVICES

4.3.1 Application

The provisions of this Paragraph 4.3 shall apply to payments made by **NGC** to a **User** (and by a **User** to **NGC**) pursuant to **Mandatory Services Agreements** in respect of the provision of **Mandatory Ancillary Services**, and (if agreed between **NGC** and a **User**) may also be incorporated by reference into a **Balancing Services Agreement** as a term thereof so as to apply in respect of the provision of other **Balancing Services** (but for the avoidance of doubt not so as to thereby create any obligations on **NGC** and that **User** under the **CUSC** in respect thereof).

4.3.2 Payment Procedure

4.3.2.1 On the third **Business Day** following receipt from the **Settlement Administration Agent** of the **Interim Information Settlement Run** issued in respect of the final day of the previous calendar month **NGC** shall send to the **User** a statement ("**Provisional Monthly Statement**") consisting of:-

(a) a statement ("**Provisional Statement**") incorporating:-

- (i) detailed daily technical reports of all **Balancing Services** supplied by the **User** pursuant to the relevant **Balancing Services Agreement** during the previous calendar month;
 - (ii) a summary of each **Balancing Service** so supplied; and
- (b) if relevant a statement showing adjustments to be made (net of interest) in relation to disputes for **Balancing Services** concerning any month prior to the previous month ("**Provisional Adjustments Statement**"),

in each case showing the payments due to or from the **User** as a result thereof.

- 4.3.2.2 If the **User** has failed to supply any **Balancing Service** in accordance with the **Grid Code** or any instructions validly and properly issued under the **Grid Code** or as required by the **CUSC** or any **Balancing Services Agreement**, **NGC** shall set out the times and dates upon which it considers such failure of supply to have occurred and the facts or evidence which it relies upon as constituting such failure in the **Provisional Monthly Statement** next following the date of such failure or next following the date when **NGC** first becomes aware of the facts which constitute such failure.
- 4.3.2.3 If the **User** disagrees with any dates, times, facts or calculations set out in the **Provisional Statement** and/or the **Provisional Adjustments Statement**, it shall state by notice in writing to **NGC** the reasons and facts which it relies upon in support of such disagreement. The parties shall discuss and endeavour to resolve the matter prior to **NGC** sending out the **Final Monthly Statement**. If they reach agreement **NGC** shall set out in the **Final Monthly Statement** the adjustments required but if it cannot be resolved the dates times facts and calculations set out in the **Provisional Statement** and in the **Provisional Adjustments Statement** shall be binding upon the parties until such time as they are reversed or revised by agreement between the parties or otherwise (in accordance with Paragraph 4.3.2.8) pursuant to the **Dispute Resolution Procedure**.
- 4.3.2.4 Notwithstanding the provisions of Paragraphs 4.3.2.2 and

4.3.2.3, if any fact or matter set out in the **Provisional Statement** and/or in the **Provisional Adjustments Statement** shall be inconsistent with any fact or matter set out in a final run (if any) of the settlement calculation issued by the **Settlement Administration Agent**, or any change to a previous final run (if any) of a settlement calculation, the facts and matters set out in the settlement calculation or which, following a dispute and subject to Paragraph 4.3.2.5, it is found or agreed should be set out therein shall be binding upon both parties.

4.3.2.5 If either **NGC** or the **User** intends to dispute any fact or matter contained in a final run (if any) of a settlement calculation which is inconsistent with any fact or matter contained in a **Provisional Statement** and/or a **Provisional Adjustments Statement** it shall serve notice in writing on the other party to that effect in order that the other party may make such representations as it wishes to the **Settlement Administration Agent** or exercise such rights as it may have under the **Balancing and Settlement Code** in relation to such fact or matter.

4.3.2.6 On the eighteenth **Business Day** of each calendar month, **NGC** shall send to the **User** a statement ("**Final Monthly Statement**") consisting of:-

- (a) a statement ("**Final Statement**") incorporating:-
 - (i) in the case of an undisputed **Provisional Statement** (or where any dispute has been resolved and no changes have been effected to the calculations contained in the **Provisional Statement**) a further monthly summary of the **Balancing Services** provided together with an invoice for the amount shown as being due to the **User** or **NGC** (as the case may be); or
 - (ii) in the case of a disputed **Provisional Statement** such that changes are required as a result thereof, a further copy of the detailed daily technical reports referred to at Paragraph 4.3.2.1(a)(i), a revised monthly summary of the **Balancing Services** provided and an invoice for the amount shown as being due to the **User** or **NGC** (as the case may be); and

- (b) if a **Provisional Adjustments Statement** has been issued in accordance with Paragraph 4.3.2.1(b), a statement ("**Final Adjustments Statement**") showing adjustments to be made in relation to disputes for **Balancing Services** concerning any month prior to the previous month together with interest thereon up to and including the date of payment referred to in Paragraph 4.3.2.10. Such adjustments will be reflected in the invoice referred to at Paragraph 4.3.2.6(a)(i) above.

4.3.2.7 Where:-

- (a) either **NGC** or the **User** discovers that any previous **Provisional Monthly Statement** or **Final Monthly Statement** contains an arithmetic error or omission; or
- (b) any change is made to a previous final run (if any) of a settlement calculation which includes a change in any of the facts or matters upon which the final settlement run was based which facts or matters formed the basis upon which any previous **Provisional Monthly Statement** or **Final Monthly Statement** was prepared; or
- (c) either **NGC** or the **User** becomes aware of any facts concerning matters provided by this Paragraph 4.3 (other than facts falling within Paragraphs 4.3.2.7(a) and (b)) which show that the payment made by or to the **User** was incorrect; or
- (d) the **User** establishes to **NGC's** reasonable satisfaction that it was entitled to receive any additional payment;

then **NGC** and the **User** shall agree an adjustment to the account between **NGC** and the **User** which adjustment shall be reflected in the next **Provisional Adjustments Statement** which **NGC** issues, and the provisions of Paragraphs 4.3.2.3 to 4.3.2.5 shall apply mutatis mutandis to such adjustments. Failing agreement as to the amount of any such adjustment, **NGC** or the **User** may refer the matter to an expert for determination (if both of them agree) or otherwise may initiate the procedure for resolution of the

- issue as an **Other Dispute** in accordance with Paragraph 7.4.
- 4.3.2.8 Where a dispute is resolved by issuance of a decision by an expert or an arbitrator or panel of arbitrators pursuant to the **Dispute Resolution Procedure**, **NGC** shall adjust the account between itself and the **User** accordingly in the next **Provisional Adjustments Statement** required to be issued under Paragraph 4.3.2.1. If such decision of an expert or an arbitrator or panel of arbitrators is subsequently reversed or modified by a final judicial decision after exhaustion of all appeals if this opportunity is taken, **NGC** shall adjust the account between itself and the **User** accordingly in the next **Provisional Adjustments Statement** which it issues.
- 4.3.2.9 Subject to Paragraph 4.3.2.13, the due date of payment for the purposes of Paragraph 4.3.2.12 in respect of any disputed amount subsequently determined or agreed to be payable to the **User** or to **NGC** shall be the date for payment of the relevant **Provisional Statement** from which the dispute arises.
- 4.3.2.10 **NGC** shall pay to the **User** the amount shown as due from **NGC** in the **Final Monthly Statement** within three **Business Days** of the date on which such statement is or should be issued. The **User** shall pay to **NGC** the amount shown as due from the **User** in such statement within three **Business Days** of the date on which such statement is issued.
- 4.3.2.11 If either party ("**Defaulting Party**"), in good faith and/or with reasonable cause fails to pay under Paragraph 4.3.2.10 any amount properly due in respect of **Balancing Services** under the **CUSC** and the relevant **Balancing Services Agreement**, then such **Defaulting Party** shall pay to the other party interest on such overdue amount from and including the due date of such payment to (but excluding) the date of actual payment (as well after as before judgment or determination by an arbitrator or panel of arbitrators) at the **Base Rate**. Provided that should the **Defaulting Party** otherwise fail to pay any amount properly due under the **CUSC** and the relevant **Balancing Service s Agreement** on the due date then the **Defaulting Party** shall pay to the other party interest on such overdue amount at the **Enhanced Rate** from the due date on which such payment was properly due to (but excluding) the date of actual payment. Any interest shall accrue from day to day.

- 4.3.2.12 If following a dispute or by virtue of Paragraphs 4.3.2.2, 4.3.2.3, 4.3.2.4, 4.3.2.7 or 4.3.2.8 it is determined or agreed that the **User** was entitled to a further payment from **NGC**, the **User** shall be entitled to interest at the **Base Rate** on the amount of such further payment from the due date calculated in accordance with Paragraph 4.3.2.9 until the date of payment.
- 4.3.2.13 If following a dispute or by virtue of the provisions of Paragraphs 4.3.2.2, 4.3.2.3, 4.3.2.4, 4.3.2.7 or 4.3.2.8 it is determined or agreed that **NGC** or the **User** was not entitled to any payment it has received, the other party shall be entitled to interest at the **Base Rate** on the amount so paid from the date of payment until the date of repayment or the date when **NGC** makes a payment to the **User** which takes such payment into account.
- 4.3.2.14 Notwithstanding any other provision of the **CUSC** and any **Balancing Services Agreement**, **NGC** and a **User** shall not be limited in any way as to the evidence they may rely upon in any proceedings arising out of or in connection with payment for any **Balancing Service** under the **CUSC** and the relevant **Balancing Services Agreement** and the parties agree that in the event and to the extent that either party succeeds in proving in any such proceedings that any **Balancing Service** was or was not provided, the successful party shall (without prejudice to any liquidated damages provision of the **CUSC** and/or the relevant **Balancing Services Agreement**) be entitled to repayment of the sums already paid or payment of sums not paid as the case may be in respect of such **Balancing Service**.
- 4.3.2.15 Save as otherwise expressly provided in the **CUSC** or in any **Balancing Services Agreement**, sums payable by **NGC** or a **User** to the other in respect of **Balancing Services** pursuant to the **CUSC** or any **Balancing Services Agreement** whether by way of charges, interest or otherwise shall (except to the extent otherwise required by law) be paid in full, free and clear of and without deduction, set-off or deferment in respect of any disputes or claims whatsoever save for sums the subject of a final award or judgement (after exhaustion of all appeals if this opportunity is taken) or which by agreement between **NGC** and the relevant **User** may be so deducted or set off.
- 4.3.2.16 **NGC** represents and warrants to each relevant **User**, as

between **NGC** and that **User**, that it enters into each **Balancing Services Agreement** as principal and not as agent for any other person.

- 4.3.2.17 All amounts specified hereunder shall be exclusive of any **Value Added Tax** or other similar tax and **NGC** shall pay to the **User Value Added Tax** at the rate for the time being and from time to time properly chargeable in respect of the making available and/or supply of **Balancing Services** under the **CUSC**, the relevant **Balancing Services Agreement**, the **Grid Code**, or any **Bilateral Agreement**.
- 4.3.2.18 All payments by **NGC** to the **User** (or by the **User** to **NGC**) in respect of the provision of **Balancing Services** will be made by payment to the parties' bank accounts details of which may be set out in the relevant **Balancing Services Agreement** or otherwise notified by **NGC** to the **User** (or by the **User** to **NGC**) from time to time.
- 4.3.2.19 The submission of all **Provisional Monthly Statements** and all **Final Monthly Statements** and facts and other evidence in support thereof and any questions in connection therewith from **NGC** to the **User** and vice versa in accordance with this Paragraph 4.3.2 must be made, in the absence of agreement to the contrary between the parties, by 19.00 hours on the **Business Day** concerned.
- 4.3.2.20 For the purpose of the regulations of HM Customs and Excise as regards self-billing of **Balancing Services** and the submission of **Value Added Tax** invoices, the **User** hereby consents to the operation of a self-billing system by **NGC** with regard to the payment for **Balancing Services** to be provided pursuant to the **CUSC** and the relevant **Balancing Services Agreement** and will at all times throughout the term of the relevant **Balancing Services Agreement** maintain such consent. The **User** hereby undertakes, as between **NGC** and that **User**, to do (at **NGC's** cost) all acts and things reasonably necessary to enable **NGC** to comply with the regulations of HM Customs and Excise as regards the self-billing of **Balancing Services**.
- 4.3.2.21 Payment of any sum or the submission of any **Provisional Monthly Statement** or **Final Monthly Statement** by **NGC** to a **User** under this Paragraph 4.3.2 shall not operate to impair or be construed as a waiver of any right, power, privilege or remedy **NGC** may have against the **User** under the **CUSC**

and/or any **Balancing Services Agreement** and/or the **Grid Code** and/or any **Bilateral Agreement**.

- 4.3.2.22 For the avoidance of doubt, **NGC** shall issue a **Provisional Monthly Statement** to the **User** for the calendar month following the calendar month in which any **Balancing Services Agreement** to which the **User** is a party shall expire or terminate, setting out details of the **Balancing Services** supplied by the **User** in respect thereof during that calendar month until expiry or termination, and in respect thereof the provisions of this Paragraph 4.3.2 shall continue to apply notwithstanding such expiry or termination.

4.4 CHARGING PRINCIPLES

4.4.1 Application

The provisions of this Paragraph 4.4 shall apply to payments made by **NGC** to a **User** pursuant to **Mandatory Services Agreements** in respect of the provision of the **Mandatory Ancillary Service of Frequency Response**, and (if agreed between **NGC** and a **User**) may also be incorporated by reference into any other **Ancillary Services Agreement** as a term thereof so as to apply in respect of payments made by **NGC** to that **User** in respect of the provision of other **Ancillary Services** (but for the avoidance of doubt not so as to thereby create any obligations on **NGC** and that **User** under the **CUSC** in respect thereof).

4.4.2 Charging Principles - General

- 4.4.2.1 These principles are to be used to establish the basic arrangements but are not intended to stifle innovation in the development of new services or the giving of appropriate economic signals.
- 4.4.2.2 The charges shall be "cost reflective" ie. based and founded upon the actual or estimated costs directly incurred or to be incurred by the **User** for the purpose of providing the service or capability concerned.
- 4.4.2.3 Where a capability to provide an **Ancillary Service** is required by the **Grid Code** from all **BM Units** or **CCGT Units** (as opposed to a capability made available by agreement between **NGC** and a **User** from some only of the

User's BM Units or CCGT Units), no **Ancillary Service** capability payment shall be made.

- 4.4.2.4 The cost of "Grandfathering" **User's** Equipment (i.e. bringing equipment owned by the **User** on 30th March 1990 to a condition of compliance with the **Grid Code**) shall not be included in **Ancillary Services** payments. Where a **Derogation** is withdrawn or reduced in scope then, except in relation to **Frequency Response**, the **User** shall be entitled to take the cost of meeting the withdrawal or reduction in the scope of the **Derogation** into account in its charges.
- 4.4.2.5 Subject to the other provisions of this Paragraph 4.4.2, the charges shall take due account of any change in or amendments to the **Grid Code** or any other statutory or regulatory obligation coming into force after 30th March 1990 affecting the provision of **Ancillary Services**.
- 4.4.2.6 If as a result of any changes to the **Balancing and Settlement Code** the **User** ceases to be entitled to receive payment under the **Balancing and Settlement Code** in respect of any elements of **Ancillary Services** provided by it which are expressed in this Paragraph 4.4 to be paid for under the **Balancing and Settlement Code**, the **User** shall be entitled to charge for such elements under an **Ancillary Services Agreement**. Where, however, such change entitles the **User** to be paid for any elements of **Ancillary Services** which are expressed in this Paragraph 4.4 to be paid for under an **Ancillary Services Agreement** the **User** shall cease to be entitled to charge for such elements under an **Ancillary Services Agreement**.

4.4.3 Charging Principles – Frequency Response

- 4.4.3.1 The variable cost of producing **Primary Response, Secondary Response, High Frequency Response** shall include sums in respect of the additional inefficiency costs incurred in providing these services but shall not include any sums payable in respect of any costs which are the subject of Paragraph 4.4.3.3 or any costs which are incurred under the **Balancing and Settlement Code** in providing these services.
- 4.4.3.2 Part-loading of a **BM Unit** at a level other than that specified in a **Physical Notification** in order to provide **Frequency**

Response will normally be achieved by the issue of a **Bid Offer Acceptance**.

- 4.4.3.3 In recognition of the energy production costs likely to be incurred or avoided when providing **Frequency Response**, an additional amount based upon an expected delivery of **Frequency Response** energy shall be payable under Paragraph 4.1.3.9A.

4.5 INDEXATION

4.5.1 Application

The provisions of this Paragraph 4.5 shall apply to payments made by **NGC** to a **User** pursuant to **Mandatory Services Agreements** in respect of the provision of the **Mandatory Ancillary Service of Frequency Response**, and (if agreed between **NGC** and a **User**) may also be incorporated by reference into any other **Balancing Services Agreement** as a term thereof so as to apply in respect of payments made by **NGC** to that **User** in respect of the provision of other **Balancing Services** (but for the avoidance of doubt not so as to thereby create any obligations on **NGC** and that **User** under the **CUSC** in respect thereof).

4.5.2 Indexation provisions

- 4.5.2.1 The rates and/or prices to be indexed shall be specified in the **Balancing Services Agreement** as applicable for a 12 month period commencing 1st April ("the base year"), and these rates and/or prices will be adjusted annually to take account of general price inflation. The index used will be the Retail Prices Index (RPI) with 1987 = 100 base.
- 4.5.2.2 The source of the RPI index is to be the monthly Office for National Statistics "Business Monitor MM23."
- 4.5.2.3 The rates and/or prices to be indexed shall be increased (or reduced as appropriate) for the subsequent 12 month period commencing 1st April by the following factor:-

$$\frac{RPI_2}{RPI_1}$$

Where

RPI_2 is the RPI for March immediately prior to commencement of that 12 month period

RPI_1 is the RPI for March immediately prior to commencement of the base year.

- 4.5.2.4 The rates and/or prices to be indexed shall be increased (or reduced as appropriate) for the subsequent 12 month period commencing 1st April by the following factor:-

$$\frac{RPI_3}{RPI_1}$$

Where

RPI_3 is the RPI for March immediately prior to commencement of that 12 month period

RPI_1 is the RPI for March immediately prior to commencement of the base year.

- 4.5.2.5 In subsequent years indexation will continue in accordance with the above, with always the numerator of the factor representing the RPI of the 12 month period in question and the denominator of the factor being the RPI for March immediately prior to the base year.
- 4.5.2.6 In the event that RPI ceases to be published or is not published in respect of any relevant month or it is not practicable to use RPI because of a change in the method of compilation or some other reason, indexation for the purposes of this Paragraph 4.5 shall be calculated by **NGC** using an index agreed between **NGC** and the relevant **User** with a view to determining the relevant price after indexation that would be closest to the relevant price after indexation if RPI had continued to be available. If **NGC** and a relevant **User** are unable to agree a suitable index, either of them may initiate the **Dispute Resolution Procedure** for resolution of the issue as an **Other Dispute** in accordance with Paragraph 7.4.
- 4.5.2.7 For the avoidance of doubt, the provisions of Paragraph 11.3 with regard to determination of an alternative index should

the **Retail Prices Index** not be published or there is a material change to the basis of such index shall not apply with respect to the rates and/or prices the subject of this Paragraph 4.5.

CUSC - SECTION 5
EVENTS OF DEFAULT, DEENERGISATION,
AND DISCONNECTION

CONTENTS

- 5.1 Duration and Termination
- 5.2 Emergency Deenergisation
- 5.3 Generic Events of Default and Deenergisation
- 5.4 Site Specific Deenergisation and Disconnection
- 5.5 Balancing Services Use of System Charges: Events of Default
- 5.6 Notice to Disconnect
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CUSC - Section 5

Events of Default, Deenergisation, Disconnection and Decommissioning

5.1 DURATION AND TERMINATION

5.1.1 Licensed CUSC Parties

Upon either:

- (a) termination of all **Bilateral Agreements, Mandatory Services Agreements and Construction Agreements** entered into by a **User** and cessation of any other right to use the **NGC-GB Transmission System** pursuant to Paragraph 3.8 or Paragraph 9.23; or
- (b) a **User** having a **Licence** but not yet being connected to or otherwise using the **NGC-GB Transmission System**, until such time as the **User** accepts an **Offer** to connect to or use the **NGC-GB Transmission System**,

a **User** with a **Licence** shall be or continue to be a **CUSC Party** but shall not have any further rights and obligations for the period of such dormancy under the **CUSC** (and shall be a '**Dormant CUSC Party**') until the execution (or other entering into) of a **Bilateral Agreement** or commencement / recommencement of its right to use the **NGC-GB Transmission System** pursuant to the **CUSC**. Termination or expiry of a particular **Bilateral Agreement, Mandatory Services Agreement or Construction Agreement** shall not, of itself, cause the relevant **User** to become a **Dormant CUSC Party**.

- 5.1.2 A **Dormant CUSC Party** may once it ceases to have a **Licence** by prior notice to **NGC** cease to be a **CUSC Party** from the date specified in such notice, on which date it shall cease to be a party to the **CUSC Framework Agreement**.

5.1.3 Non-Licensed CUSC Parties

Upon termination of all **Bilateral Agreements, Mandatory Services Agreements and Construction Agreements** entered into by a **User** and cessation of any other right to use the **NGC-GB Transmission System** pursuant to Paragraph 3.8 or Paragraph 9.23, a **User** without a **Licence** shall cease to be a

CUSC Party from the date of cessation of the last such agreement or right to use, and shall on that date cease to be a party to the **CUSC Framework Agreement**.

- 5.1.4 A person ceasing to be a **CUSC Party** or becoming a **Dormant CUSC Party** shall not affect any rights or obligations of any **CUSC Party** which may have accrued to the date of termination or dormancy under the **CUSC**, any **Bilateral Agreement** or **Mandatory Services Agreement** or **Construction Agreement** or the **Charging Statements** or otherwise and shall not affect any continuing obligations of any other **CUSC Party** under the **CUSC**.

5.2 EMERGENCY DEENERGISATION

5.2.1 Emergency Deenergisation by NGC

If, in the reasonable opinion of **NGC**, the condition or manner of operation of the ~~**NGC-GB**~~ **Transmission System** or a **User's System** or an **Interconnector** poses an immediate threat of injury or material damage to any person or to the **Total System** or to any **User's System** or to the ~~**NGC-GB**~~ **Transmission System**, **NGC** shall have the right to:

- (a) **Deenergise** that **User's Equipment**, or
- (b) request the owner of the **Distribution System** to which that **User's Equipment** or equipment for which that **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) is connected to **Deenergise** that **User's Equipment** or equipment for which that **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**),

if it is necessary or expedient to do so to avoid the occurrence of such injury or damage.

5.2.2 Emergency Deenergisation by a User

If, in the reasonable opinion of a **User**, the condition or manner of operation of the ~~**NGC-GB**~~ **Transmission System**, the **Total System** or any other **User's System** poses an immediate threat of injury or material damage to any person or to its **User's System** or **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) that **User** shall have the right to **Deenergise** its **User's Equipment** or equipment for which that **User** is responsible (as defined in Section K of the **Balancing and**

Settlement Code), if it is necessary or expedient to do so to avoid the occurrence of such injury or damage.

5.2.3 Post Emergency Reenergisation

NGC or, as the case may be, the **User** shall **Reenergise** the **User's Equipment** at the **Connection Site** (or, in the case of the **User** the site of connection) or **NGC** shall request the owner/operator of the **Distribution System** to which the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) is connected to **Reenergise** the **User's Equipment** at the site of connection, in each case as quickly as practicable after the circumstances leading to any **Deenergisation** under this Paragraph 5.2 have ceased to exist.

5.3 **GENERIC EVENTS OF DEFAULT AND DEENERGISATION**

5.3.1 Generic Events of Default

It shall be an **Event of Default** if:-

- (a) a **User** shall fail to pay (other than by inadvertent error in funds transmission which is discovered by **NGC**, notified to that **User** and corrected within 2 **Business Days** thereafter) any amount properly due or owing from that **User** to **NGC** pursuant to the **CUSC** or any **Bilateral Agreement** and such failure continues unremedied for 7 **Business Days** after the due date for payment; or
- (b) in respect of a **User**:-
 - (i) an order of the High Court in England and Wales or an order of the Court of Session in Scotland is made or an effective resolution passed for its insolvent winding up or dissolution; or
 - (ii) a receiver (which expression shall include an administrative receiver within the meaning of section ~~251~~9 Insolvency Act 1986) of the whole or any material part of its assets or undertaking is appointed; or
 - (iii) an administration order under section 8 of the Insolvency Act 1986 is made or if a

voluntary arrangement is proposed under section 1 of that Act; or

- (iv) a **User** enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the **Authority**); or
- (v) any of the events referred to in (i) to (iv) above has occurred and is continuing and a **User** is unable to pay its debts (within the meaning of section 123(l) or (2) of the Insolvency Act 1986 save that such sections shall have effect as if for £750 there was inserted £250,000 and a **User** shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by that **User** with recourse to all appropriate measures and procedures),

and in any such case within 28 days of his appointment the liquidator, receiver, administrative receiver, administrator, nominee or other similar officer has not provided to **NGC** a guarantee of future performance by the **User** of the **CUSC** and all **Bilateral Agreements**, **Construction Agreements** and **Mandatory Services Agreements** to which the **User** is a party in such form and amount as **NGC** may reasonably require.

5.3.2 Generic Deenergisation upon an Event of Default

Provided that at the time the failure specified in Paragraph 5.3.1(a) is still continuing or the circumstances referred to in Paragraph 5.3.1(b) still exist **NGC** may having given 48 hours notice of an **Event of Default Deenergise** all of the **User's Equipment** which is the subject of a **Bilateral Agreement** with that **User** or may as appropriate instruct the operator of a **Distribution System** to **Deenergise** such **User's Equipment** or in the case of an **Interconnector User** or **Interconnector Error Administrator** request the relevant **Interconnector Owner** to cease or procure the cessation of the transport of power across the **Interconnector** by or on behalf of that **User** provided that prior to **Deenergisation** the **User** may refer the matter to the **Dispute Resolution Procedure**.

5.3.3 BSC Deenergisation

NGC shall **Deenergise** the **User's Equipment** if it is so instructed by the **BSC Panel** at any time in accordance with the provisions of the **Balancing and Settlement Code**.

5.3.4 Generic Disconnection

If the **Event of Default** under Paragraph 5.3.2 or 5.3.3 is still continuing six months after the later of **Deenergisation** and the conclusion of the **Dispute Resolution Procedure** in favour of **NGC**, **NGC** may **Disconnect** all that **User's Equipment** at each **Connection Site** where that **User's Equipment** is connected and:-

- (a) ~~NGC and that the~~ **User** shall remove any of the **User's Equipment** ~~and NGC Assets~~ on, in relation to Connection Sites in England and Wales, the other party's NGC's or, in relation to Connection Sites in Scotland, Relevant Transmission Licensee's land (as appropriate) within 6 months or such longer period as may be agreed between ~~the parties~~ the User and NGC or the Relevant Transmission Licensee (as appropriate) concerned;
- (b) in the case of Connection Sites in England and Wales NGC shall remove and in the case of Connection Sites in Scotland NGC shall procure that the Relevant Transmission Licensee removes any of the Transmission Connection Assets on the User's land within 6 months or such longer period as may be agreed between the User and NGC or the Relevant Transmission Licensee (as appropriate);
- ~~(b)(c)~~ the **User** shall pay to **NGC** forthwith all **Termination Amounts**; and
- ~~(e)(d)~~ the **User** if unlicensed shall cease to be a **CUSC Party** or if licensed shall become a **Dormant CUSC Party**, as the case may be, and Paragraph 5.1 shall apply.

5.4 **SITE SPECIFIC DEENERGISATION AND DISCONNECTION**

5.4.1 Site Specific Breach by the User

If a **User** shall be in breach of any of the provisions of the relevant **Bilateral Agreement**, or the provision of the **CUSC** in relation to that particular connection to and/or use of the ~~NGC-GB~~ **Transmission System**, or (other than in relation to a **Supplier**, a

Small Power Station Trading Party, an Interconnector User or an Interconnector Error Administrator) of the provisions of the **CUSC** enforcing the provisions of the **Grid Code** (but subject always to Paragraphs 6.3.3 and 6.3.4), and such breach causes or can reasonably be expected to cause a material adverse effect on the business or condition of **NGC** or other **Users** or the **NGC GB Transmission System** or any **User Systems** then **NGC** may:-

- (a) where the breach is capable of remedy, give written notice to the **User** specifying in reasonable detail the nature of the breach and requiring the **User** within 28 days after receipt of such notice, or within any longer period agreed between **NGC** and the **User** to remedy the breach, the agreement of **NGC** not to be unreasonably withheld or delayed; or
- (b) where the breach is incapable of remedy, give written notice to the **User** specifying in reasonable detail the nature of the breach and the reasons why the breach is incapable of remedy and requiring the **User** within 5 **Business Days** after receipt of such notice to undertake to **NGC** not to repeat the breach.

5.4.2 Grid Code Procedures - Future Compliance

Whenever **NGC** serves a notice on a **User** pursuant to Paragraph 5.4.1, **NGC** and the **User** shall discuss in good faith and without delay the nature of the breach and each shall use all appropriate procedures available to it under the **Grid Code** (including testing rights and the procedures set out in **OC5** (Testing and Monitoring)) in an attempt to establish as quickly as reasonably practicable a mutually acceptable way of ensuring future compliance by the **User** with the relevant provision of the **Grid Code**.

5.4.3 Site Specific Deenergisation

- (a) If:
 - (i) a **User** fails to comply with any valid notice served on it by **NGC** in accordance with Paragraph 5.4.1(a) or is in breach of any undertaking given in accordance with Paragraph 5.4.1(b) and such breach causes or can be reasonably expected to cause a material adverse effect on the business or condition of **NGC** or

other **Users** or the ~~NGC-GB~~ **Transmission System** or any **User System**; or

- (ii) five **Business Days** have elapsed since the date of any valid notice served on the **User** in accordance with Paragraph 5.4.1(b) and no undertaking is given by the **User** in accordance with Paragraph 5.4.1(b);

NGC may:

- (iii) provided **NGC** has first complied with **OC5 Monitoring and Testing** if appropriate **Deenergise the User's Equipment**; or
- (iv) provided **NGC** has first complied with **OC5 Monitoring and Testing** if appropriate request the owner/operator of the **Distribution System** to which the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) is or to which the **User's Customers** are connected to **Deenergise the User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) at the relevant site of connection or such **User's Customers** (as the case may be); or
- (v) in the case of an **Interconnector User** or **Interconnector Error Administrator** request the relevant **Interconnector Owner** to cease or procure the cessation of the transport of power by or on behalf of that **User** across the **Interconnector**,

upon the expiry of at least 48 hours prior written notice to the **User**, provided that at the time of expiry of such notice the breach concerned remains unremedied and that neither party has referred the matter to the **Dispute Resolution Procedure**. In such event **NGC** may:

- (aa) **Deenergise the User's Equipment**, or
- (bb) request the owner of the **Distribution System** to which the **User's Equipment** or equipment for which the **User** is responsible (as defined in

Section K of the **Balancing and Settlement Code**) is or to which the **User's Customers** are connected to **Deenergise** the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) at the relevant site of connection or the **User's Customers** (as the case may be), or

- (cc) in the case of an **Interconnector User** or **Interconnector Error Administrator** request the relevant **Interconnector Owner** to cease or to procure the cessation of the transfer of power by or on behalf of that **User** across the **Interconnector**,

forthwith following completion of the **Dispute Resolution Procedure** and final determination of the dispute in **NGC's** favour, subject to **NGC** having given, in the case of **Deenergisation** of an **Embedded Small Power Station**, the relevant **User** not less than 24 hours prior written notice and at the expiry of such notice the breach concerned remaining unremedied.

- (b) If the **User** fails to comply with the **Grid Code** (but subject always to Paragraphs 6.3.3 and 6.3.4 of the **CUSC**) and the **Authority** makes a final order or a confirmed provisional order as set out in sections 25 and 26 of the **Act** against the **User** in respect of such non-compliance which order the **User** breaches **NGC** may in respect of the relevant **Connection Site(s)** or site(s) of connection:

- (i) **Deenergise** the **User's Equipment**, or
- (ii) request the owner of the **Distribution System** to which the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) is connected to **Deenergise** the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**),

upon the expiry of at least 48 hours prior written notice to the **User** provided that at the time of expiry of the notice the **User** continues to fail to comply with the order.

5.4.4 Consequence on ~~NGC~~ Transmission Licence

If a breach of the nature referred to in Paragraph 5.4.1 continues to the extent that it places or seriously threatens to place in the immediate future **NGC** in breach of the **Transmission Licence** and/or would place any Relevant Transmission Licensee in breach of its transmission licence **NGC** may:

- (a) **Deenergise the User's Equipment**, at the relevant **Connection Site**,
- (b) request the owner of the **Distribution System** to which the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) is or to which the **User's Customers** are connected to **Deenergise the User's Equipment** or equipment for which **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) at the relevant site of connection or such **User's Customer** (as the case may be), or
- (c) request the relevant **Interconnector Owner** to cease or procure the cessation of the transport of power by or on behalf of that **User** across the **Interconnector**,

upon the expiry of at least 12 hours, prior written notice to the **User**, provided that at the time of expiry of such notice the breach concerned remains unremedied.

5.4.5 Generic and Site Specific Reenergisation Disputes

- (a) If following any **Deenergisation** or cessation of use of an **Interconnector** pursuant to this Paragraph 5.4 or Paragraph 5.3.2 the relevant **User** applies to **NGC** for the **User's Equipment** to be **Reenergised** or for **NGC** to issue instructions that the **User's Customers** be **Re-energised** or for **NGC** to issue instructions to the owner/operator of the **Distribution System** to which the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) is connected that it be **Re-energised** or to the relevant **Interconnector Owner** that transport of power across the **Interconnector** can restart, **NGC** shall notify its consent to the **User's Equipment** being **Re-energised** or transport across the **Interconnector** restarting forthwith upon the breach of

the **CUSC** or the relevant **Bilateral Agreement** which give rise to the **De-energisation** either:-

- (i) being remedied; or
- (ii) ceasing to be material; or
- (iii) in the case of a **De-energisation** under 5.4.3 ceasing to be of a nature which can reasonably be expected to cause a material adverse effect on the business or condition of **NGC** or other **Users** of the **NGC-GB Transmission System**; or
- (iv) in the case of a **De-energisation** under Paragraph 5.4.4 ceasing in **NGC's** opinion to place or seriously threaten to place in the immediate future **NGC** in material breach of the **Transmission Licence and/or any Relevant Transmission Licensee in breach of its transmission licence**

and shall forthwith **Re-energise** the **User's Equipment** or issue instructions.

- (b) If **NGC** shall refuse to **Re-energise** the **Users Equipment** or to issue instructions that the **User's Customers** be **Reenergised** or to issue instructions to the owner/operator of the **Distribution System** to which the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) is connected that it be **Reenergised**, or to the relevant **Interconnector Owner** that transport of power can restart, or if the **User** is offered terms by **NGC** which the **User** does not accept, this shall be recognised as a dispute over the terms for connection and use of system which may be referred by the **User** to the **Authority** for determination under **[Standard Condition C7E]** of the **Transmission Licence**. If the **User** accepts any terms offered by **NGC** or determined by the **Authority** **NGC** shall **Reenergise** the **Users Equipment**, or request the owner of the **Distribution System** to which either the **User's Customers** or the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) is/are connected to **Reenergise** the same or the relevant **Interconnector**

Owner to restart that transport of power, forthwith after any request from the **User** for **NGC** to do so.

5.4.6 Specific Events of Default

Events of Default

5.4.6.1 Any of the following events shall constitute an **Event of Default**:

- (a) If the breach which led to any **Deenergisation** pursuant to this Paragraph 5.4 remains unremedied at the expiry of at least 6 months after the date of such **Deenergisation**, **NGC** may declare by notice in writing to the **User** that such breach has become an **Event of Default** provided that:
 - (i) all disputes arising out of the subject-matter of this Paragraph 5.4 which are referred to the **Dispute Resolution Procedure** have been finally determined in favour of **NGC**; and
 - (ii) any reference to the **Authority** pursuant to Paragraph 5.4.5(b) hereof has then been finally determined in favour of **NGC** or any terms settled pursuant to such procedure have not been accepted by the **User**.
- (b) If any or all of the **Events of Default** in Paragraph 5.3.1 has or have occurred.

Security Event of Default - User Meets NGC Credit Rating

5.4.6.2 In the case where a **User** meets the **NGC Credit Rating** on signing a **Bilateral Connection Agreement** any of the following events shall constitute an **Event of Default**:-

- (a) If the **User** fails to provide or procure that there is provided to **NGC** within the requisite time any relevant security satisfactory to **NGC** pursuant to Part III of Section 2 or Paragraph 5.4.6.2(c) of the **CUSC**.

- (b) If having provided security satisfactory to **NGC** pursuant to Part III of Section 2 and Paragraph 5.4.6.2(c) of the **CUSC**:
 - (i) the **User** or any shareholder (whether direct or indirect) of the **User** or any other party who may at any time be providing security to **NGC** pursuant to the requirements of the **CUSC** (or the relevant **Bilateral Connection Agreement**) takes any action whether by way of proceedings or otherwise designed or calculated to prevent, restrict or interfere with the payment to **NGC** of any amount so secured whether or not there shall be a dispute between the parties;
 - (ii) any party who may at any time be providing security to **NGC** pursuant to the provisions of the **CUSC** (or the relevant **Bilateral Connection Agreement**) fails to pay to **NGC** any sum demanded pursuant thereto.
- (c)
 - (i) There is a material adverse change in the financial condition of the **User** such as to give **NGC** reasonable grounds for concluding that there is a substantial probability that the **User** will default in the payment of any sums due or to become due to **NGC** within the next following period of 12 months, in terms of or on termination of the relevant **Bilateral Connection Agreements**; or
 - (ii) an event of default has occurred under any banking arrangements (as may be more particularly described in the relevant **Bilateral Connection Agreement**) (an event of default being for these purposes anything defined as such in such banking arrangements) put in place by the **User** in connection with a project for which security under this **CUSC** is required by **NGC** and as a result the banks who are party to such

banking arrangement have taken steps to declare the principal of the advances under such arrangement immediately due and payable; or

- (iii) any other indebtedness of the **User** for the repayment of borrowed money (in a principal outstanding amount of not less than £1,000,000 (pounds sterling one million) or such greater figure specified in any **Bilateral Connection Agreement**) has become due and payable prior to the stated date of maturity thereof by reason of any default or breach on the part of the **User** and the amount in question has not been paid by the **User** or re-financed by the **User** within a period of 28 days following the date upon which it was so declared due and payable,

and in any of (i) or (ii) or (iii) the **User** fails, within a period of 7 (seven) days following the date on which **NGC** gives the **User** notice in writing of one or other of the above events occurring to provide **NGC** with such security as **NGC** shall require to cover the **User's** payment obligations to **NGC** arising in the event of or which have arisen prior to termination of the relevant **Bilateral Connection Agreement** and which arise under the **CUSC**. The security to be provided shall be in a form satisfactory to **NGC** in accordance with its then current policy and procedures and in such amount as **NGC** shall specify to the **User** in the aforesaid notice.

Provided that (in relation to Paragraphs (i) or (ii) or (iii) above) if at any time after the putting in place of security under this Paragraph the **User** shall produce to **NGC** evidence to **NGC's** reasonable satisfaction that there is not a substantial probability of the **User** not being able to make payment to **NGC** of such sums within the next following period of twelve (12) months, **NGC** shall not require the **User** to provide the aforesaid security and shall release any such security then in place. This waiver is without prejudice to **NGC's** right to require security at any time thereafter in the event of any of the

circumstances set out in Paragraph (i) and/or (ii) and/or (iii) subsequently occurring.

Security Event of Default - User Does Not Meet NGC Credit Rating

5.4.6.3 In the case where a **User** does not meet the **NGC Credit Rating** on signing a **Bilateral Connection Agreement** any of the following events shall constitute an **Event of Default**:-

- (a) (i) There is a material adverse change in the financial condition of the **User** such as to give **NGC** reasonable grounds for concluding that there is a substantial probability that the **User** will default in the payment of any unsecured sums due or to become due to **NGC** within the next period of 12 months, in terms of or on termination of the relevant **Bilateral Connection Agreements**; or
- (ii) an event of default has occurred under any banking arrangements (as may be more particularly described in the relevant **Bilateral Connection Agreement**), (an event of default being for these purposes anything defined as such in such banking arrangements) put in place by the **User** in connection with a project for which security under this **CUSC** is required by **NGC** and as a result the banks who are party to such banking arrangement have taken steps to declare the principal of the advances under such arrangement immediately due and payable; or
- (iii) any other indebtedness of the **User** for the repayment of borrowed money (in a principal outstanding amount of not less than £1,000,000 (pounds sterling one million) or such greater amount specified in any **Bilateral Connection Agreement**) has become due and payable prior to the stated date of maturity thereof by reason of any default or breach on the part of the **User** and the

amount in question has not been paid by the **User** or refinanced by the **User** within a period of 28 days following the date upon which it was so declared due and payable.

And in any one of (i) or (ii) or (iii) the **User** fails:-

- (aa) within a period of 14 (fourteen) days following the date on which **NGC** gives notice of such circumstances to provide to **NGC** a cash deposit in a **Bank Account**, a **Performance Bond** or a **Letter of Credit** in favour of **NGC** and **Valid** at least up to the last day of the **Financial Year** in which the event occurs for such amount representing **NGC's** reasonable estimate of all unsecured sums to become due to **NGC** in the period up to the end of the **Financial Year** in which the event occurs such sum to be specified in the said notice; or
- (bb) to subsequently provide such cash deposit or renew such **Performance Bond** or **Letter of Credit** (or such renewed **Performance Bond** or **Letter of Credit** provided under this paragraph) not less than 45 days prior to its stated expiry date for such amount representing **NGC's** reasonable estimate of the unsecured sums to become due to **NGC** in the next following **Financial Year** valid at least up to the last day of the next following **Financial Year** and to continue the provision of cash deposit, a **Performance Bond** or **Letter of Credit** in a similar manner, to such estimate of unsecured sums.

Provided that regarding any one of (i) or (ii) or (iii) if at any time after the putting in place of security under this Paragraph 5.4.6.3(a) the **User** shall provide to **NGC** evidence to **NGC's** reasonable satisfaction that there is not a substantial probability of the **User** being unable to make payment to **NGC** of any unsecured sums within

the next following period of twelve (12) months, **NGC** shall not require the **User** to provide the aforesaid security and shall release any such security then in place. This waiver is without prejudice to **NGC's** right to require security at any time thereafter in the event of any of the circumstances set out in paragraph (i) and/or (ii) and/or (iii) in this Paragraph 5.4.6.3(a) subsequently occurring.

- (b) If the **User** fails to provide or procure that there is provided to **NGC** or at any time fails to maintain or procure that there is maintained in full force and effect the relevant security arrangement required under Part III of Section 2 or Paragraph 5.4.6.3(a) or to renew or revise such security or to substitute any security with the required replacement security or to maintain or procure that there is maintained in full force and effect any such renewed, revised or substituted security as so required or if the **User** is otherwise in breach of any of its obligations under Paragraph 2.22.
- (c) If the **User** or any shareholder (whether direct or indirect) of the **User** takes any action whether by way of proceedings or otherwise designed or calculated to prevent restrict or interfere with the payment to **NGC** of any amount so secured or seeks or permits or assists others to do so, whether or not there shall be a dispute between the parties.
- (d) If any party who may at any time be providing or holding security in favour of **NGC** pursuant to Part III of Section 2 or Paragraph 5.4.6.3(a) fails to pay **NGC** any sum demanded in any **Notice of Drawing** pursuant thereto.

5.4.7 Specific Event of Default Disconnection

Once **NGC** has given a valid notice of an event of default pursuant to Paragraph 5.4.6 provided that the **Event of Default** is continuing **NGC** may give notice of termination to that **User** whereupon the relevant **Bilateral Agreement** or right to use the system shall terminate and:

- (a) **NGC** shall in relation to such an **Event of Default** of a **User** in relation to a **Connection Site**

- (i) **Disconnect all the User's Equipment at the Connection Site; and**
- (ii) ~~NGC and the User~~ concerned shall ~~by arrangement between them~~ remove any of the **User's Equipment and NGC Assets** on, in relation to **Connection Sites** in England and Wales, **NGC's** or, in relation to **Connection Sites** in Scotland, ~~the other party's~~ **Relevant Transmission Licensee's** land (as appropriate) within six (6) months of the date of termination or such longer period as may be agreed between **NGC or the Relevant Transmission Licensee** (as appropriate) and the relevant **User; and**
- (iii) In the case of **Connection Sites** in England and Wales **NGC** shall remove and in the case of **Connection Sites** in Scotland **NGC** shall procure that the **Relevant Transmission Licensee** removes any of the **Transmission Connection Assets** on the land of the **User** concerned within 6 months or such longer period as may be agreed between the **User** and **NGC** or the **Relevant Transmission Licensee** (as appropriate).

Such **User** shall (notwithstanding any longer time for payment which but for such termination the **User** may have for payment pursuant to the **CUSC** or the relevant **Bilateral Agreement**) within 14 days from the date of termination pay to **NGC** all amounts due and owing on the date of such termination and be liable to pay to **NGC Termination Amounts** applicable to the **Connection Site**, such payments to be made within 14 days of the date of **NGC's** invoice(s) in respect thereof;

- (b) (i) **NGC** shall request the owner of any **Distribution System** to which the **User** is connected to **Disconnect** all the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) at the site of connection;
- (ii) **NGC** shall in relation to such an event of default of a **User** acting as a **Supplier** request the

owner of the **Distribution System** to which any of that **User's Customer's** are connected to **Disconnect** such **User's Customer's**;

- (iii) **NGC** shall in relation to such an **Event of Default** of a **User** acting as an **Interconnector User** or **Interconnector Error Administrator** request the relevant **Interconnector Owner** to cease or procure the cessation of the transfer of power across the **Interconnector** by or on behalf of that **Interconnector User**; and

the **User** shall be obliged to pay to **NGC** forthwith the **Use of System Charges** due under the **CUSC** or the relevant **Bilateral Agreement** up to the end of the **Financial Year** in which **Termination** occurs.

5.5 **BALANCING SERVICES USE OF SYSTEM CHARGES: EVENTS OF DEFAULT**

5.5.1 Breaches

Notwithstanding any other provisions of this Paragraph 5.5 and/or Paragraph 5.3 of the **CUSC**, in relation to the payment of the **Balancing Services Use of System Charges** the following shall constitute breaches under the **CUSC** and/or the relevant **Bilateral Agreement**:-

- (a) the **User** in question shall fail to provide or maintain or renew in accordance with Paragraph 3.21 or Paragraph 9.22.3 (as appropriate) the requisite amount of **Security Cover**; or
- (b) the **User** shall fail to pay any sum payable by the **User** in respect of **Balancing Services Use of System Charges** to **NGC** within 3 **Business Days** of its due date; or
- (c) an event of default under Paragraph 5.3.1(b) of the **CUSC** has occurred provided always that the final Paragraph of Paragraph 5.3.1(b) of the **CUSC** referring to the provision of guarantees shall not apply.

5.5.2 Events of Default

Forthwith upon the occurrence of any of the breaches specified in Paragraph 5.5.1 then notwithstanding any other provisions of the **CUSC** or of any **Bilateral Agreement** to which the **User** is a

party, and in addition to any rights it may have under the terms of the **CUSC**, **NGC** may upon reaching a bona fide conclusion that the reason for the failure by the **User** under Paragraph 5.5.1 is other than an administrative or banking error (having taken into account representations if any of the **User** made within 24 hours after the request therefor is made to the **User** by **NGC**, which request **NGC** shall be obliged to make) by notice to the **User** declare such breach an event of default.

5.5.3 Deenergisation by User

If **NGC** declares an **Event of Default** under Paragraph 5.5.2 the **User** shall forthwith and in compliance with the instructions of **NGC** or (in the case of any connection to a **User System**) the owner of the **User System** to which the **User's Customers** are connected, **Deenergise** itself and/or its **Customers** or in the case of a **User** acting as an **Interconnector User** or **Interconnector Error Administrator** cease or procure the cessation of the transport of power by or on behalf of that **User** across the **Interconnector** as the case may be.

5.5.4 Deenergisation by NGC/User System Owner

If the **User** shall fail to take such action as is referred to in Paragraph 5.5.3 within 48 hours after the date of any such notice referred to therein **NGC** shall be entitled to:-

- (a) request the owner of the **User System** to which the **User's Customers** and/or the **User** are connected, to **Deenergise** the **User's Customers** and/or the **User** (as the case may be) and to use all reasonable endeavours to effect or (as the case may be) give instructions to give effect to such **De-energisation** as quickly as practicable having regard to all the circumstances affecting such **De-energisation** (including any operational difficulties and relevant **Licence** duties); and/or
- (b) **Deenergise** the **User's Equipment** or equipment for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) at any **Connection Site(s)** which serves only the **User** or a customer of the **User**; and/or
- (c) where the **User** is an **Interconnector User** request the relevant **Interconnector Owner** to cease or procure the

cessation of the transfer of power by or on behalf of the **User** across the **Interconnector**.

5.5.5 BSUoS Event of Default

5.5.5.1 **NGC** may terminate the relevant **Bilateral Agreement** and all others to which the **User** is a party and revoke the **Use of System Supply Confirmation Notice** and **Use of System Interconnector Confirmation Notice** forthwith by notice to the **User** if:-

- (a) **NGC** has given a valid notice of default pursuant to Paragraph 5.5.2; and
- (b) such event of default remains unremedied at the expiry of the later of:-
 - (i) the period of 6 months from the date of such notice; and
 - (ii) where the **User** disputes bona fide the event of default and has promptly brought and is actively pursuing proceedings against **NGC** to determine the dispute, the date on which the dispute is resolved or determined.

Upon termination pursuant to this Paragraph the **User** shall pay to **NGC** the **Termination Amounts** calculated in accordance with the **Charging Statements** and shall disconnect all the **User's Equipment** at the **Connection Site** and ~~**NGC** and~~

~~aa) the **User** concerned shall by arrangement between them remove any of the **User's Equipment** and **NGC Assets** on, in relation to **Connection Sites** in England and Wales, the other party's **NGC's** or, in relation to **Connection Sites** in Scotland, **Relevant Transmission Licensee's** land (as appropriate) within 6 months of the date of termination or such longer period as may be agreed between the parties **NGC** or the **Relevant Transmission Licensee** (as appropriate) and the **User**; and~~

~~bb) in the case of **Connection Sites** in England and Wales **NGC** shall remove and in the case of **Connection Sites** in Scotland **NGC** shall procure that the **Relevant Transmission Licensee** removes any of the~~

Transmission Connection Assets on the land of the User concerned within 6 months or such longer period as may be agreed between the User and NGC or the Relevant Transmission Licensee (as appropriate);
and

cc) the provisions of Paragraph 5.4.7 shall apply *mutatis mutandis*.

5.5.5.2 The service of a notice under Paragraph 5.5.5.1 and/or the expiry of a notice given under Paragraph 5.6 shall not relieve the **User** of its obligation under Paragraph 3.9.3 or Paragraph 9.10 or any **Bilateral Agreement** to which the **User** is a party to pay any outstanding **Balancing Services Use of System Charges** in respect of any **Settlement Day** which fell prior to the issue or expiry of (as the case may be) such a notice but for which the **Payment Date** fell after the date of the termination of the relevant **Bilateral Agreement** (or use of system not subject to a **Bilateral Agreement**).

5.6 NOTICE TO DISCONNECT

Without prejudice to Paragraph 5.2.2, each **User** shall, as between **NGC** and that **User**, give to **NGC** not less than 6 months written notice of any intention of the **User** to **Disconnect** the **User's Equipment**.

5.7 DISCONNECTION

5.7.1 If notice to **Disconnect** is given by the **User** under Paragraph 5.6 hereof the **User** may upon expiry of the period specified in such notice and not before **Disconnect** the **User's Equipment**. At the expiry of such period the relevant **Bilateral Agreement** shall terminate and the following provisions shall apply.

5.7.2 The **User** shall be liable forthwith on the date the relevant **Bilateral Agreement** so terminates to pay to **NGC**:-

- (a) **Connection Charges** and/or **Use of System Charges** to the end of the **Financial Year** in which termination occurs all such charges becoming immediately due and payable upon the termination of the relevant **Bilateral Agreement**; and
- (b) **Termination Amounts** applicable to the **Connection Site**,

such payments to be made within 28 (twenty eight) days of the date of **NGC's** invoice in respect thereof.

- 5.7.3 Within 6 months of the date of such termination or such longer period as may be agreed between ~~the parties~~ **NGC and the User** in relation to **Connection Sites** in England and Wales, and/or between the **Relevant Transmission Licensee** and the **User** in relation to **Connection Sites** in Scotland;

(a) ~~the parties~~ **User** shall ~~by arrangement with each other~~ remove any of the **User's Equipment** ~~and **NGC Assets**~~ on, in relation to **Connection Sites** in England and Wales, the other party's **NGC's** or, in relation to **Connection Sites** in Scotland, **Relevant Transmission Licensee's** land (as appropriate); and

(b) In the case of **Connection Sites** in England and Wales **NGC** shall remove and in the case of **Connection Sites** in Scotland **NGC** shall procure that the **Relevant Transmission Licensee** removes any of the **Transmission Connection Assets** on the land of the **User** concerned.

5.8 Not Used

5.9 NON-EMBEDDED CUSTOMERS

- 5.9.1 This Paragraph 5.9 provides for additional **Deenergisation** provisions which only apply in relation to **Users** acting in their category of connection and/or use as **Non-Embedded Customers**.

- 5.9.2 If the following condition ceases to be satisfied in respect of the **Supplier** supplying the **Connection Site** **NGC** may give written notice of that fact to the **User** and unless within 5 days of receipt of such notice the **User** advises **NGC** that it has contracted with an alternative **Supplier**, **NGC** shall be entitled to **Deenergise** the **Non-Embedded Customer's User's Equipment**:-

"the **Supplier** being authorised by a current **Supply Licence** to supply electricity to the premises to be supplied with electricity through the **Connection Site**."

- 5.9.3 If there ceases to be a subsisting right of **Use of System** by a **Supplier** at the **Connection Site** who is liable to **NGC** for **Use of System Charges** in respect of **Demand** attributable to the

Connection Site, NGC shall be entitled to **Deenergise** the **User's Equipment**.

5.9.4 Where:

- (a) the **Supplier** is in breach of the **CUSC** relating to the supply to the **Connection Site** and accordingly **NGC** is permitted under the **CUSC** to **Deenergise** the **User's Equipment**; or
- (b) an **Event of Default** under Paragraph 5.6 has occurred in relation to the **Supplier** with whom the **User** has a **Supply Agreement** and the relevant event is still continuing or the relevant circumstances still exist,

NGC may **Deenergise** the **User's Equipment** upon the expiry of at least 48 hours prior written notice to the **User** provided that at the time of expiry of such notice the breach concerned remains unremedied or (as the case may be) the reason permitting **Deenergisation** continues or the relevant **Event of Default** is still continuing and neither **NGC** nor the **Supplier** has referred the matter to the **Dispute Resolution Procedure**. In such event, **NGC** may **Deenergise** the **User's Equipment** forthwith following completion of the **Dispute Resolution Procedure** and final determination of the dispute in **NGC's** favour.

- 5.9.5 If a breach of the nature referred to in Paragraph 5.9.4 continues to the extent that it places or seriously threatens to place in the immediate future **NGC** in breach of the **NGC—Transmission Licence** and/or would place any Relevant Transmission Licensee in breach of its transmission licence, **NGC** may **Deenergise** the **Non-Embedded Customer's Equipment** at the **Connection Site** upon the expiry of at least five (5) **Business Days** prior written notice to the **User**, provided that at the time of expiry of such notice the breach concerned remains unremedied.

5.10 ELEVANT INTERRUPTIONS

- 5.10.1 In the event of a **Relevant Interruption** where the **Affected User** has not otherwise received compensation under the **Balancing and Settlement Code** **NGC** shall be liable to pay the **Affected User** upon request the **Interruption Payment** for the **Interruption Period**.

- 5.10.2 The **Interruption Payment** shall be paid by **NGC** to the **Affected User** within 28 days of the date of agreement as to the amount of the **Interruption Payment**.
- 5.10.3 The **Affected User** will take all reasonable steps to minimise the effect (and therefore the amount of the **Interruption Payment** sought as a consequence) of the **Relevant Interruption** on the operation of its business.

END OF SECTION 5

CUSC - SECTION 6

GENERAL PROVISIONS

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CUSC - SECTION 6

GENERAL PROVISIONS

6.1 INTRODUCTION

This General Provisions Section contains those provisions which are generic, but which do not relate directly to the specific areas dealt with in other sections.

6.2 NGC OBLIGATIONS

NGC agrees with each **User** to (and in respect of licence obligations contained within Section D of a transmission licence, procure that a Relevant Transmission Licensee shall) make available, plan, develop, operate and maintain the ~~NGCGB~~ **Transmission System** in accordance with the ~~NGC Transmission Licence~~ transmission licences and with the **Grid Code** subject to any **Derogations** from time to time.

6.3 COMPLIANCE WITH GRID CODE/DISTRIBUTION CODE

- 6.3.1 Subject to Paragraph 6.3.3 each **CUSC Party** agrees with each other **CUSC Party** to be bound by and to comply in all respects with the provisions of the **Grid Code** in so far as applicable to that **CUSC Party**.
- 6.3.2 Subject to Paragraph 6.3.3 each **CUSC Party** agrees with each other **CUSC Party** to be bound by and to comply in all respects with the provisions of the relevant **Distribution Code(s)** in so far as applicable to that **CUSC Party** except as may be otherwise provided in any agreement for connection to a **Distribution System**.
- 6.3.3 Neither **NGC** nor a **User** need comply with the **Grid Code** or any relevant **Distribution Code(s)** to the extent (if any) that:-
- (i) either the **Authority** has issued directions relieving **NGC** or that **User** from the obligation under its respective licence to comply with the **Licence Standards**, the **Grid Code** or any relevant **Distribution Code(s)** in respect of such parts of the **Grid Code** or any relevant **Distribution Code(s)** respectively as may be specified in those directions or to the extent that **NGC** and a **User** which does not have a **Licence** under the **Act** can and have so agreed in any **Bilateral**

Agreement or in relation to any **Connection Site** or **New Connection Site** and/or **Derogated Plant**; or

- (ii) in the case of a **User** the **Grid Code** relates to the provision by that **User** of any **Ancillary Services** unless there is an **Ancillary Services Agreement** in force between that **User** and **NGC** for the payment by **NGC** for such **Ancillary Services**.

6.3.4 Each **User** undertakes to **NGC** and **NGC** undertakes to each **User** to use all reasonable endeavours to carry out such works as are necessary to ensure that each item of **Derogated Plant** owned or operated by that **User** or **NGC** (as appropriate) is brought up to the **Required Standard** applicable to it no later than the **Back-Stop Date** applicable to it.

6.3.5 The terms and provisions of the **Fuel Security Code** shall prevail to the extent that they are inconsistent with the **Grid Code** or any **Distribution Code** and the **CUSC Parties'** obligations under the **CUSC** shall be construed accordingly.

6.4 JOINT SYSTEM INCIDENTS

This paragraph applies to all **Users** other than:-

- (a) **Users** acting as **Suppliers**; and
- (b) **Users** who are **Trading Parties** and are responsible (as defined in the **Balancing and Settlement Code**) for **Embedded Small Power Station(s)**;

Each such **User** confirms to **NGC** (and **NGC** confirms to each such **User**) that as between **NGC** and that **User** its Senior Management Representatives whose names are nominated and notified to the other pursuant to [OC9] of the **Grid Code** are fully authorised to make binding decisions on its behalf for the purposes of [OC9].

6.5 OBLIGATIONS OF USERS WHO OWN OR OPERATE DISTRIBUTION SYSTEMS

6.5.1 Any **User** who owns or operates a **Distribution System** shall not **Energise** the connection between any **Power Station** and its **Distribution System** nor permit the use of its **Distribution System** by the same until the person owning or operating the plant has where required completed the **Use of System Application (Generators)** and has entered into a **Bilateral Agreement** in the appropriate form (if any) with **NGC** and (if such person is not already a party to the **CUSC**) has where required

entered into an **Accession Agreement** pursuant to this Section 6.

- 6.5.2 Any **User** who owns or operates a **Distribution System** shall not **Energise** the connection between any **Customer** of another **Authorised Electricity Operator** connected to such **Distribution System** if the **Authorised Electricity Operator** is responsible for **Demand (Active Power)** being supplied to such **Customer** pursuant to the **Balancing and Settlement Code** unless such **Authorised Electricity Operator** has first submitted a **Use of System Application**, has received a **Use of System Offer Notice** which has been accepted by the **User**, and (if the **Authorised Electricity Operator** is not already a party to the **CUSC Framework Agreement**) has become a party to the **CUSC Framework Agreement**.
- 6.5.3 **NGC** shall notify the relevant owner or operator of the **Distribution System** in writing as soon as the conditions set out in Paragraph 6.5.1 and Paragraph 6.5.2 have been satisfied in any particular case together with, if appropriate, a copy of any list provided under Paragraph 3.5. **NGC** undertakes to each **CUSC Party** that, for so long as it is the case, **NGC** shall from time to time forthwith upon receipt of any written request from that **CUSC Party** to do so, confirm in writing to any person specified in such request that that **CUSC Party** is a party to the **CUSC Framework Agreement** and any **Bilateral Agreement** specified in such request.
- 6.5.4 Each owner or operator of a **Distribution System** shall **De-energise** the connection equipment of any such **User** the subject of Paragraph 6.5.1 or **Customer** the subject of Paragraph 6.5.2 as soon as reasonably practicable following the instruction of **NGC** in accordance with the terms of the **CUSC**. **NGC** shall reimburse such owner or operator any expense incurred in relation to such act of **De-energisation**, if any, and shall indemnify such owner or operator against any liability, loss or damage suffered by it as a result of such **De-energisation**. Details of any circumstances likely to lead to such a **De-energisation** shall be notified promptly by **NGC** to the said owner or operator. The owner or operator of a **Distribution System** shall promptly notify **NGC** when the connection equipment of any **User** or **Customer** the subject of Paragraph 6.5.1 or 6.5.2 is **De-energised** or **Disconnected** from its **Distribution System** or ceases to use its **Distribution System** as the case may be following the instruction of **NGC** in accordance with the terms of the **CUSC**.

6.6 PAYMENT

- 6.6.1 **NGC** will invoice **Users** for **Connection Charges** and/or **Use of System Charges** due under the **CUSC** and/or each **Bilateral Agreement** and/or as notified to the **User** where there is no **Bilateral Agreement**, in accordance with the **CUSC** and/or the **Charging Statements** in the following manner:
- (a) in the case of recurrent monthly charges identified in the relevant **Charging Statements** **NGC** shall despatch an invoice on or before the 15th day of the month for the charges due in relation to that month;
 - (b) unless otherwise specified in the **CUSC** where charges are payable other than monthly **NGC** shall despatch an invoice not less than 30 days prior to the due date for payment.
- 6.6.2 **Users** shall pay **Connection Charges** and/or **Use of System Charges** due to **NGC** under the **CUSC** and/or each **Bilateral Agreement** and/or as otherwise notified to the **User** where there is no **Bilateral Agreement**, in accordance with the **CUSC** and/or the **Charging Statements** in the following manner:
- (a) in the case of recurrent monthly charges on the 15th day of the month in which **NGC's** invoice therefor was despatched (if despatched on the first day of that month) or, in all other cases, on the 15th day of the month following the month in which **NGC's** invoice therefor was despatched unless, in any such case, the said date is not a **Business Day** in which case payment shall be made on the next **Business Day**;
 - (b) unless otherwise specified in the **CUSC** where charges are payable other than monthly within 30 days of the date of **NGC's** invoice therefor.
- 6.6.3 All payments under this Paragraph 6.6 shall be made by the variable direct debit method or such other form of bankers automated payment as shall be approved by **NGC** to the account number, bank and branch as **NGC** or a **User** may from time to time notify in writing to the other.
- 6.6.4 All sums payable by one **CUSC Party** to the other pursuant to this **CUSC**, the **Bilateral Agreements** and/or the **Mandatory Services Agreements**, whether of charges, interest or otherwise shall (except to the extent otherwise required by law) be paid in full, free and clear of and without deduction set off or deferment in respect of sums the subject of any disputes or claims whatsoever save for sums the subject of a final award or judgement (after exhaustion of all appeals if this opportunity is taken) or which by

agreement between **NGC** and those **CUSC Parties** may be so deducted or set-off.

6.6.5 Subject to Section 4, if any **CUSC Party** fails to pay on the due date any amount properly due under the **CUSC** or any **Bilateral Agreement** such **CUSC Party** shall pay to the **CUSC Party** to whom such amount is due interest on such overdue amount from and including the date of such failure to (but excluding) the date of actual payment (as well after as before judgement) at the rate of 4% over **Base Rate** for the time being and from time to time. Interest shall accrue from day to day.

6.6.6 All amounts specified hereunder or under any **Bilateral Agreement** shall be exclusive of any **Value Added Tax** or other similar tax.

6.7 METERING

6.7.1 Each **User** consents to **NGC** having access to and copies of all meter readings taken from **Energy Metering Equipment** pursuant to the **Balancing and Settlement Code** in any **Financial Year** for the purposes of calculating **Connection Charges** and **Use of System Charges** due from **Users** or for the purpose of operating the **NGC-GB Transmission System**. Such access and copies shall be obtained from the relevant **BSC Agent** appointed under the **Balancing and Settlement Code** from time to time provided always that if the relevant **BSC Agent** fails to provide such access and copies at **NGC's** request the **User** shall supply any such meter readings in the possession of the **User** direct to **NGC**.

6.7.2 The relationship between the **CUSC Parties** with respect to **Energy Metering Equipment** shall be regulated by Section L of the **Balancing and Settlement Code**.

6.7.3 In respect of **Operational Metering Equipment** owned by one **CUSC Party** and in respect of which access and rights to deal with such **Operational Metering Equipment** are not set down in any other document the **CUSC Parties** shall grant each other such access and other rights as are reasonably necessary to enable them to perform their obligations under the **CUSC** and the **Grid Code** upon presentation of a suitable indemnity and the **CUSC Parties** shall take such action as may be necessary to regularise the position forthwith thereafter.

6.7.4 The voltage at which the tariff metering is connected and its location shall be referred by **NGC** to the **BSC Panel**. **NGC** shall

inform the relevant **User** of the voltage requirements specified by the **BSC Panel** as soon as possible thereafter.

6.7.5 Meter Operator Agent

Where a **Connection Site** is a **Grid Supply Point**, and the **User** is or will be **Registrant** in relation to the **Energy Metering Equipment** required by the **Balancing and Settlement Code** at the **Grid Supply Point** and/or at the bulk supply point(s) which are related to that **Grid Supply Point**, **NGC** shall install and be the **Meter Operator Agent** of all such **Energy Metering Equipment** from the date of the relevant **Construction Agreement** until the **FMS Date** and thereafter:-

- (a) **NGC** may resign as **Meter Operator Agent** of such **Energy Metering Equipment** on giving no less than 12 months' notice in writing; and
- (b) the **User** may remove **NGC** as **Meter Operator Agent** upon giving no less than 12 months' notice in writing,

Provided that where the **User** agrees to become owner of any such **Energy Metering Equipment** **NGC** may resign as **Meter Operator Agent** upon such transfer of ownership and shall agree such terms as shall be reasonably necessary to enable the **User** to perform its obligations as **Meter Operator Agent** of such **Energy Metering Equipment**.

6.7.6 Charges

NGC shall recover its charges for acting as **Meter Operator Agent** of any **Energy Metering System**, which is an **NGC Transmission Connection Asset** charged for under the **CUSC**, as part of such charges. Where **NGC** acts as **Meter Operator Agent** of any other **Energy Metering System** owned by **NGC** for which the **User** is **Registrant** **NGC** shall charge and the **User** shall pay such amount which is reasonable in all the circumstances.

6.7.7 Interference

The **User** shall ensure that its employees, agents and invitees will not interfere with any **Energy Metering Equipment** in respect of which **NGC** is **Meter Operator Agent** or the connections to such **Energy Metering Equipment**, without the prior written consent of **NGC** (except to the extent that emergency action has to be taken to protect the health and safety of persons or to prevent serious damage to property proximate to the **Energy Metering**

Equipment or to the extent that such action is authorised under the **CUSC** or any other agreement between **NGC** and the **User**.)

6.7.8 Pulse Data

The **User** shall have the right to collect and record pulses from the meters comprised in the **Energy Metering System(s)** at the **Connection Site**. In relation to **Connection Sites** in England and Wales, **NGC** shall give the **User** access in accordance with the **Interface Agreement** to collect and record such pulses and to install and maintain such lines and equipment as may be reasonably necessary. In relation to **Connection Sites** in Scotland, **NGC** shall procure that the **Relevant Transmission Licensee** shall give the **User** access in accordance with the **Interface Agreement** to collect and record such pulses and to install and maintain such lines and equipment as may be reasonably necessary.

- 6.7.9 Where a **User** is acting as a **Supplier** to a **Non-Embedded Customer** the **User** shall register the **Energy Metering System** at the **Connection Site** in accordance with the **Balancing and Settlement Code** and shall otherwise act as **Registrant**.

6.8 BALANCING MECHANISM REQUIREMENTS

- 6.8.1 If the **User** is a **BSC Trading Party**, then the following provision[s] must be met:

6.8.2 Trading Point Electronic Data Transfer (CC.6.5.8)

If required under **Grid Code** CC.6.5.8, the **User** must provide electronic data communication facilities approved by **NGC** to permit the submission of data required by the **Grid Code**, from the **User's Trading Point** (as defined in the **Grid Code**) to **NGC**. The **User** can elect to send data to two locations depending upon the level of diversity required by the **User**. **NGC** will provide the necessary "router" connection equipment at both Wokingham and Warwick House.

- 6.8.3 If the **User** chooses to participate in the **Balancing Mechanism** then the following provisions must be met:

(a) Control Telephony (CC.6.5.2 to CC.6.5.5)

The requirements of Control Telephony are specified in Appendix 1 of this Section 6. This encompasses Additional Communication Requirements (CC.6.5.7 and CC.6.5.9).

(b) Operational Metering (CC.6.5.6)

(i) The Operational Metering requirements are contained in Appendix 2 to this Section 6. The Operational Metering Summator (OMS) is detailed in NGTS 3.9.11.

(ii) **NGC** shall supply and install the OMS Front End (FE) unit in a position close to the high accuracy meters, to be agreed with the **User**, preferably within the high accuracy metering cubicle. The OMS FE links to the OMS Processing End (PE) unit via a serial data link and this may need to be connected via **User** supplied cabling depending on the agreed positions of the two units.

(iii) Where **User's Equipment** or equipment for which the **User** is responsible (as defined in the **Balancing and Settlement Code**) is located immediately adjacent to the Grid Entry Point (**NGC Transmission Substation**), Telecoms Room accommodation shall be provided by the **User** for the **NGC Transmission** Marshalling Cubicles, Telemetry, System Monitoring, Signalling and Telephone equipment required to collect and return the information required, and to provide voice communication. This will require space for between three and five 600mm square cubicles to contain equipment, supplies (e.g. 48-volt dc) and marshalling. The equipment will be provided and installed by **NGC**. The **User** will be responsible for providing the site connections and cabling to the plant/peripherals. The **User** should ensure that signals are wired out to the appropriate cubicle.

(iv) Where **User's Equipment** or **Equipment** for which the **User** is responsible (as defined in the **Balancing and Settlement Code**) is located immediately adjacent to the Grid Entry Point (**NGC Transmission Substation**), and the two sites have their earthing bonded together, the data required by **NGC** (from the OMS-FE and other plant) will be cabled directly between the two sites and the **NGC** equipment located in the **User** bay in the **NGC Transmission Substation**.

- (v) The requirements as specified in Appendix 2 to this Section 6 must be met for all generating plant, including any plant specifically installed for Black Start, that is the subject of bids or offers to the **Balancing Mechanism**.
- (vi) The requirements as specified in Appendix 2 to this Section 6, to the extent that they are applicable, must be met where reasonably required by **NGC** for demand supplied by the **User** that is the subject of bids or offers to the **Balancing Mechanism**. **NGC** will not require the requirements of Appendix 2 to this Section 6 to be met where it is impracticable or unreasonable to do so, for example where the demand is a disparate collection of small demands aggregated to form a **BM Unit**.
- (c) Control Point Electronic Dispatch & Logging (CC.6.5.8)

Electronic data communication facilities approved by **NGC** to permit the submission of Bid Offer Acceptance data from **NGC** to the **User's** Control Point (as defined in the **Grid Code**) and to permit the submission data required by the **Grid Code**, from the **User's** Control Point to **NGC**. **NGC** will provide the necessary communication links and "router" connection equipment at the **User's** Control Point. The requirements for Control Point Electronic Dispatch & Logging are specified in Appendix 1 to this Section 6 (Communications Plant).

6.9 MODIFICATIONS

- 6.9.1 No **Modification** may be made by or on behalf of a **User** or **NGC** otherwise than in accordance with the provisions of this Paragraph 6.9.
- 6.9.2 Modifications Proposed by Users
 - 6.9.2.1 If a **User** wishes to make a **Modification** it shall complete and submit to **NGC** a **Modification Application** and comply with the terms thereof.
 - 6.9.2.2 **NGC** shall make the **Modification Offer** to that **User** as soon as practicable and (save where the **Authority** consents to a longer period) in any event not more than 3 months after receipt by **NGC** of the **Modification Application**. The **Modification Offer** shall include

details of any variations **NGC** proposes to make to the **Bilateral Agreement** which applies to the **Connection Site** in question. During such period **NGC** and the **User** concerned shall discuss in good faith the implication of the proposed **Modifications**.

6.9.2.3 The **Modifications Offer** shall remain open for acceptance for 3 months from the date of its receipt by that **User** unless either that **User** or **NGC** makes an application to the **Authority** under [Standard Condition C7E] of the ~~NGC~~ **Transmission Licence**, in which event the **Modification Offer** shall remain open for acceptance by that **User** until the date 14 days after any determination by the **Authority** pursuant to such application.

6.9.2.4 If the **Modification Offer** is accepted by that **User** the **Bilateral Agreement** relating to the **Connection Site** in question shall be varied to reflect the terms of the **Modification Offer** and the **Modification** shall proceed according to the terms of the **Bilateral Agreement** as so varied.

6.9.3 Modifications Proposed by NGC

6.9.3.1 If **NGC** wishes to make a **Modification** to the ~~NGC~~ **GB Transmission System**, **NGC** shall complete and submit to each **User** a **Modification Notification** and shall advise each **User** of any works which **NGC** reasonably believes that **User** may have to carry out as a result.

6.9.3.2 Any **User** which considers that it shall be required to make a **Modification** (an “**Affected User Modification**”) as a result of the **Modification** proposed by **NGC** (an “**Affected User**”) may as soon as practicable after receipt of the **Modification Notification** and (save where the **Authority** consents to a longer period) within the period stated therein (which shall be sufficient to enable the **User** to assess the implications of the proposed **Modification** and in any event shall not be less than 3 months) may make an application to the **Authority** under [Standard Condition C7E] of the **Transmission Licence**.

6.9.3.3 As soon as practicable after the receipt of the **Modification Notification** or, if an application to the **Authority** has been made, the determination by the

Authority, and in any event within two months thereof, each **Affected User** shall complete and submit a **Modification Application** to **NGC** and comply with the terms thereof. No fee shall be payable by any **User** to **NGC** in respect of any such **Modification Application**.

6.9.3.4 Once a **Modification Application** has been made by a **User** pursuant to Paragraph 6.9.3.2 the provisions of Paragraph 6.9.2.2, 6.9.2.3 and 6.9.2.4 shall thereafter apply.

6.9.4 To the extent that the provisions of ~~the any Nuclear Site Licence Provisions Agreement (being an agreement dated 30th March 1990 between NGC and Nuclear Electric plc (now called Magnox Electric plc) and an agreement dated 31 March 1996 between NGC and British Energy Generation Limited and described as such)~~ relate to **Modifications** (either by a **User** or by **NGC**) as (and only as) between the parties to such agreement they shall prevail over the provisions of this Paragraph 6.9 to the extent that they are inconsistent.

6.10 GENERAL PROVISIONS CONCERNING MODIFICATIONS AND NEW CONNECTION SITES

6.10.1 Subject to the payment of its **Reasonable Charges**, if any, as provided for in this Paragraph 6.10 **NGC** undertakes to each **User** to provide all advice and assistance reasonably requested by that **User** to enable that **User** adequately to assess the implications (including the feasibility) of making a **Modification** to the **User's Equipment** or the **User's System** (whether such **Modification** is to be made at the request of **NGC** or of the **User**) or of constructing a **New Connection Site** (including adequately assessing the feasibility of making any **Connection Application** or considering the terms of any **Connection Offer**). If the proposed **Modification** by the **User** is or may be required as a result of a **Modification** proposed by **NGC** then **NGC** shall provide such advice and assistance free of charge. If the proposed **Modification** is or may be proposed by the **User** or if the advice and assistance is in respect of a **New Connection Site** **NGC** may charge the **User Reasonable Charges** for such advice and assistance. The provision of such advice and assistance shall be subject to any confidentiality obligations binding on **NGC** and that **User**.

6.10.2 When giving such advice and assistance **NGC** shall comply with **Good Industry Practice**.

- 6.10.3 **NGC** shall have no obligation to compensate any **User** (the "**First User**") for the cost or expense of any **Modification** required to be made by any **User** as a result of any **NGC Modification** under Paragraph 6.9.3.1. Where such **NGC Modification** is made as a result of the construction of a **New Connection Site** or a **Modification** for another **User** (the "**Other User**"), the **Other User** shall compensate the **First User** for the reasonable and proper cost and expense of any **Modifications** required to be made by the **First User** as a result of that **NGC Modification**. Such compensation shall be paid to the **First User** by the **Other User** within thirty days of production to the **Other User** of a receipted invoice (together with a detailed breakdown of such reasonable costs and expenses) for the expenditure which has been incurred by the **First User**.

Modification Offer and Connection Offer conditional upon other Modification and Connection Offers

- 6.10.4 If at the time of making any **Offer** or **Modification Offer** or **Connection Offer** to a **User** (the "**Second Offer**") there is an outstanding **Modification Offer(s)** or **Connection Offer(s)** to another **User(s)** (the "**First Offer**") which if accepted would affect the terms of the **Second Offer** **NGC** shall at the time of making the **Second Offer**:
- 6.10.4.1 inform the recipient(s) of both the **First Offer(s)** and **Second Offer(s)** in writing that there is another **Offer** outstanding which might affect them; and
 - 6.10.4.2 be entitled to make the **First Offer(s)** and **Second Offer(s)** conditional upon other outstanding **Offers** not having been or being accepted; and
 - 6.10.4.3 be entitled to vary the terms of either **Offer** if the other **Offer** is accepted first on the same procedures as those set out in Paragraphs 6.9.2.2 to 6.9.2.4 or 2.14.2 to 2.14.4 inclusive as the case may be.

6.11 NUCLEAR INSTALLATIONS

- 6.11.1 Save as provided in Paragraph 6.11.2 below notwithstanding anything to the contrary contained in the **CUSC** (but subject to the following proviso), in circumstances affecting a generator of nuclear electricity (a "**Nuclear Generator**") in which:
- (a) a breach of any of the matters specified in Paragraph 6.11.4 below may be reasonably anticipated; and

- (b) there is no defence (other than that provided for under this Paragraph) available to the **Nuclear Generator** in respect of the breach referred to in Paragraph (a);

the **Nuclear Generator** shall be entitled to take any action or refrain from taking any action which is reasonably necessary in order to avert the breach referred to in Paragraph 6.11.1(a) and each and every provision of the **CUSC** shall be read and construed subject to this Paragraph 6.11.1,

Provided that the **Nuclear Generator** shall:-

- (i) make reasonable efforts to verify the factors that it takes into account in its assessment of the circumstances and anticipated breach referred to above; and
- (ii) use its best endeavours to comply with the relevant provision in a manner which will not cause the **Nuclear Generator** to breach any of the matters specified in Paragraph 6.11.4 below.

6.11.2 Paragraphs 6.11.1 and 6.11.3 shall not apply in relation to the provisions of the **Balancing Codes** which will apply with full force and effect notwithstanding the occurrence of the circumstances referred to in 6.11.1(a) (including those provisions specified in Paragraph 6.11.4 which relate to Safety of Personnel and **Plant**).

6.11.3 Save as provided in Paragraph 6.11.2 above notwithstanding anything in the **CUSC**, the **Nuclear Generator** shall be entitled upon giving reasonable notice to all affected **CUSC Parties** to require any **CUSC Party** to take any reasonable and proper action whatsoever to the extent necessary in order to comply with (or avert an anticipated breach of) any of the matters specified in Paragraph 6.11.4 below.

6.11.4 The matters referred to in Paragraphs 6.11.1 and 6.11.3 above are any covenant, agreement, restriction, stipulation, instruction, provision, condition or notice contained, or referred to, in a licence for the time being in force, granted in accordance with the Nuclear Installations Act 1965 (or legislation amending, replacing or modifying the same) or any consent, or approval issued, or to take effect from time to time under such licence, any emergency arrangements, operating rules or other matters from time to time under such licence, any emergency arrangements, operating rules or other matters from time to time approved by the relevant authority under, or pursuant to, any such agreements, restrictions, stipulations, instructions, provisions, conditions or notices.

- 6.11.5 The **Nuclear Generator** shall indemnify and keep indemnified any **CUSC Party** for any loss, damage, costs and expenses incurred by that **CUSC Party** as a consequence of any action of that **CUSC Party** pursuant to Paragraph 6.11.3 (to the extent that the action was not required by any licence or agreement binding on that **CUSC Party**).
- 6.11.6 Notwithstanding the fact that any action or inaction allowed by Paragraph 6.11.1 above does not constitute a breach of the **CUSC** or an **Event of Default** under Paragraph 5.3, the **Nuclear Generator** shall be liable to the other **CUSC Parties** to the **CUSC** for any loss, claims, costs, liabilities and expenses arising from such action or inaction to the extent only that such loss, claims, costs, liabilities and expenses (had it arisen as a result of a breach of the **CUSC**) would not have been limited or excluded under the provisions of Paragraph 6.12.

6.12 LIMITATION OF LIABILITY

- 6.12.1 Subject to Paragraphs 4.3, 5.10.1, 6.12.5, 6.5.4 and 6.11.5 and any liquidated damages provisions of any **Construction Agreement** or **Bilateral Agreement** or **Mandatory Services Agreement** and the payment adjustment provisions of the relevant **Mandatory Services Agreement** and save where any provision of the **CUSC**, any **Bilateral Agreement** or any **Mandatory Services Agreement** provides for an indemnity each **CUSC Party** agrees and acknowledges that no **CUSC Party** (the "**Party Liable**") nor any of its officers, employees or agents shall be liable to any of the other **CUSC Parties** for loss arising from any breach of the **CUSC** and any such agreements other than for loss directly resulting from such breach and which at the date hereof was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach in respect of:-
- 6.12.1.1 physical damage to the property of any of the other **CUSC Parties**, or its or their respective officers, employees or agents; and/or
- 6.12.1.2 the liability of any such other **CUSC Party** to any other person for loss in respect of physical damage to the property of any other person.
- 6.12.2 Nothing in the **CUSC** shall exclude or limit the liability of the **Party Liable** for death or personal injury resulting from the negligence of the **Party Liable** or any of its officers, employees or agents and the **Party Liable** shall indemnify and keep indemnified each of the other **CUSC Parties**, its officers, employees or agents, from and against all such and any loss or liability which any such other

CUSC Party may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the **Party Liable** or any of its officers, employees or agents.

6.12.3 Subject to Paragraphs 4.3, 5.10.1, 6.12.5, 6.5.4 and 6.11.5 and any liquidated damages provision of any **Construction Agreement** or **Bilateral Agreement** or **Mandatory Services Agreement** and save where any provision of the **CUSC**, any **Bilateral Agreement** or any **Mandatory Services Agreement** provides for an indemnity, neither the **Party Liable** nor any of its officers, employees or agents shall in any circumstances whatsoever be liable to any of the other **CUSC Parties** for:-

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

6.12.3.2 any indirect or consequential loss; or

6.12.3.3 loss resulting from the liability of any other **CUSC Party** to any other person howsoever and whensoever arising save as provided in Sub Paragraphs 6.12.1.1 and 6.12.1.2.

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

6.12.5 Save as otherwise expressly provided in the **CUSC**, this Paragraph 6.12 insofar as it excludes or limits liability shall override any other provision in the **CUSC** provided that nothing in this Paragraph 6.12 shall exclude or restrict or otherwise prejudice or affect any of:-

6.12.5.1 the rights, powers, duties and obligations of any **CUSC Party** which are conferred or created by the **Act**, the **Licence** or the **Regulations**; or

6.12.5.2 the rights, powers, duties and obligations of the **Authority** or the **Secretary of State** under the **Act**, any **Licence** or otherwise howsoever.

6.12.6 Each of the Paragraphs of this Paragraph 6.12 shall:-

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

6.12.6.2 survive termination of the **CUSC** and/or the **CUSC Framework Agreement**.

6.12.7 Each **CUSC Party** acknowledges and agrees that each of the other **CUSC Parties** holds the benefit of Paragraphs 6.12.1 and 6.12.2 and 6.12.3 above for itself and as trustee and agent for its officers, employees and agents.

6.12.8 Each **CUSC Party** acknowledges and agrees that the provisions of this Paragraph 6.12 have been the subject of discussion and negotiation and are fair and reasonable having regard to the circumstances as at the date hereof.

6.12.9 For the avoidance of doubt, nothing in this Paragraph 6.12 shall prevent or restrict any **CUSC Party** enforcing any obligation (including suing for a debt) owed to it under or pursuant to the **CUSC**.

6.13 ADDITIONAL CUSC PARTIES

6.13.1 The **CUSC Parties** shall admit as an additional party to the **CUSC Framework Agreement** any person who accepts a **Connection Offer** or **Use of System Offer** from **NGC** (the '**New CUSC Party**') and who is not at the time a **CUSC Party**. Such admission shall take effect by way of an **Accession Agreement** prepared by **NGC** at the expense and cost of the **New CUSC Party** and to be executed by **NGC** for itself and on behalf of all other **CUSC Parties**. Upon execution of the **Accession Agreement** by **NGC**, subject to and in accordance with the terms and conditions of that **Accession Agreement**, the **New Party** shall become a **CUSC Party** for all purposes of the **CUSC Framework Agreement**.

6.13.2 Each **CUSC Party** hereby authorises and instructs **NGC** to sign any such **Accession Agreement** on its behalf and undertakes not

to withdraw, qualify or remove any such authority or instruction at any time.

- 6.13.3 **NGC** shall promptly notify all **Users** that the **New CUSC Party** has become a **CUSC Party**. Such notification shall be by both publication on the **NGC Website** and written notice (which may be sent electronically) of the name, registered address and capacities in which the new **CUSC Party** will, or intends to, be connected to or use the **~~NGC-GB~~ Transmission System**.

6.14 TRANSFER AND SUBCONTRACTING

- 6.14.1 The rights, powers, duties and obligations of a **User** under the **CUSC** or the **CUSC Framework Agreement** and/or any **Bilateral Agreement** (and associated **Construction Agreement**) or **Mandatory Services Agreement** are personal to that **User** and that **User** may not assign or transfer the benefit or burden of those documents save in the following circumstances:

- 6.14.1.1 upon the disposal by that **User** of the whole of its business or undertaking it shall have the right to transfer its rights and obligations under the **CUSC**, all **Bilateral Agreements** (and associated **Construction Agreements**) and all **Mandatory Services Agreements** to the purchaser thereof on condition that the purchaser if not already a **User** enters into an **Accession Agreement** with **NGC** pursuant to Paragraph 6.13 and confirms to **NGC** in writing either that all of the technical or related conditions, data, information, operational issues or other matters specified in or pursuant to the relevant **Bilateral Agreement** (and associated **Construction Agreement**) or **Grid Code** by the **User** seeking the transfer will remain unchanged or, (except in the case of a **Mandatory Services Agreement**) if any such matters are to be changed, the purchaser first notifies **NGC** in writing of such changes which **NGC** will consider promptly and in any event within 28 days of receiving notice of such change, and until such consideration is complete the transfer shall not be effective. If having considered such changes **NGC** in its reasonable opinion does not consider the proposed changes reasonably satisfactory to **NGC** it shall consult with the **User** seeking to undertake such transfer and pending the outcome thereof to **NGC**'s reasonable satisfaction the transfer shall not be effective; provided always that the **User** may refer any dispute to the

Dispute Resolution Procedure. Such transfer shall become effective once the changes are reasonably satisfactory to **NGC** or have been determined to be so under the **Dispute Resolution Procedure**;

6.14.1.2 upon the disposal by a **User** of part of its business undertaking comprising **User's Equipment** at one or more **Connection Sites** that **User** shall have the right to transfer its rights and obligations under all relevant **Bilateral Agreements** (and associated **Construction Agreements**) and all relevant **Mandatory Services Agreements** to the purchaser thereof on condition that the purchaser (if not already a **User**) enters into an **Accession Agreement** with **NGC** under Paragraph 6.13 and confirms to **NGC** in writing either that all of the technical or related conditions, data, information, operational issues or other matters specified in or pursuant to the relevant **Bilateral Agreement** (and associated **Construction Agreement**) or **Grid Code** by the **User** seeking the transfer will remain unchanged or, (except in the case of a **Mandatory Services Agreement**) if any such matters are to be changed, the purchaser first notifies **NGC** in writing of such changes which **NGC** will consider promptly and in any event within 28 days of receiving notice of such change and until such consideration is complete the assignment shall not be effective. If having considered such changes **NGC** in its reasonable opinion does not consider the proposed changes reasonably satisfactory to **NGC** it shall consult with the **User** seeking to undertake such transfer and pending the outcome thereof to **NGC's** reasonable satisfaction the transfer shall not be effective provided always that the **User** may refer any dispute to the **Dispute Resolution Procedure**. Such transfer shall become effective once the changes are reasonably satisfactory to **NGC** or have been determined to be so under the **Dispute Resolution Procedure**;

6.14.1.3 a **User** may assign or charge its benefit under the **CUSC** and any **Bilateral Agreements** (and associated **Construction Agreement**) or any **Mandatory Services Agreements** in whole or in part by way of security.

Each **CUSC Party** shall have the right to sub-contract or delegate the performance of any of its obligations or duties arising under

the **CUSC** or any **Bilateral Agreement**, associated **Construction Agreement** or **Mandatory Services Agreements** including activities envisaged by the **Grid Code** without the prior consent of any other **CUSC Party**. The sub-contracting by a **CUSC Party** of the performance of any obligations or duties under the **CUSC** or any **Bilateral Agreement, Construction Agreements or Mandatory Services Agreements** or of any activities envisaged by the **Grid Code** shall not relieve that **CUSC Party** from liability for performance of such obligation or duty.

6.15 Confidentiality

6.15.1 Confidentiality for **NGC** and its subsidiaries

6.15.1.1 **NGC** and its subsidiaries in each of their capacities in the **CUSC** shall secure that **Protected Information** is not:

- (a) divulged by **Business Personnel** to any person unless that person is an **Authorised Recipient**;
- (b) used by **Business Personnel** for the purposes of obtaining for **NGC** or any of its subsidiaries or for any other person:
 - (i) any electricity licence; or
 - (ii) any right to purchase or otherwise acquire (including to enter into or acquire the benefit of a contract conferring rights or obligations, including rights or obligations by way of option, in relation to or by reference to the sale, purchase or delivery of electricity at any time or the price at which electricity is sold or purchased at any time), or to distribute electricity; or
 - (iii) any contract or arrangement for the supply of electricity to **Customers** or **Suppliers**; or
 - (iv) any contract for the use of any electrical lines or electrical plant belonging to or under the control of a **Public Distribution System Operator**; or

- (v) control of any body corporate which, whether directly or indirectly, has the benefit of any such licence, contract or arrangement; and
- (c) used by **Business Personnel** for the purpose of carrying on any activities other than **Permitted Activities** except with the prior consent in writing of the **CUSC Party** to whose affairs such **Protected Information** relates.

6.15.1.2 Nothing in Paragraph 6.15.1.1 shall apply:

- (a) to any **Protected Information** which, before it is furnished to **Business Personnel**, is in the public domain; or
- (b) to any **Protected Information** which, after it is furnished to **Business Personnel**:
 - (i) is acquired by **NGC** or any subsidiary of **NGC** in circumstances in which Paragraph 6.15.1 does not apply; or
 - (ii) is acquired by **NGC** or any subsidiary of **NGC** in circumstances in which Paragraph 6.15.1.1 does apply and thereafter ceases to be subject to the restrictions imposed by such Paragraph; or
 - (iii) enters the public domain,

and in any such case otherwise than as a result of a breach by **NGC** or any subsidiary of **NGC** of its obligations in Paragraph 6.15.1.1, or a breach by the person who disclosed the **Protected Information** of that person's confidentiality obligation and **NGC** or any of its subsidiaries is aware of such breach; or

- (c) to the disclosure of any **Protected Information** to any person if **NGC** or any subsidiary of **NGC** is required or expressly permitted to make such disclosure to such person:
 - (i) in compliance with the duties of **NGC** or any subsidiary under the **Act** or any other

- requirement of a **Competent Authority**;
or
- (ii) in compliance with the conditions of the **Transmission Licence** or any document referred to in the **Transmission Licence** with which **NGC** or any subsidiary of **NGC** is required by virtue of the **Act** or the **Transmission Licence** to comply; or
 - (iii) in compliance with any other requirement of law; or
 - (iv) in response to a requirement of any stock exchange or regulatory authority or the Panel on Take-overs and Mergers; or
 - (v) pursuant to the Arbitration Rules for the **Electricity Arbitration Association** or pursuant to any judicial or other arbitral process including where determination is by an expert or tribunal having jurisdiction in relation to **NGC** or any of its subsidiaries; or
 - (vi) in compliance with the requirements of section 35 of the **Act** and with the provisions of the **Fuel Security Code**; or
- (d) to any **Protected Information** to the extent that **NGC** or any of its subsidiaries is expressly permitted or required to disclose that information under the terms of any agreement or arrangement (including the **CUSC**, the **Grid Code**, the **Distribution Codes** and the **Fuel Security Code**) with the **CUSC Party** to whose affairs such **Protected Information** relates.

6.15.1.3 **NGC** and each of its subsidiaries may use all and any information or data supplied to or acquired by it, from or in relation to **Users** in performing **Permitted Activities** including for the following purposes:

- (a) the operation and planning of the **NGC-GB Transmission System**;

- (b) the calculation of charges and preparation of offers of terms for connection to or use of the **~~NGC-GB~~ Transmission System**;
- (c) the operation and planning in relation to the utilisation of **Balancing Services** and the calculation of charges therefor;
- (d) the provision of information under the **~~British Grid Systems Agreement and the~~ EdF Documents**,

and may pass the same to subsidiaries of **NGC** which carry out such activities and the **CUSC Parties** agree to provide all information to **NGC** and its subsidiaries for such purposes.

6.15.1.4 **NGC** undertakes to each of the other **CUSC Parties** that, having regard to the activities in which any **Business Person** is engaged and the nature and effective life of the **Protected Information** divulged to him by virtue of such activities, neither **NGC** nor any of its subsidiaries shall unreasonably continue (taking into account any industrial relations concerns reasonably held by it) to divulge **Protected Information** or permit **Protected Information** to be divulged by any subsidiary of **NGC** to any **Business Person**:

- (a) who has notified **NGC** or the relevant subsidiary of his intention to become engaged as an employee or agent of any other person (other than of **NGC** or any subsidiary thereof) who is:
 - (i) authorised by licence or exemption to generate, transmit, distribute or supply electricity; or
 - (ii) an electricity broker or is known to be engaged in the writing of electricity purchase contracts (which shall include the entering into or acquiring the benefit of a contract conferring rights or obligations including rights and obligations by way of option, in relation to or by reference to the sale, purchase or delivery of electricity at any time or the price at which electricity is sold or purchased at any time); or

- (iii) known to be retained as a consultant to any such person who is referred to in (i) or (ii) above; or
 - (b) who is to be transferred to the **Generation Business**, save where **NGC** or such subsidiary could not, in all the circumstances, reasonably be expected to refrain from divulging to such **Business Person Protected Information** which is required for the proper performance of his duties.
- 6.15.2 Without prejudice to the other provisions of this Paragraph 6.15 **NGC** shall procure that any additional copies made of the **Protected Information** whether in hard copy or computerised form, will clearly identify the **Protected Information** as protected.
- 6.15.3 **NGC** undertakes to use all reasonable endeavours to procure that no employee is a **Corporate Functions Person** unless the same is necessary for the proper performance of his duties.
- 6.15.4 Without prejudice to Paragraph 6.15.1.3, **NGC** and each of its subsidiaries may use and pass to each other all and any period metered demand data supplied to or acquired by it and all and any information and data supplied to it pursuant to **OC6** of the **Grid Code** for the purposes of Demand Control (as defined in the **Grid Code**), but in each case only for the purposes of its estimation and calculation from time to time of the variable "system maximum ACS demand" (as defined in the **Transmission Licence**).
- 6.15.5 Any information regarding, or data acquired by the relevant **BSC Agent** or its agent from **Energy Metering Equipment** at **Sites** which are a point of connection to a **Distribution System** shall and may be passed by the relevant **BSC Agent** or his agent to the operator of the relevant **Distribution System**. The said operator of the relevant **Distribution System** may only use the same for the purposes of the operation of such **Distribution System** and the calculation of charges for use of and connection to the **Distribution System**.

Confidentiality other than for NGC and its subsidiaries

- 6.15.6 Each **User** undertakes with each other **User** and with **NGC** and its subsidiaries that it shall preserve the confidentiality of, and not directly or indirectly reveal, report, publish, disclose or transfer or use for its own purposes **Confidential Information** except in the circumstances set out in Paragraph 6.15.7 or to the extent otherwise expressly permitted by the

CUSC or with the prior consent in writing of the **CUSC Party** to whose affairs such **Confidential Information** relates.

6.15.7 The circumstances referred to in Paragraph 6.15.6 are:

- (a) where the **Confidential Information**, before it is furnished to the **User**, is in the public domain; or
- (b) where the **Confidential Information**, after it is furnished to the **User**:
 - (i) is acquired by the **User** in circumstances in which Paragraph 6.15.6 does not apply; or
 - (ii) is acquired by the **User** in circumstances in which Paragraph 6.15.6 does apply and thereafter ceases to be subject to the restrictions imposed by Paragraph 6.15.6; or
 - (iii) enters the public domain,

and in any such case otherwise than as a result of a breach by the **User** of its obligations in Paragraph 6.15.6 or a breach by the person who disclosed that **Confidential Information** of that person's confidentiality obligation and the **User** is aware of such breach; or
- (c) if the **User** is required or permitted to make disclosure of the **Confidential Information** to any person:
 - (i) in compliance with the duties of the **User** under the **Act** or any other requirement of a **Competent Authority**; or
 - (ii) in compliance with the conditions of any **Licence** or any document referred to in any **Licence** with which the **User** is required to comply or
 - (iii) in compliance with any other requirement of law; or
 - (iv) in response to a requirement of any stock exchange or regulatory authority or the Panel on Take-overs and Mergers; or
 - (v) pursuant to the Arbitration Rules for the **Electricity Arbitration Association** or pursuant to any judicial or other arbitral process (including where determination is by an expert) or tribunal having jurisdiction in relation to the **User**; or

- (d) where **Confidential Information** is furnished by the **User** to its **Affiliates** or **Related Undertakings** or to the employees, directors, agents, consultants and professional advisors of the **User** or those of its **Affiliates** or **Related Undertakings**, in each case on the basis set out in Paragraph 6.15.8.

6.15.8 With effect from the date of the **MCUSA** the **User** shall adopt procedures within its organisation for ensuring the confidentiality of all **Confidential Information** which it is obliged to preserve as confidential under Paragraph 6.15.6 These procedures are:

6.15.8.1 the **Confidential Information** will be disseminated within the **User** only on a "need to know" basis;

6.15.8.2 employees, directors, agents, consultants and professional advisors of the **User** or those of its **Affiliates** or **Related Undertakings** in receipt of **Confidential Information** will be made fully aware of the **User's** obligations of confidence in relation thereto; and

6.15.8.3 any copies of the **Confidential Information**, whether in hard copy or computerised form, will clearly identify the **Confidential Information** as confidential.

6.15.9 Each **User** shall procure that its **Affiliates**, **Related Undertakings**, consultants and professional advisors observe the restrictions set out in this Paragraph 6.15 (as if references to "**User**" were references to such **Affiliates**, **Related Undertakings**, consultants and professional advisors) and shall be responsible under the **CUSC** for any failure by such persons to observe such restrictions.

6.15.10 For the avoidance of doubt, data and other information which any **CUSC Party** is permitted or obliged to divulge or publish to any other **CUSC Party** pursuant to the **CUSC** shall not necessarily be regarded as being in the public domain by reason of being so divulged or published.

6.15.11 Notwithstanding any other provision of the **CUSC**, the provisions of this Paragraph 6.15 shall continue to bind a person after its cessation as a **CUSC Party** for whatever reason.

6.16 DATA

Data of a technical or operational nature collected recorded or otherwise generated pursuant to the **CUSC** or any relevant **Bilateral Agreement** shall be deemed data lodged pursuant to the **Grid Code** to the extent that the **Grid Code** makes provision therefor.

6.17 PROVISION OF DATA

The majority of the data required under the **Grid Code** has been supplied by the **User** prior to the **Transfer Date**. However, in respect of the following data required under the **Planning Code** of the **Grid Code** it is agreed that each **User** who was a party to the **MCUSA** at the **Transfer Date** need only supply it under the **Grid Code** within one year of the **Transfer Date**, unless **NGC** requests it in writing before the expiry of that period, in which case the **User** from whom the data is requested must supply it within six weeks of receiving that request, except in the case of the data referred to in [PCA 5.3.1(g)] which need only be supplied within three months of receiving that request. The data to which this clause applies is that referred to in the following paragraphs of the **Planning Code**:

[PCA 2.3]

[PCA 4.3.7]

[PCA 4.3.9]

[PCA 5.2.1]

[PCA 5.2.2]

[PCA 5.3.1(g)]

NGC shall also be able to request a **User** in writing at any time to supply to **NGC** any data under the **Planning Code** which it should have supplied to **NGC** prior to the **Transfer Date** but which it did not supply, and the **User** must supply that data upon receiving that request. This Paragraph 6.17 shall not apply to a **User** acting as a **Supplier** of a **Non-Embedded Customer**.

6.18 INTELLECTUAL PROPERTY

Subject to Paragraph 8.15.7, all **Intellectual Property** relating to the subject matter of the **CUSC** or any **Bilateral Agreement** or **Mandatory Services Agreement** conceived, originated, devised, developed or created by a **CUSC Party**, its officers, employees, agents or consultants during the currency of the **CUSC** or any **Bilateral Agreement** or **Mandatory Services Agreement** shall vest in such **CUSC Party** as sole beneficial owner thereof save where the **CUSC Parties** agree in writing otherwise.

6.19 FORCE MAJEURE

If any **CUSC Party** (the "**Non-Performing Party**") shall be unable to carry out any of its obligations under the **CUSC**, the relevant **Bilateral**

Agreement and/or **Mandatory Services Agreement** due to a circumstance of **Force Majeure** the **CUSC** and the relevant **Bilateral Agreements** or **Mandatory Services Agreements** shall remain in effect but:

- 6.19.1 the **Non-Performing Party's** relevant obligations;
- 6.19.2 the obligations of each of the other **CUSC Parties** owed to the **Non-Performing Party** under the **CUSC** and/or the relevant **Bilateral Agreements** or **Mandatory Services Agreements** as the case may be; and
- 6.19.3 any other obligations of such other **CUSC Parties** under the **CUSC** owed between themselves which the relevant **CUSC Party** is unable to carry out directly as a result of the suspension of the **Non-Performing Party's** obligations

shall be suspended for a period equal to the circumstance of **Force Majeure** provided that:

- (a) the suspension of performance is of no greater scope and of no longer duration than is required by the **Force Majeure**;
- (b) no obligations of any **CUSC Party** that arose before the **Force Majeure** causing the suspension of performance are excused as a result of the **Force Majeure**;
- (c) the **Non-Performing Party** gives the other **CUSC Parties** prompt notice describing the circumstance of **Force Majeure**, including the nature of the occurrence and its expected duration, and continues to furnish regular reports with respect thereto during the period of **Force Majeure**;
- (d) the **Non-Performing Party** uses all reasonable efforts to remedy its inability to perform; and
- (e) as soon as practicable after the event which constitutes **Force Majeure** the **CUSC Parties** shall discuss how best to continue their operations so far as possible in accordance with the **CUSC**, any **Bilateral Agreements** or **Mandatory Services Agreements** and the **Grid Code**.

6.20 WAIVER

No delay by or omission of a **CUSC Party** in exercising any right power, privilege or remedy under his **CUSC**, any **Bilateral Agreement** or any

Construction Agreement or any **Mandatory Services Agreement** or the **Grid Code** shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or future exercise thereof or the exercise of any other right, power, privilege or remedy.

6.21 NOTICES

6.21.1. Save to the extent otherwise expressly provided in the **CUSC**, any **Mandatory Services Agreement** or **Bilateral Agreement**, any notice or other communication to be given by one **CUSC Party** to another under, or in connection with the matters contemplated by, the **CUSC** shall be addressed to the recipient and sent to the address, or facsimile number of such other **CUSC Party** as that **CUSC Party** may have notified the other for the purpose and marked for the attention of the company secretary or to such other address, and/or facsimile number and/or marked for such other attention as such other **CUSC Party** may from time to time specify by notice given in accordance with this Paragraph 6.21 to the **CUSC Party** giving the relevant notice or other communication to it.

6.21.2 Save as otherwise expressly provided in the **CUSC**, any notice or other communication to be given by any **CUSC Party** to any other **CUSC Party** under, or in connection with the matters contemplated by, the **CUSC** shall be in writing and shall be given by letter delivered by hand or sent by first class prepaid post (airmail if overseas) or telex or facsimile, and shall be deemed to have been received:

6.21.2.1 in the case of delivery by hand, when delivered; or

6.21.2.2 in the case of first class prepaid post, on the second day following the day of posting or (if sent airmail from overseas) on the fifth day following the day of posting; or

6.21.2.3 in the case of telex, on the transmission of the automatic answer back of the address (where such transmission occurs before 17.00 hours on day of transmission) and in any other case on the day following the day of transmission; or

6.21.2.4 in the case of facsimile, on acknowledgement by the addressee's facsimile receiving equipment (where such acknowledgement occurs before 17.00 hours on the day of acknowledgement) and in any other case on the day of acknowledgement.

6.21.3 This Paragraph shall apply only to **Users** acting in their capacity as **Trading Parties** (as defined in the **Balancing and Settlement Code**) who are responsible for **Small Power Stations** which are **Embedded**. In addition to the other provisions of this Paragraph 6.21 of the **CUSC**, any notice or other communications to be served upon the **User** under the provisions of Paragraph 5.4 shall in each case be served by any one of the senior managers of **NGC** whose names, posts, locations, telephone and facsimile numbers have been provided to the **User** by **NGC** for that purpose. In the case where an application, notice or other communication is to be made by the **User** to **NGC** under the provisions of Section 5 such application, notice or other communication shall be made by any one of the senior managers whose names, posts, location, telephone and facsimile numbers have been provided to **NGC** by the **User** for that purpose. Both parties shall be under an obligation to keep each other notified in writing of changes to the lists of senior managers exchanged between them.

6.22 THIRD PARTY RIGHTS

The parties hereby acknowledge and agree for the purposes of the Contracts (Rights of Third Parties) Act 1999 that no rights, powers or benefits are or shall be conferred on any person pursuant to the **CUSC**, or any **Bilateral Agreement** or any **Mandatory Services Agreement**, except for such rights, powers or benefits as are expressly conferred on the **CUSC Parties** in accordance with, and subject to, their terms.

6.23 JURISDICTION

6.23.1 Subject and without prejudice to Section 7 and to Paragraph 6.23.4 below, all the **CUSC Parties** irrevocably agree that only the courts of England and Wales and the courts of Scotland are to have ~~exclusive~~ jurisdiction to settle any disputes which may arise out of or in connection with the **CUSC** including the **Grid Code** and any **Bilateral Agreement** or **Mandatory Services Agreement** and that accordingly any suit, action or proceeding (together in this Paragraph 6.23 referred to as "**Proceedings**") arising out of or in connection with the **CUSC** and any **Bilateral Agreement** or **Mandatory Services Agreement** may be brought in such courts.

6.23.2 Each **CUSC Party** irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any **Proceedings** in any such court as is referred to in this Paragraph 6.23 and any claim that any such **Proceedings** have been brought in an inconvenient forum and further irrevocably agrees

that judgement in any **Proceedings** brought in the ~~English~~ courts of England and Wales or the courts of Scotland shall be conclusive and binding upon such **CUSC Party** and may be enforced in the courts of any other jurisdiction.

6.23.3 Each **CUSC Party** which is not incorporated in any part of ~~England and Wales~~Great Britain agrees that if it does not have, or shall cease to have, a place of business in ~~England and Wales~~Great Britain it will promptly appoint, and shall at all times maintain, a person in ~~England and Wales~~Great Britain irrevocably to accept service of process on its behalf in any **Proceedings** in ~~England~~Great Britain.

For the avoidance of doubt nothing contained in Paragraphs 6.23.1 to 6.23.3 above shall be taken as permitting a **CUSC Party** to commence **Proceedings** in the courts where the **CUSC** otherwise provides for **Proceedings** to be referred to arbitration or to the **Authority**.

6.24 COUNTERPARTS

Any **Bilateral Agreement** or **Mandatory Services Agreement** or **Accession Agreement** may be executed in any number of counterparts and by the different parties on separate counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts shall together constitute one and the same instrument.

6.25 GOVERNING LAW

The **CUSC** and each **Bilateral Agreement** and **Mandatory Services Agreement** shall be governed by and construed in all respects in accordance with English law.

6.26 SEVERANCE OF TERMS

If any provision of the **CUSC** or any **Bilateral Agreement** or **Mandatory Services Agreement** is or becomes or is declared invalid, unenforceable or illegal by the courts of any competent jurisdiction to which it is subject or by order of any other **Competent Authority** such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of the **CUSC** or any **Bilateral Agreement** or **Mandatory Services Agreement** which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.

6.27 LANGUAGE

Each notice, instrument, certificate or other document to be given by one **CUSC Party** to another under the **CUSC** shall be in the English language.

6.28 MCUSA

The **CUSC Parties** agree that for the purposes of cross references in documents existing as at the date of the introduction of the **CUSC**, the **CUSC**, **Bilateral Agreements**, **Construction Agreements** and **Agreements to Vary** shall be regarded as the **MCUSA** and the relevant “**Supplemental Agreements**” and any relevant **Agreements** for **Construction Works** and relevant **Agreements to Vary**.

6.29 BSC

Each and every **User** connected to or using the **NGC-GB Transmission System** shall be a **BSC Party** except for **Non-Embedded Customers** being supplied by a **Trading Party**.

6.30 Revision of Transmission Entry Capacity

6.30.1 Decrease in Transmission Entry Capacity

6.30.1.1 Each **User** shall be entitled to decrease the **Transmission Entry Capacity** for the **Connection Site** upon giving **NGC** not less than 5 **Business Days** notice in writing prior to the 30 March in any **Financial Year**.

6.30.1.2 **NGC** shall as soon as practicable after receipt of such notice issue a revised Appendix C for the purposes of the relevant **Bilateral Agreement** reflecting the decrease in the **Transmission Entry Capacity**.

6.30.1.3 The decrease in the **Transmission Entry Capacity** shall take effect on the first of April following receipt of the notice.

6.30.2 Increase in Transmission Entry Capacity

Each **User** shall be entitled to request an increase in its **Transmission Entry Capacity** for a **Connection Site** up to a maximum of the **Connection Entry Capacity** for the **Connection Site** and such request shall be deemed to be a **Modification** for the purposes of the **CUSC** but with the words “as soon as practicable... not more than 3 months after” being read in the context of such **Modification** as being “within 28 days where practicable and in any event not more than 3 months (save where the **Authority** consents to a longer period) after”.

Communications Plant (CC.6.5) - Appendix 1

Power Station Located Adjacent to the NGC Transmission Substation

Description	Source	Work	Provided By	Notes
Control Telephone (CC.6.5.2)	NGC-Transmission Substation Exchange.	User to install free issue handset on dedicated communications circuit. User to install wiring from User control room to NGC-Transmission Substation exchange.	Wiring to be provided by User. NGC to provide handset only.	Where the power station is located immediately adjacent to the NGC Transmission Substation.
Extension Bell (CC.6.5.3)	NGC-Transmission Substation Exchange.	User to install free issue extension bell on dedicated communications circuit (separate cores from the control telephone). User to install wiring from User control room to NGC-Transmission Substation exchange.	Wiring to be provided by User. NGC to provide bell only.	
PSTN (or other off-site communications circuits) for Telephony. (CC.6.5.2 to CC.6.5.5)	Public Telecommunications Operator (PTO).	The User shall provide their own off site communications paths. Data and speech required by NGC shall be cabled from the User site to the NGC Transmission Substation Exchange.	Wiring to be provided by User.	
Telegraph Instructor (CC.6.5.7)	NGC-Transmission Marshalling Cubicles.	Wire out and install free issue display unit and driver (free issue) and communication connections to the NgC-Transmission Marshalling Cubicles. NGC to commission.	Wiring to be provided by User. NGC to provide display unit and driver.	
Electronic Data Communication Facilities (Electronic Despatch & Logging) (CC.6.5.8)	PTO.	User to install EDL terminal for submission of MEL and dynamics re-declarations and for bid and offer acceptance instructions.	User to provide EDL terminal. NGC to provide communications path to a site router associated with the EDL terminal in conjunction with the User.	
Facsimile Machine (CC.6.5.9)	PTO.	Install facsimile machine on dedicated communications circuit.	User to provide facsimile machine and wiring to PTO.	

Communications Plant (CC.6.5) - Appendix 1

Power Station Not Located Adjacent to the ~~NGC-Transmission~~ Substation

Description	Source	Work	Provided By	Notes
Control Telephone (CC.6.5.2)	Remote Telephone Equipment (RTE) unit.	User to install free issue handset on dedicated communications circuit. User to install wiring from User control room to NGC-Transmission Marshalling Cubicles.	Wiring to be provided by User. NGC to provide handset only.	Where the Power Station is not located immediately adjacent to the NGC-Transmission Substation.
Extension Bell (CC.6.5.3)	RTE unit.	User to install free issue extension bell on dedicated communications circuit (separate cores from the control telephone). User to install wiring from User control room to NGC-Transmission Marshalling Cubicles.	Wiring to be provided by User. NGC to provide bell only.	
PSTN (or other off-site communications circuits) for Telephony. (CC.6.5.2 to CC.6.5.5)	Public Telecommunications Operator (PTO).	Duplicate offsite communications are preferred for security of data and speech transmission. If two outlet cables do not exist then the matter must be resolved on a site specific basis, to the satisfaction of NGC.	User to provide own outlet cables.	
Telegraph Instructor (CC.6.5.7)	NGC-Transmission Marshalling Cubicles.	Wire out and install free issue display unit and driver (free issue) and communication connections to the NgC-Transmission Marshalling Cubicles. NGC to commission.	Wiring to be provided by User. NGC to provide display unit and driver.	
Electronic Data Communication Facilities (Electronic Despatch & Logging) (CC.6.5.8)	PTO.	User to install EDL terminal for submission of MEL and dynamics re-declarations and for bid and offer acceptance instructions.	User to provide EDL terminal. NGC to provide communications path to a site router associated with the EDL terminal in conjunction with the User.	

Facsimile Machine (CC.6.5.9)	PTO.	Install facsimile machine on dedicated communications circuit.	User to provide facsimile machine and wiring to PTO.	
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Communications Plant (CC.6.5) - Appendix 1

Demand

Description	Source	Work	Provided By	Notes
Control Telephone (CC.6.5.2)	Remote Telephone Equipment (RTE) unit.	User to install free issue handset on dedicated communications circuit. User to install wiring from User control room to NGC-Transmission Marshalling Cubicles.	Wiring to be provided by User. NGC to provide handset only.	Demand Control Points (as defined in the Grid Code)
Extension Bell (CC.6.5.3)	RTE unit.	User to install free issue extension bell on dedicated communications circuit (separate cores from the control telephone). User to install wiring from User control room to NGC-Transmission Marshalling Cubicles.	Wiring to be provided by User. NGC to provide bell only.	
PSTN (or other off-site communications circuits) for Telephony. (CC.6.5.2 to CC.6.5.5)	Public Telecommunications Operator (PTO).	Duplicate offsite communications are preferred for security of data and speech transmission. If two outlet cables do not exist then the matter must be resolved on a site specific basis, to the satisfaction of NGC.	User to provide own outlet cables.	
Telegraph Instructor (If required by NGC) (CC.6.5.7)	NGC-Transmission Marshalling Cubicles.	Wire out and install free issue display unit and driver (free issue) and communication connections to the Transmission NGC Marshalling Cubicles. NGC to commission.	Wiring to be provided by User. NGC to provide display unit and driver.	

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Electronic Data Communication Facilities (Electronic Despatch & Logging) (CC.6.5.8)	PTO.	User to install EDL terminal for submission of MEL and dynamics re-declarations and for bid and offer acceptance instructions.	User to provide EDL terminal. NGC to provide communications path to a site router associated with the EDL terminal in conjunction with the User.	
Facsimile Machine (CC.6.5.9)	PTO.	Install facsimile machine on dedicated communications circuit.	User to provide facsimile machine and wiring to PTO.	

Appendix 2

Operating Metering (CC.6.5.6)

Description	Source	Type	Work	Provided by	Notes
MW and MVAR for Balancing Mechanism Unit.	Settlement Metering (FMS).	Unit per Pulse	Provide dedicated outputs from the FMS (Final Metering Scheme) 'check' meters. Supply and install wiring to the OMS-FE.	User.	Used for Despatch Instructions and Ancillary Services Monitoring (ASM). For information, FMS meters are required under the Balancing and Settlement Code. Refer to the BSC.
Individual alternator MW and MVAR (applicable to multi-shaft machines).	Transducer or high accuracy output from User metering.	Unit per Pulse	Provide MW and MVAR transducer or high accuracy outputs. Supply and install wiring to the OMS-FE / NGC Transmission Marshalling Cubicles.	User	Used for Network Modelling and ASM. If the User chooses to use transducers, the quality is to be agreed with NGC. LV monitoring is acceptable.
Individual unit transformer MW and MVAR.	Transducer or high accuracy output from User metering.	Unit per Pulse	Provide MW and MVAR transducer or high accuracy outputs. Supply and install wiring to the OMS-FE / NGC Transmission Marshalling Cubicles.	User.	Used for Network Modelling. If the User chooses to use transducers, the quality is to be agreed with NGC.
Voltage for each generator connection to the Transmission NGC Substation.	Single Phase VT (usually a CVT)	AC Waveform	Provide VT secondary output (single phase). Supply and install transducer and wiring to the NGC Transmission Marshalling Cubicles.	User.	For indication purposes. To feed Substation Voltage Selection Scheme. NGC to install Voltage Selection Scheme at NGC Transmission Substation as required.
Frequency for each Balancing Mechanism Unit.	High accuracy VT output (single phase).	AC Waveform	Provide high accuracy VT secondary output (single phase). Supply and install wiring to the NGC Transmssion Marshalling Cubicles.	User.	Used for ASM.
All generator circuit(s) LV circuit breaker(s) and disconnector(s)	Double point off dedicated auxiliary contacts (1 n/o and 1 n/c).	Status Indication	Wire out and cable between auxiliary contacts and NGC Transmission Marshalling Cubicles.	User, in switchgear.	Dedicated auxiliary contacts are required. Repeat relays are not normally acceptable.
Unit transformer circuit breaker(s).	Double point off dedicated auxiliary contacts (1 n/o and 1 n/c).	Status Indication	Wire out and cable between auxiliary contacts and NGC Transmission Marshalling Cubicles.	User, in switchgear.	Dedicated auxiliary contacts are required. Repeat relays are not normally acceptable.
All generator circuit(s) HV circuit breaker(s) and disconnector(s).	Double point off dedicated auxiliary contacts (1 n/o and 1 n/c).	Status Indication	Wire out and cable between auxiliary contacts and NGC Transmission Marshalling Cubicles.	User, in switchgear.	Dedicated auxiliary contacts are required. Repeat relays are not normally acceptable.
Each generator transformer Tap Position Indication (TPI)	Dedicated tap changer auxiliary contact arm.	Tap Position Indication	Provide >one out of (up to) 19' position indications or TPI transducer indication. Wire out and cable between dedicated auxiliary contact arm and NGC Transmission Marshalling Cubicles.	User, in transformer tap-changer.	Used for Network Modelling and ASM.

END OF SECTION 6

CUSC - SECTION 7

CUSC DISPUTE RESOLUTION

CONTENTS

- 7.1 Introduction
- 7.2 Disputes
- 7.3 Charging Disputes
- 7.4 Other Disputes
- 7.5 Third Party Claims

CUSC - SECTION 7

CUSC DISPUTE RESOLUTION

7.1 INTRODUCTION

- 7.1.1 This section of the **CUSC** sets out how disputes under the **CUSC**, **Bilateral Agreements**, **Mandatory Services Agreements** and **Construction Agreements** are to be dealt with. Section 10 deals with the treatment of disputes which arise in relation to periods prior to the amendment of the **MCUSA**, **Supplemental Agreements** and certain **Ancillary Services Agreements** (to the extent relating to the **Mandatory Ancillary Services**).
- 7.1.2 Under the **Transmission Licence**, and in accordance with the power within section 7(3)(c) of the **Act**, it is provided for such matters arising under the **CUSC** as may be specified in the **CUSC** to be referred to the **Authority** for determination. Determining such matters also reflects consideration of utilisation of the power the **Authority** has under section 25 of the **Act** to take enforcement action in respect of any contravention of a licence obligation which would include any contravention of the obligations in respect of **Connection Charges** and **Use of System Charges** contained in the **Transmission Licence**. The **Charging Disputes** provisions of the **CUSC** reflect the role under section 7(3)(c) of the **Act** and provide for such issues to be so referred to the **Authority**.

7.2 DISPUTES

Subject to any contrary provision of the **Act**, any **Licence** or the **Regulations**, or the rights, powers, duties and obligations of the **Authority** or the **Secretary of State** under the **Act**, any **Licence** or otherwise howsoever, any dispute or difference between **CUSC Parties** of whatever nature howsoever arising under, out of or in connection with:-

- 7.2.1 whether **Connection** and/or **Use of System Charges** have been applied and/or calculated in accordance with the **Charging Statements** (including in all cases whether the dispute or difference does arise under, out of or in connection with such issues and therefore falls within this Paragraph 7.2.1) utilising the **Authority's** role under section 7 of the **Act** (a "**Charging Dispute**") shall be resolved in accordance with Paragraph 7.3;
- 7.2.2 the **Construction Agreement** shall be resolved in accordance with the specific provisions in that **Construction Agreement**;

- 7.2.3 the **CUSC** and **Bilateral Agreements**, and **Mandatory Services Agreements** not being a dispute of a type described in Paragraph 7.2.1 or 7.2.2 above (an "**Other Dispute**") shall be resolved in accordance with Paragraph 7.4;
- 7.2.4 a matter which relates to issues where a **Customer** has raised a dispute which may involve another **CUSC Party** (a "**Third Party Dispute**") shall be resolved in accordance with Paragraph 7.5.

7.3 CHARGING DISPUTES:

7.3.1 Initial Discussions

Where a **Charging Dispute** arises, a representative of **NGC** and each **User** concerned who has authority to resolve the dispute shall meet (including by agreement by telephone) within 10 **Business Days** of a request by either party (or within such longer period as may be agreed, acting reasonably) and seek to resolve it. If the parties to the dispute are unable to resolve it within 10 **Business Days** of the meeting (or within such longer period as they may agree within that initial 10 **Business Day** period, both parties acting reasonably as to the length of the period), then the parties' obligations under this paragraph to undertake such discussions shall no longer apply in relation to that **Charging Dispute**.

Reference to Authority

- 7.3.2 Subject to Paragraph 7.3.1, **Charging Disputes** shall be referred by either **CUSC Party** to the **Authority** for determination in accordance with Paragraph 7.2.1 above and shall not be capable of being referred to arbitration pursuant to the rules of the Electricity Arbitration Association or otherwise, or to any court ~~(as defined in the Civil Procedure Rules 1998)~~.

7.3.3 Charging Disputes During Other Disputes

- (a) Where, in conducting an arbitration under this Section 7, an arbitrator or panel of arbitrators finds himself or itself considering a **Charging Dispute** (whether or not forming part of an **Other Dispute**), he or it shall have no jurisdiction to determine such **Charging Dispute** (with any dispute on whether it is a **Charging Dispute** being determined by the **Authority** as soon as reasonably practicable in accordance with the definition of **Charging Dispute**) and the parties shall immediately refer such

Charging Dispute to the **Authority** for determination pursuant to Paragraph 7.2.1 above.

- (b) In such circumstances, if there are issues (the “**Discrete Issues**”) under the **Other Dispute** which are entirely discrete from and can be determined without reference to the issues in the **Charging Dispute**, then resolution of the **Discrete Issues** can continue in accordance with the provisions of Paragraph 7.4; provided that if there is no **Discrete Issue** or issues under the **Other Dispute** the resolution of the **Other Dispute** shall be suspended until after the determination of the **Charging Dispute**.

Application of Determination

- 7.3.4 It is expected that in most circumstances the **Authority's** determination of a **Charging Dispute** will set out the effect of the determination in terms of the charges in dispute. Where such effect is not set out in detail (for example where a clear principle is stated which should be capable of clear application) then if there is a dispute as to the quantification of any amounts to be calculated by applying the determination that dispute shall be an **Other Dispute**. However, any dispute on the principles reflected in the determination shall be a **Charging Dispute**.
- 7.3.5 If the determination of the **Charging Dispute** is that there has been an over or under payment of a **Connection Charge** and/or **Use of System Charge**, **NGC** shall, subject to what the determination may state, pay to the relevant **User**, or the **User** shall pay to **NGC**, as the case may be, an amount equal to the over or under payment, together with interest thereon from the date the charges were paid until the date of payment of such interest. Such interest shall accrue from day to day at the rate specified in Paragraph 6.6.5.
- 7.3.6 The **Authority's** determination of a **Charging Dispute** shall (without prejudice to any ability to apply for judicial review of any determination) be final and binding on the parties to the dispute and shall be enforceable in the courts.

7.4 OTHER DISPUTES

Initial Discussions

- 7.4.1 Where an **Other Dispute** arises, a representative of **NGC** and each **User** concerned who has authority to resolve the dispute

shall meet (including by agreement by telephone) within 10 **Business Days** of a request by either party (or within such longer period as may be agreed, acting reasonably) and seek to resolve it. If the parties to the dispute are unable to resolve it within 10 **Business Days** of the meeting (or within such longer period as they may agree within that initial 10 **Business Day** period, both parties acting reasonably as to the length of the period), then the parties' obligations under this paragraph to undertake such discussions shall no longer apply in relation to that **Other Dispute**. Either party may then refer the **Other Dispute** to arbitration pursuant to the rules of the **Electricity Arbitration Association** in force from time to time.

7.4.2 Whatever the nationality, residence or domicile of any **CUSC Party** and wherever the **Other Dispute** or any part of it arose, the law of England shall be the proper law of reference to arbitration under this paragraph and in particular (but not so as to derogate from the generality of the foregoing) the provisions of the Arbitration Act 1996 shall apply to any such arbitration wherever it or any part of it shall be conducted.

7.4.3 Any arbitrator or panel of arbitrators appointed under this Paragraph 7.4 shall determine such issues as are referred to him or them consistently with any determination by the **Authority** of a **Charging Dispute**, whether or not relating to the same or different facts.

7.5 THIRD PARTY CLAIMS

7.5.1 Subject to Paragraph 7.5.4, if any **Customer** brings any legal proceedings in any court ~~(as defined in the Civil Procedure Rules 1998)~~ against one or more persons, any of which is a **CUSC Party** ("**Defendant Party**") and the **Defendant Party** wishes to make a **Third Party Claim** (as defined in Paragraph 7.5.3 below) against any **CUSC Party** ("**Other Party**") which would but for this paragraph have been a dispute or difference referred to arbitration by virtue of Paragraph 7.4 above then, notwithstanding the provisions of Paragraph 7.4, which shall not apply and in lieu of arbitration, the court in which the legal proceedings have been commenced shall hear and completely determine and adjudicate upon the legal proceedings and the **Third Party Claim** not only between the **Customer** and the **Defendant Party**, but also between either or both of them and any **Other Party** whether by way of third party proceedings ~~(pursuant to the Civil Procedure Rules 1998)~~ or otherwise as may be ordered by the court.

- 7.5.2 Where a **Defendant Party** makes a **Third Party Claim** against any **Other Party** and such **Other Party** wishes to make a **Third Party Claim** against a further **CUSC Party**, the provisions of Paragraph 7.5.1 shall apply mutatis mutandis as if such **CUSC Party** had been the **Defendant Party** and similarly in relation to any such further **CUSC Party**.
- 7.5.3 For the purpose of this Paragraph 7.5, "**Third Party Claim**" shall mean:
- (a) any claim by a **Defendant Party** against any **Other Party** (whether or not already a party to the legal proceedings) for any contribution or indemnity; or
 - (b) any claim by a **Defendant Party** against such an **Other Party** for any relief or remedy relating to or connected with the subject matter of the legal proceedings and substantially the same as some relief or remedy claimed by the **Customer**; or
 - (c) any requirement by a **Defendant Party** that any question or issue relating to or connected with the subject matter of the legal proceedings should be determined not only as between the **Customer** and the **Defendant Party**, but also as between either or both of them and an **Other Party** (whether or not already a party to the legal proceedings).
- 7.5.4 Paragraph 7.5.1 shall apply only if at the time the legal proceedings are commenced no arbitration under Paragraph 7.4 has been commenced between the **Defendant Party** and an **Other Party** raising or involving the same or substantially the same issues as would be raised by or involved in the **Third Party Claim**. The tribunal in any arbitration or the **Authority** in any determination which has commenced before the commencement of the legal proceedings shall determine the question, in the event of dispute, whether the issues raised or involved are the same or substantially the same.

END OF SECTION 7

CUSC - SECTION 8

CUSC AMENDMENT

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8.23 Implementation

Annex 8A Election of Users' Panel Members

CUSC - SECTION 8

CUSC AMENDMENT

8.1 INTRODUCTION

- 8.1.1 This section of the **CUSC** sets out how the **CUSC** is to be amended. An amendment to the **CUSC** may necessitate an amendment to relevant **Bilateral Agreements** and/or to the **Mandatory Services Agreements** (and/or in certain circumstances the relevant **Construction Agreement**) and in those circumstances those agreements contain provisions for such alterations to be effected to those agreements.
- 8.1.2 There is a need to bring proposed amendments to the attention of **CUSC Parties** and others, to discuss such proposals and to report on them to the **Authority** and in furtherance of this, Section 8 provides for the establishment of an **Amendments Panel**, **Working Groups** and **Standing Groups** and for consultation by **NGC**.

8.2 THE AMENDMENTS PANEL

8.2.1 Establishment and Composition

- 8.2.1.1 **NGC** shall establish and maintain the **Amendments Panel**, which shall be the standing body to carry out the functions referred to in Paragraph 8.2.3.
- 8.2.1.2 The **Amendments Panel** shall comprise the following members:
- (a) the person appointed as the chairman of the **Amendments Panel** (the “**Panel Chairman**”) by **NGC** in accordance with Paragraph 8.3.1, who shall (subject to Paragraph 8.10.4) be a non-voting member;
 - (b) not more than seven persons appointed by **Users** in accordance with Paragraph 8.3.2;
 - (c) two persons appointed by **NGC** in accordance with Paragraph 8.3.2;

- (d) not more than one person appointed by the **GECC** representing all categories of customers, appointed in accordance with Paragraph 8.3.2; and
- (e) the person appointed (if the **Authority** so decides) by the Authority in accordance with Paragraph 8.3.3.

8.2.1.3 The **Amendments Panel** shall be assisted by a secretary ("**Panel Secretary**"), who shall be a person appointed and provided by **NGC** and who shall be responsible for the administration of the **Amendments Panel** and **Amendment Proposals**.

8.2.2 Authority's Representative

A representative of the **Authority** shall be entitled to attend **Amendments Panel** meetings as an observer and may speak at any meeting. The **Authority** shall from time to time notify the **Panel Secretary** of the identity of the observer.

8.2.3 Functions of the Amendments Panel and NGC's Role

8.2.3.1 The **Amendments Panel** shall have the functions assigned to it in this Section 8.

8.2.3.2 Without prejudice to Paragraph 8.2.3.1 and to the further provisions of this Section 8, the **Amendments Panel** shall endeavour at all times to operate:

- (a) in an efficient, economical and expeditious manner, taking account of the complexity, importance and urgency of particular **Amendment Proposals**; and
- (b) with a view to ensuring that the **CUSC** facilitates achievement of the **Applicable CUSC Objectives**.

8.2.3.3 **NGC** shall be responsible for implementing or supervising the implementation of **Approved Amendments** in accordance with the provisions of the **CUSC** which shall reflect the production of the revised **CUSC** and any amendments to **NGC's** systems and processes necessary for the implementation of the **Approved Amendment**. However, it will not include the implementation of **Users'** systems and processes.

NGC will carry out its role in an efficient, economical and expeditious manner and (subject to any extension granted by the **Authority** where **NGC** has applied for one having become aware of any circumstance which is likely to cause a delay in the implementation of an **Approved Amendment**) in accordance with the date specified by the **Authority** in its approval.

8.2.4 Duties of Panel Members

8.2.4.1 A person appointed as a **Panel Member**, or an **Alternate Member**, by **Users** under Paragraph 8.2.1 or 8.6.2, by the **Authority** under Paragraph 8.3.3 and the person appointed as **Panel Chairman** under Paragraph 8.3.1, and each of their alternates when acting in that capacity:

- (a) shall act impartially and in accordance with the requirements of the **CUSC**; and
- (b) shall not be representative of, and shall act without undue regard to the particular interests of:
 - (i) the persons or body of persons by whom he was appointed as **Panel Member**; and
 - (ii) any **Related Person** from time to time.

8.2.4.2 Such a person shall not be appointed as a **Panel Member** or an **Alternate Member** (as the case may be) unless he shall have first:

- (a) confirmed in writing to **NGC** for the benefit of all **CUSC Parties** that he agrees to act as a **Panel Member** or **Alternate Member** in accordance with the **CUSC** and acknowledges the requirements of Paragraphs 8.2.4.1 and 8.2.4.3;
- (b) where that person is employed, provided to the **Panel Secretary** a letter from his employer agreeing that he may act as **Panel Member** or **Alternate Member**, and that the requirement in Paragraph 8.2.4.1(b) shall prevail over his duties as an employee.

8.2.4.3 A **Panel Member** or **Alternate Member** shall, at the time of appointment and upon any change in such interests, disclose (in writing) to the **Panel Secretary** any such interests (in relation to the

CUSC) as are referred to in Paragraph 8.2.4.1(b).

- 8.2.4.4 Upon a change in employment of a **Panel Member** or **Alternate Member**, he shall so notify the **Panel Secretary** and shall endeavour to obtain from his new employer and provide to the **Panel Secretary** a letter in the terms required in Paragraph 8.2.4.2(b); and he shall be removed from office if he does not do so within a period of 60 days after such change in employment.

8.3 APPOINTMENT OF PANEL MEMBERS

8.3.1 Panel Chairman

- (a) The **Panel Chairman** shall be a person appointed (or re-appointed) by **NGC** and shall be an executive director (or other senior employee) of **NGC**.
- (b) A person shall be appointed or re-appointed as the **Panel Chairman** where **NGC** has given notice to the **Panel Secretary** of such appointment, with effect from the date of such notice or (if later) with effect from the date specified in such notice.
- (c) The term of office of the **Panel Chairman** shall be a period expiring on 30 March every 3rd year following the **CUSC Implementation Date**. The **Panel Chairman** shall be eligible for reappointment on expiry of his term of office.

8.3.2 Other Panel Members

- (a) **Users** may appoint **Panel Members** (and **Alternate Members**) by election in accordance with Annex 8A.
- (b) The **GECC** may appoint one person as a **Panel Member** representing customers by giving notice of such appointment to the **Panel Secretary**, and may remove and re-appoint by notice.
- (c) **NGC** may appoint two persons as **Panel Members** by giving notice of such appointment to the **Panel Secretary**, and may remove and re-appoint by notice.

8.3.3 Appointment of Further Member

- (a) If in the opinion of the **Authority** there is a class or category of person (whether or not a **CUSC Party** or a **BSC Party**) who have interests in respect of the **CUSC** but whose interests:

- (i) are not reflected in the composition of **Panel Members** for the time being appointed; but
 - (ii) would be so reflected if a particular person was appointed as an additional **Panel Member**,

then the **Authority** may at any time appoint (or re-appoint) that person as a **Panel Member** by giving notice of such appointment to the **Panel Secretary** but in no event shall the **Authority** be able to appoint more than one person so that there could be more than one such **Panel Member**.

- (b) A person appointed as a **Panel Member** pursuant to this Paragraph 8.3.3 shall remain appointed, subject to Paragraphs 8.4 and 8.5, notwithstanding that the conditions by virtue of which he was appointed (for example that the interests he reflects are otherwise reflected) may cease to be satisfied.

8.3.4 Natural Person

No person other than an individual shall be appointed a **Panel Member** or his alternate.

8.4 **TERM OF OFFICE**

The term of office of a **Panel Member** (other than the **Panel Chairman**) and **Alternate Members** shall be a period expiring on 30 September every second year following the **CUSC Implementation Date**. A **Panel Member** and **Alternate Member** shall be eligible for reappointment on expiry of his term of office.

8.5 **REMOVAL FROM OFFICE**

- 8.5.1 A person shall cease to hold office as a **Panel Member** or an **Alternate Member**:

- (a) upon expiry of his term of office unless re-appointed;
 - (b) if he:
 - (i) resigns from office by notice delivered to the **Panel Secretary**;

- (ii) becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - (iii) is or may be suffering from mental disorder and either is admitted to hospital in pursuance of an application under the Mental Health Act 1983 or the Mental Health (Scotland) Act 1960 or an order is made by a court having jurisdiction in matters concerning mental disorder for his detention or for the appointment of a receiver, *curator bonis* or other person with respect to his property or affairs;
 - (iv) becomes prohibited by law from being a director of a company under the Companies Act 1985;
 - (v) dies; or
 - (vi) is convicted on an indictable offence; or
- (c) as provided for in Paragraph 8.2.4.4;
- (d) if the **Amendments Panel** resolves (and the **Authority** does not veto such resolution by notice in writing to the **Panel Secretary** within 15 **Business Days**) that he should cease to hold office on grounds of his serious misconduct;
- (e) if the **Amendments Panel** resolves (and the **Authority** does not veto such resolution by notice in writing to the **Panel Secretary** within 15 **Business Days**) that he should cease to hold office due to a change in employer notwithstanding compliance with Paragraph 8.2.4.4.

8.5.2 An **Amendments Panel** resolution under Paragraph 8.5.1(d) or (e) shall, notwithstanding any other paragraph, require the vote in favour of at least all **Panel Members** less one (other than the **Panel Member** or **Alternate Member** who is the subject of such resolution) and for these purposes an abstention shall count as a vote cast in favour of the resolution. A copy of any such resolution shall forthwith be sent to the **Authority** by the **Panel Secretary**.

8.5.3 A person shall not qualify for appointment as a **Panel Member** or **Alternate Member** if at the time of the proposed appointment he would be required by the above paragraph to cease to hold that office.

8.5.4 The **Panel Secretary** shall give prompt notice to all **Panel Members**, all **CUSC Parties** and the **Authority** of the

appointment or re-appointment of any **Panel Member** or **Alternate Member** or of any **Panel Member** or **Alternate Member** ceasing to hold office and publication on the **NGC Website** and (where relevant details are supplied to the **Panel Secretary**) despatch by electronic mail shall fulfil this obligation.

8.6 ALTERNATES

8.6.1 Alternate: Panel Chairman

The **Panel Chairman** shall preside at every meeting of the **Amendments Panel** at which he is present. If he is unable to be present at a meeting, he may appoint an alternate (who shall be a senior employee of **NGC**) to act as the **Panel Chairman**, who may or may not be a **Panel Member**. If neither the **Panel Chairman** nor his alternate is present at the meeting within half an hour of the time appointed for holding the meeting, the **Panel Members** present may appoint one of their number to be the chairman of the meeting.

8.6.2 Alternate(s): Users Panel Members

- (a) At the same time that **Users** appoint **Panel Members** under Paragraph 8.3.2, they shall appoint up to five (5) alternate members for **Users' Panel Members** ("**Alternate Members**") by election in accordance with Annex 8A.
- (b) Such **Alternate Members** will form a group from which **Panel Members** appointed by **Users** may select a person to act as their alternate under this Paragraph 8.6.
- (c) A **Panel Member** appointed by **Users** may appoint such an **Alternate Member** to be his alternate for any one **Amendments Panel** meeting, and may remove a person so appointed as alternate, by giving notice of such appointment or removal to the **Panel Secretary**. A **Panel Member** must choose an **Alternate Member** who has not been already chosen by another **Panel Member** for that **Panel Meeting**. If there are no **Alternate Members** left who have not already been so chosen by another **Panel Member**, the **Panel Member** may choose as his alternate any **Alternate Member** or other **Panel Member** who is not already acting as alternate for more than one **Panel Member**.
- (d) All information to be sent by the **Panel Secretary** to **Panel Members** pursuant to this Section 8 shall also be

sent by the **Panel Secretary** to each **Alternate Member** (whether or not currently selected as an alternate for a **Panel Member**) by electronic mail (where relevant details shall have been provided by each **Alternate Member**).

8.6.3 Alternates: Other Panel Members

A **Panel Member** other than those appointed by **Users** may appoint a person (whether or not a **Panel Member**) to be his alternate, and may remove a person so appointed as alternate, by giving notice of such appointment or removal to the **Panel Secretary**.

8.6.4 Alternates: General Provisions

- (a) The appointment or removal by a **Panel Member** of an alternate shall be effective from the time when such notice is given to the **Panel Secretary** or (if later) the time specified in such notice.
- (b) The **Panel Secretary** shall promptly notify all **Panel Members** and **CUSC Parties** of appointment or removal by any **Panel Member** of any alternate and publication on the **NGC Website** and (where relevant details have been provided to the **Panel Secretary**) despatch by electronic mail shall fulfil this obligation.
- (c) In accordance with Paragraph 8.6.2, an alternate may act as alternate for more than one **Panel Member**.

8.6.5 Alternates: Rights, Cessation and References

- (a) Where the **Panel Chairman** or a **Panel Member** has appointed an alternate:
 - (i) the alternate shall be entitled:
 - (aa) unless the appointing **Panel Member** shall otherwise notify the **Panel Secretary**, to receive notices of meetings of the **Amendments Panel**;
 - (bb) to attend, speak and vote at any meeting of the **Amendments Panel** at which the **Panel Member** by whom he was appointed is not present, and at such meeting to exercise and discharge all of the functions, duties and powers of such **Panel Member**;

- (ii) the alternate shall cast one vote for each **Panel Member** by whom he was appointed, in addition (where he is a **Panel Member** himself) to his own vote;
 - (iii) Paragraphs 8.7, 8.8, 8.9, 8.10 and 8.11 shall apply to the alternate as if he were the appointing **Panel Member** and a reference to a **Panel Member** elsewhere in the **CUSC** shall, unless the context otherwise requires, include his duly appointed alternate.
 - (iv) for the avoidance of doubt, the appointing **Panel Member** shall not enjoy any of the rights transferred to the alternate at any meeting at which, or in relation to any matter on which, the alternate acts on his behalf.
- (b) A person appointed as an alternate shall automatically cease to be such alternate:
- (i) if the appointing **Panel Member** ceases to be a **Panel Member**;
 - (ii) if any of the circumstances in Paragraph 8.5.1(b) applies in relation to such person,
- but, in the case of an **Alternate Member**, shall continue to be an **Alternate Member** available for appointment under paragraph 8.6.2.

8.7 MEETINGS

- 8.7.1 Meetings of the **Amendments Panel** shall be held at regular intervals and at least every month at such time and such place as the **Amendments Panel** shall decide.
- 8.7.2 A regular meeting of the **Amendments Panel** may be cancelled if:
- (a) the **Panel Chairman** considers, having due regard to the lack of business in the agenda, that there is insufficient business for the **Amendments Panel** to conduct and requests the **Panel Secretary** to cancel the meeting;
 - (b) the **Panel Secretary** notifies all **Panel Members**, not less than 5 **Business Days** before the date for which the meeting is to be convened, of the proposal to cancel the meeting; and

- (c) by the time 3 **Business Days** before the date for which the meeting is or is to be convened, no **Panel Member** has notified the **Panel Secretary** that he objects to such cancellation.
- 8.7.3 If any **Panel Member** wishes, acting reasonably, to hold a special meeting (in addition to regular meetings under Paragraph 8.7.1) of the **Amendments Panel**:
 - (a) he shall request the **Panel Secretary** to convene such a meeting and inform the **Panel Secretary** of the matters to be discussed at the meeting;
 - (b) the **Panel Secretary** shall promptly convene the special meeting for a day as soon as practicable but not less than 5 **Business Days** after such request.
- 8.7.4 Any meeting of the **Amendments Panel** shall be convened by the **Panel Secretary** by notice (which will be given by electronic mail if the relevant details are supplied to the **Panel Secretary**) to each **Panel Member** (and to the **Authority**):
 - (a) setting out the date, time and place of the meeting and (unless the **Amendments Panel** has otherwise decided) given at least five (5) **Business Days** before the date of the meeting;
 - (b) accompanied by an agenda of the matters for consideration at the meeting and any supporting papers available to the **Panel Secretary** at the time the notice is given (and the **Panel Secretary** shall circulate to **Panel Members** any late papers as and when they are received by him).
- 8.7.5 The **Panel Secretary** shall send a copy of the notice convening a meeting of the **Amendments Panel**, and the agenda and papers accompanying the notice, to each **CUSC Party** and each **BSC Party** at the same time at which notice is given to the **Panel Members**, and publication on the **NGC Website** and despatch by electronic mail (if the relevant details are supplied to the **Panel Secretary**) shall fulfil this obligation.
- 8.7.6 Any **Panel Member** (or, at the **Panel Member's** request, the **Panel Secretary**) may notify matters for consideration at a meeting of the **Amendments Panel** in addition to those notified by the **Panel Secretary** under Paragraph 8.7.4 by notice to all **Panel Members** and persons entitled to receive notice under

Paragraph 8.7.5, not less than three (3) **Business Days** before the date of the meeting.

- 8.7.7 The proceedings of a meeting of the **Amendments Panel** shall not be invalidated by the accidental omission to give or send notice of the meeting or a copy thereof or any of the accompanying agenda or papers to, or failure to receive the same by, any person entitled to receive such notice, copy, agenda or paper.
- 8.7.8 A meeting of the **Amendments Panel** may consist of a conference between **Panel Members** who are not all in one place (although at least one must be at the venue in the notice of meeting) but who are able (by telephone or otherwise) to speak to each of the others and to be heard by each of the others simultaneously.
- 8.7.9 With the consent of all **Panel Members** (whether obtained before, at or after any such meeting) the requirements of this Paragraph 8.7 as to the manner in and notice on which a meeting of the **Amendments Panel** is convened may be waived or modified provided that no meeting of the **Amendments Panel** shall be held unless notice of the meeting and its agenda has been sent to the persons entitled to receive the same under Paragraph 8.7.5 at least 24 hours before the time of the meeting.
- 8.7.10 Subject to Paragraph 8.7.11, no matter shall be resolved at a meeting of the **Amendments Panel** unless such matter was contained in the agenda accompanying the **Panel Secretary's** notice under Paragraph 8.7.4 or was notified in accordance with Paragraph 8.7.6.
- 8.7.11 Where:
- (a) any matter (not contained in the agenda and not notified pursuant to Paragraph 8.7.6) is put before a meeting of the **Amendments Panel**, and
 - (b) in the opinion of the **Amendments Panel** it is necessary (in view of the urgency of the matter) that the **Amendments Panel** resolve upon such matter at the meeting,

the **Amendments Panel** may so resolve upon such matter, and the **Amendments Panel** shall also determine at such meeting whether the decision of the **Amendments Panel** in relation to such matter should stand until the following meeting of the **Amendments Panel**, in which case (at such following meeting) the decision shall be reviewed and confirmed or (but not with

effect earlier than that meeting, and only so far as the consequences of such revocation do not make implementation of the **CUSC** or compliance by **CUSC Parties** with it impracticable) revoked.

8.8 PROCEEDINGS AT MEETINGS

- 8.8.1 Subject as provided in the **CUSC**, the **Amendments Panel** may regulate the conduct of and adjourn and reconvene its meetings as it sees fit.
- 8.8.2 Meetings of the **Amendments Panel** shall be open to attendance by a representative of any **CUSC Party**, any **BSC Party** or the **GECC** and any person invited by the **Panel Chairman** and/or any other **Panel Member**.
- 8.8.3 The **Panel Chairman** and any other **Panel Member** may invite any person invited by them under Paragraph 8.8.2, and/or any attending representative of a **CUSC Party**, to speak at the meeting (but such person shall have no vote).
- 8.8.4 As soon as practicable after each meeting of the **Amendments Panel**, the **Panel Secretary** shall prepare and send (by electronic mail or otherwise) to **Panel Members** the minutes of such meeting, which shall be approved (or amended and approved) at the next meeting of the **Amendments Panel** after they were so sent, and when approved (excluding any matter which the **Amendments Panel** decided was not appropriate for such publication) shall be placed on the **NGC Website**.

8.9 QUORUM

- 8.9.1 No business shall be transacted at any meeting of the **Amendments Panel** unless a quorum is present throughout the meeting.
- 8.9.2 Subject to Paragraph 8.9.3, a quorum shall be 6 **Panel Members** who have a vote present in person or by their alternates, of whom at least one shall be appointed by **NGC**.
- 8.9.3 If within half an hour after the time for which the meeting of the **Amendments Panel** has been convened a quorum is not present (and provided the **Panel Secretary** has not been notified by **Panel Members** that they have been delayed and are expected to arrive within a reasonable time):

- (a) the meeting shall be adjourned to the same day in the following week (or, if that day is not a **Business Day** the next **Business Day** following such day) at the same time;
- (b) the **Panel Secretary** shall give notice of the adjourned meeting as far as practicable in accordance with Paragraph 8.7.

8.9.4 If at the adjourned meeting there is not a quorum present within half an hour after the time for which the meeting was convened, those present shall be a quorum.

8.10 VOTING

- 8.10.1 At any meeting of the **Amendments Panel** any matter to be decided shall be put to a vote of **Panel Members** upon the request of the chairman or any **Panel Member**.
- 8.10.2 Subject to Paragraphs 8.6.5, 8.10.4 and 8.10.5, in deciding any matter at any meeting of the **Amendments Panel** each **Panel Member** other than the **Panel Chairman** shall cast one vote.
- 8.10.3 Except as otherwise expressly provided in the **CUSC**, and in particular Paragraph 8.5.2, any matter to be decided at any meeting of the **Amendments Panel** shall be decided by simple majority of the votes cast at the meeting (an abstention shall not be counted as a cast vote).
- 8.10.4 The **Panel Chairman** shall not cast a vote as a **Panel Member** but shall have a casting vote on any matter where votes are otherwise cast equally in favour of and against the relevant motion, but where any person other than the actual **Panel Chairman** or his alternate is acting as chairman he shall not have a casting vote.
- 8.10.5 The two **Panel Members** appointed by **NGC** pursuant to Paragraph 8.2.1.2(c) shall together have one vote in relation to each matter which shall be cast jointly by agreement between them or, where only one of the **NGC Panel Members** is present at a meeting, by that **NGC Panel Member**.
- 8.10.6 Any resolution in writing signed by or on behalf of all **Panel Members** shall be valid and effectual as if it had been passed at a duly convened and quorate meeting of the **Amendments Panel**. Such a resolution may consist of several instruments in like form signed by or on behalf of one or more **Panel Members**.

8.11 PROTECTIONS FOR PANEL MEMBERS

- 8.11.1 Subject to Paragraph 8.11.2 all **CUSC Parties** shall jointly and severally indemnify and keep indemnified each **Panel Member**, the **Panel Secretary** and each member of a **Working Group** and **Standing Group** ("**Indemnified Persons**") in respect of all costs (including legal costs), expenses, damages and other liabilities properly incurred or suffered by such **Indemnified Persons** when acting in or in connection with his office under the **CUSC**, or in what he in good faith believes to be the proper exercise and discharge of the powers, duties, functions and discretions of that office in accordance with the **CUSC**, and all claims, demands and proceedings in connection therewith other than any such costs, expenses, damages or other liabilities incurred or suffered as a result of the wilful default or bad faith of such **Indemnified Person**.
- 8.11.2 The indemnity provided in Paragraph 8.11.1 shall not extend to costs and expenses incurred in the ordinary conduct of being a **Panel Member** or **Panel Secretary**, or member of a **Working Group** or **Standing Group** including, without limitation, accommodation costs and travel costs or any remuneration for their services to the **Amendments Panel** or **Working Group** or **Standing Group**.
- 8.11.3 The **CUSC Parties** agree that no **Indemnified Person** shall be liable for anything done when acting properly in or in connection with his office under the **CUSC**, or anything done in what he in good faith believes to be the proper exercise and discharge of the powers, duties, functions and discretions of that office in accordance with the **CUSC**. Each **CUSC Party** hereby irrevocably and unconditionally waives any such liability of any **Indemnified Person** and any rights, remedies and claims against any **Indemnified Person** in respect thereof.
- 8.11.4 Without prejudice to Paragraph 8.11.2, nothing in Paragraph 8.11.3 shall exclude or limit the liability of an **Indemnified Person** for death or personal injury resulting from the negligence of such **Indemnified Person**.

8.12 AMENDMENT REGISTER

- 8.12.1 **NGC** shall establish and maintain a register ("**Amendment Register**") which shall record the matters set out in Paragraph 8.12.3.
- 8.12.2 The purpose of the **Amendment Register** shall be to assist the **Amendments Panel** and to enable the **Amendments Panel**, **CUSC Parties** and any other persons who may be interested to be reasonably informed of the progress of **Amendment**

Proposals and Approved Amendments from time to time.

8.12.3 The **Amendment Register** shall record in respect of current outstanding **Amendments Panel** business:

- (a) details of each **Amendment Proposal** (including the name of the **Proposer**, the date of the **Amendment Proposal** and a brief description of the **Amendment Proposal**);
- (b) whether such **Amendment Proposal** is an **Urgent Amendment Proposal**;
- (c) the current status and progress of each **Amendment Proposal**, if appropriate the anticipated date for reporting to the **Authority** in respect thereof, and whether it has been withdrawn, rejected or implemented for a period of three (3) months after such withdrawal, rejection or implementation or such longer period as the **Authority** may determine;
- (d) the current status and progress of each **Approved Amendment**; and
- (e) such other matters as the **Amendments Panel** may consider appropriate from time to time to achieve the purpose of Paragraph 8.12.2.

8.12.4 The **Amendment Register** (as updated from time to time and indicating the revisions since the previous issue) shall be published on the **NGC Website** or (in the absence, for whatever reason, of the **NGC Website**) in such other manner and with such frequency (being not less than once per month) as **NGC** may decide in order to bring it to the attention of the **Amendments Panel**, **CUSC Parties** and other persons who may be interested.

8.13 PROGRESS REPORT

8.13.1 **NGC** shall prepare and submit to the **Authority** each month (or such less often period if there is no material matter arising to report) a progress report ("**Progress Report**") setting out the matters referred to in Paragraph 8.13.2 in respect of the preceding month and send a copy of the **Progress Report** to each **Panel Member**.

8.13.2 The **Progress Report** shall contain:

- (a) details of any proposal which has been refused pursuant to Paragraph 8.15.3 or Paragraph 8.15.4;
- (b) the current version of the **Amendment Register**;
- (c) details of:
 - (i) the priority proposed to be accorded or that is accorded to each **Amendment Proposal** in the **Amendment Register** (in accordance with Paragraph 8.16.4;
 - (ii) the scheduling and timetable for consideration of each **Amendment Proposal** and completion of the **Amendment Report** in respect thereof in the context of all other current **Amendment Proposals**;
 - (iii) the impact of the priority accorded to each **Amendment Proposal** by reference to each other pending **Amendment Proposal**;
- (d) details of any decision to amalgamate **Amendment Proposals** in accordance with Paragraph 8.16.6;
- (e) details of any circumstances which lead **NGC** and/or the **Amendments Panel** to believe that the implementation date for an **Approved Amendment** is unlikely to be met and, if so, why;
- (f) such other matters as the **Authority** may request to be included from time to time; and
- (g) the basis for each of the decisions referred to above.

8.13.3 If, following discussion with the **Amendments Panel**, the **Authority** issues a notice to the **Panel Secretary** requesting **NGC** and the **Amendments Panel** (in relation to developments and changes highlighted in the monthly **Progress Report**):

- (a) not to reject an **Amendment Proposal** which does not satisfy Paragraph 8.15.2; and/or
- (b) not to amalgamate **Amendment Proposals** as set out in the monthly **Progress Report**; and/or
- (c) to accord a different priority to particular **Amendment Proposals** from that set out in the monthly **Progress Report**; and/or

(d) to amend the timetable for an **Amendment Proposal**,
the **Panel Secretary** shall send a copy of the notice to each **Panel Member** and **Alternate Member**. The **Amendments Panel** and **NGC** shall comply with such notice.

8.13.4 The **Panel Secretary** shall publish each **Progress Report** on the **NGC Website** within 7 **Business Days** after it is sent to the **Authority**, provided that the **Panel Secretary** shall exclude therefrom any matters in respect of which the **Authority** issues a notice to the **Panel Secretary** for the purpose of this Paragraph 8.13.4. Copies shall be sent to those **Panel Members**, **Alternate Members** and **CUSC Parties** who have provided electronic mail addresses to **NGC**.

8.14 CHANGE CO-ORDINATION

8.14.1 **NGC** shall establish (and, where appropriate, revise from time to time) joint working arrangements for change co-ordination with each **Core Industry Document Owner** and with the **STC committee** to facilitate the identification, co-ordination, making and implementation of change to **Core Industry Documents** and the **STC** consequent on an **Amendment** in a full and timely manner.

8.14.2 The working arrangements referred to in Paragraph 8.14.1 shall be such as enable the consideration, development and evaluation of **Amendment Proposals**, and the implementation of **Approved Amendments**, to proceed in a full and timely manner and enable changes to **Core Industry Documents** and the **STC** consequent on an amendment to be made and given effect wherever possible (subject to any necessary consent of the **Authority**) at the same time as such **Amendment** is made and given effect.

8.15 AMENDMENT PROPOSALS

8.15.1 A proposal to modify the **CUSC** may be made by a **CUSC Party**, by the **GECC** or by a **BSC Party** or, under Paragraphs 8.21.8 and 8.23.5, by the **Amendments Panel** or by a **Relevant Transmission Licensee** in relation to Exhibit O Part IB and Exhibit O Part IIB only.

8.15.2 A proposal made pursuant to Paragraph 8.15.1 shall be submitted in writing and shall contain the following information in relation to such proposal:

(a) the name of the **Proposer**;

- (b) the name of the representative of the **Proposer** (and his alternate) who shall represent the **Proposer** in person for the purposes of this Paragraph 8.15;
- (c) a description (in reasonable but not excessive detail) of the issue or defect which the proposed amendment seeks to address;
- (d) a description (in reasonable but not excessive detail) of the proposed amendment and of its nature and purpose;
- (e) where possible, an indication of those parts of the **CUSC** which would require amendment in order to give effect to (and/or would otherwise be affected by) the proposed amendment and an indication of the nature of those amendments or effects;
- (f) the reasons why the **Proposer** believes that the proposed amendment would better facilitate achievement of the **Applicable CUSC Objectives** as compared with the current version of the **CUSC** together with background information in support thereof;
- (g) where possible, an indication of the impact of the proposed amendment on **Core Industry Documents** [and the STC](#);
- (h) where possible, an indication of the impact of the proposed amendment on relevant computer systems and processes used by **CUSC Parties**; and
- (i) a statement to the effect that the **Proposer** acknowledges that on acceptance of the proposal for consideration by the **Amendments Panel** a **Proposer** which is not a **CUSC Party** shall grant a licence in accordance with Paragraph 8.15.7.

8.15.3 if a proposal fails in any material respect to provide the information in Paragraph 8.15.2 (excluding Paragraphs (e), (g) and (h) thereof), the **Panel Secretary** may, subject to Paragraph 8.13.3(a), reject such proposal provided that:

- (a) the **Panel Secretary** shall furnish the **Proposer** with the reasons for such rejection;
- (b) the **Panel Secretary** shall report such rejection to the **Amendments Panel** at the next **Amendments Panel** meeting, with details of the reasons;

- (c) if the **Amendments Panel** decides to reverse the **Panel Secretary's** decision to refuse the submission, the **Panel Secretary** shall notify the **Proposer** accordingly and the proposal shall be dealt with in accordance with this Section 8;
- (d) nothing in this Section 8 shall prevent a **Proposer** from submitting a revised proposal in compliance with the requirements of Paragraph 8.15.2 in respect of the same subject-matter.

8.15.4 Without prejudice to the development of an **Alternative Amendment** pursuant to Paragraph 8.20.2, the **Amendments Panel** shall direct in the case of (a), and may direct in the case of (b), the **Panel Secretary** to reject a proposal pursuant to Paragraph 8.15 if and to the extent that such proposal has, in the opinion of the **Amendments Panel**, substantially the same effect as:

- (a) a **Pending Amendment Proposal**; or
- (b) a **Rejected Amendment Proposal**, where such proposal is made at any time within two (2) months after the decision of the **Authority** not to direct **NGC** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **Amendment Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly.

8.15.5 Promptly upon receipt of an **Amendment Proposal**, the **Panel Secretary** shall:

- (a) allocate a unique reference number to the **Amendment Proposal**;
- (b) enter details of the **Amendment Proposal** on the **Amendment Register**.

8.15.6 Subject to Paragraph 8.7.6, where the **Amendment Proposal** is received more than five (5) **Business Days** prior to the next **Amendments Panel** meeting, the **Panel Secretary** shall place the **Amendment Proposal** on the agenda of the next **Amendments Panel** meeting and otherwise shall place it on the agenda of the next succeeding **Amendments Panel** meeting.

8.15.7 It shall be a condition to the right to make a proposal to modify the **CUSC** under this Paragraph 8.15 that the **Proposer**:

- (a) grants a non-exclusive royalty free licence to all **CUSC Parties** who request the same covering all present and future rights, **IPRs** and moral rights it may have in such proposal (as regards use or application in Great Britain); and
- (b) warrants that, to the best of its knowledge, information and belief, no other person has asserted to the **Proposer** that such person has any **IPRs** or normal rights or rights of confidence in such proposal,

and, in making a proposal, a **Proposer** which is a **CUSC Party** shall be deemed to have granted the licence and given the warranty in (a) and (b) above.

8.15.8 A **Proposer** may withdraw his support for the **Amendment Proposal** on notice to the **Panel Secretary** at any time, in which case the **Panel Secretary** shall forthwith:

- (a) notify **CUSC Parties** that he has been notified of the withdrawal of support by the **Proposer** by publication on the **NGC Website** and (where relevant details are supplied) by electronic mail. A **CUSC Party** may within five (5) **Business Days** notify the **Panel Secretary** that it is prepared to support the **Amendment Proposal** in place of the original **Proposer**. If such notice is received, the name of such **CUSC Party** shall replace that of the original **Proposer** as the **Proposer**, and the **Amendment Proposal** shall continue. If more than one notice is received, the first received shall be utilised;
- (b) if no notice of support is received under (a), the matter shall be discussed at the next **Amendments Panel** meeting. If the **Amendments Panel** so agrees, it may notify **CUSC Parties** that the **Amendment Proposal** is to be withdrawn, and a further period of five (5) **Business Days** shall be given for support to be indicated by way of notice;
- (c) if no notice of support is received under (a) or (b), the **Amendment Proposal** shall be marked as withdrawn on the **Amendment Register**;

8.16 PANEL PROCEEDINGS

8.16.1 This Paragraph 8.16 is subject to the **Urgent CUSC Amendment Proposals** procedures set out in Paragraph 8.21.

- 8.16.2 An **Amendment Proposal** made pursuant to Paragraph 8.15 shall, subject to Paragraph 8.15.6, be discussed by the **Amendments Panel** at the next following **Amendments Panel** meeting convened.
- 8.16.3 The **Proposer's** representative shall attend such **Amendments Panel** meeting and the **Amendments Panel** may invite the **Proposer's** representative to present his **Amendment Proposal** to the **Amendments Panel**.
- 8.16.4 (a) **NGC** and the **Amendments Panel** shall together establish a timetable to apply for the **Amendment Process**.
- (b) The **Amendments Panel** shall establish the part of the timetable for the consideration by the **Amendments Panel** and by a **Working Group** (if any).
- (c) **NGC** shall establish the part of the timetable for the consultation to be undertaken by **NGC** under this Section 8 and separately the preparation of an **Amendment Report** to the **Authority**.
- (d) In setting such a timetable, the **Amendments Panel** and **NGC** shall exercise their respective discretions such that, in respect of each **Amendment Proposal**, an **Amendment Report** may be submitted to the **Authority** as soon after the **Amendment Proposal** is made as is consistent with the proper evaluation of such **Amendment Proposal**, taking due account of its complexity, importance and urgency.
- (e) Without prejudice to Paragraph (d) above, the timetable under (b) above shall be set such that it is no longer than three months, that under (c) above such that it is no longer than two months for the consultation and another 14 days for the preparation of the **Amendment Report**, unless in any case the particular circumstances of the **Amendment Proposal** (taking due account of its complexity, importance and urgency) justify an extension of such timetable, and provided the **Authority** does not object, taking into account all those issues.
- (f) Having regard to the complexity, importance and urgency of particular **Amendment Proposals**, the **Amendments Panel** may determine the priority of **Amendment Proposals** and may (subject to any objection from the **Authority** taking into account all those issues) adjust the

priority of the relevant **Amendment Proposal** accordingly.

8.16.5 In relation to each **Amendment Proposal**, the **Amendments Panel** shall determine at any meeting of the **Amendments Panel** whether to:

- (a) amalgamate the **Amendment Proposal** with any other **Amendment Proposal**;
- (b) establish a **Working Group** of the **Amendments Panel**, to consider the **Proposed Amendment**; or
- (c) proceed directly to wider consultation by **NGC**.

8.16.6 The **Amendments Panel** may decide to amalgamate an **Amendment Proposal** with one or more other **Amendment Proposals** where the subject-matter of such **Amendment Proposals** is sufficiently proximate to justify amalgamation on the grounds of efficiency and/or where such **Amendment Proposals** are logically dependent on each other.

8.16.7 Where **Amendment Proposals** are amalgamated pursuant to Paragraph 8.16.6:

- (a) such **Amendment Proposals** shall be treated as a single **Amendment Proposal**;
- (b) references in this Section 8 to an **Amendment Proposal** shall include and apply to a group of two or more **Amendment Proposals** so amalgamated;
- (c) the **Proposers** of each such **Amendment Proposal** shall co-operate in deciding which of them is to provide a representative for any **Working Group** in respect of the amalgamated **Amendment Proposal** and, in default of agreement, the **Panel Chairman** shall nominate one of the **Proposers** for that purpose.

8.17 WORKING GROUPS

8.17.1 If the **Amendments Panel** has decided not to proceed directly to wider consultation by **NGC**, a **Working Group** will be established, or an existing **Standing Group** identified and actioned, by the **Amendments Panel** to assist the **Amendments Panel** in evaluating whether an **Amendment Proposal** better facilitates achieving the **Applicable CUSC Objectives** and whether a **Working Group Alternative Amendment** would, as compared with the **Amendment Proposal**, better facilitate

achieving the **Applicable CUSC Objectives** in relation to the issue or defect identified in the **Amendment Proposal**. Where a **Standing Group** is identified and actioned in relation to an **Amendment Proposal**, a reference to **Working Group** in this Section 8 shall, in relation to that **Amendment Proposal**, be deemed to be a reference to that **Standing Group** acting in that capacity. Unless specifically appointed pursuant to this Paragraph or permitted pursuant to Paragraph 8.19, a **Standing Group** shall not comment upon any **Amendment Proposal**.

- 8.17.2 A single **Working Group** may be responsible for the evaluation of more than one **Amendment Proposal** at the same time, but need not be so responsible.
- 8.17.3 A **Working Group** shall comprise at least five (5) persons (who may be **Panel Members**) selected by the **Amendments Panel** from those nominated by **CUSC Parties** for their relevant experience and/or expertise in the areas forming the subject-matter of the **Amendment Proposal(s)** to be considered by such **Working Group** (and the **Amendments Panel** shall ensure, as far as possible, that an appropriate cross-section of representation, experience and expertise is represented on such **Working Group**) provided that there shall always be at least one member representing **NGC**. **CUSC Parties** may notify the **Panel Secretary** at any time of the names of persons they wish to nominate, together with an indication of their expertise, for inclusion on a standing list of persons who would be available to sit on **Working Groups**. In selecting persons to sit on a particular **Working Group**, the **Amendments Panel** shall have regard to this standing list: and if, and only if, the **Amendments Panel** is of the view that an **Amendment Proposal** is likely to have an impact on the **STC**, the **Amendments Panel** may invite the **STC** committee to appoint a representative to become a member of the **Working Group**. A representative of the **Authority** may attend any meeting of a **Working Group** as an observer and may speak at such meeting.
- 8.17.4 **NGC** shall in consultation with the **Amendments Panel** appoint the chairman of the **Working Group** who shall act impartially and as an independent chairman.
- 8.17.5 The **Amendments Panel** may add further members to a **Working Group**.
- 8.17.6 The **Amendments Panel** may (but shall not be obliged to) replace any member of a **Working Group** appointed pursuant to Paragraph 8.17.3 at any time if such member is unwilling or

unable for whatever reason to fulfil that function and/or is deliberately and persistently disrupting or frustrating the work of the **Working Group**.

- 8.17.7 The **Amendments Panel** shall determine the terms of reference of each **Working Group** and may change those terms of reference from time to time as it sees fit.
- 8.17.8 The terms of reference of a **Working Group** must include provision in respect of the following matters:
- (a) those areas of a **Working Group's** powers or activities which require the prior approval of the **Amendments Panel**;
 - (b) the seeking of instructions, clarification or guidance from the **Amendments Panel**; and
 - (c) the timetable for the work to be done by the **Working Group**, in accordance with the timetable established pursuant to Paragraph 8.16.4.

In addition, prior to the taking of any steps which would result in the undertaking of a significant amount of work (including the production of draft legal text to modify the **CUSC** in order to give effect to a **Proposed Amendment** and/or **Working Group Alternative Amendment**, with the relevant terms of reference setting out what a significant amount of work would be in any given case), the **Working Group** shall seek the views of the **Amendment Panel** as to whether to proceed with such steps and, in giving its views, the **Amendment Panel** may consult the **Authority** in respect thereof.

- 8.17.9 Subject to the provisions of this Paragraph 8.17.9 and unless otherwise determined by the **Amendments Panel**, the **Working Group** shall develop and adopt its own internal working procedures for the conduct of its business and shall provide a copy of such procedures to the **Panel Secretary** in respect of each **Amendment Proposal** for which it is responsible. Unless the **Amendments Panel** otherwise determines, meetings of each **Working Group** shall be open to attendance by a representative of any **CUSC Party**, any **BSC Party** or the **GECC** and any person invited by the chairman or any other member of that **Working Group**, and the chairman of a **Working Group** or any other member of that **Working Group** may invite any such person to speak at such meetings.

8.17.10

- (a) Each **Working Group** chairman shall prepare a report to the **Amendments Panel** responding to the matter detailed in the terms of reference in accordance with the timetable set out in the terms of reference.
- (b) If a **Working Group** is unable to reach agreement on any such matter, the report must reflect the views of the members of the **Working Group**.
- (c) The report will be circulated in draft form to **Working Group** members and a period of not less than five (5) **Business Days** given for comments thereon. Any unresolved comments made shall be reflected in the final report.

8.17.11 The chairman or another member (nominated by the chairman) of the **Working Group** shall attend the next **Amendments Panel** meeting following delivery of the report and may be invited to present the findings and/or answer the questions of **Panel Members** in respect thereof. Other members of the **Working Group** may also attend such **Amendments Panel** meeting.

8.17.12 At the meeting referred to in Paragraph 8.17.11 the **Amendments Panel** shall consider the **Working Group's** report and shall determine whether to:-

- (a) refer the **Amendments Proposal** back to the **Working Group** for further analysis (in which case the **Amendments Panel** shall determine the timetable and terms of reference to apply in relation to such further analysis); or
- (b) proceed then to wider consultation by **NGC**.

8.18 **STANDING GROUPS**

8.18.1 The **Amendments Panel** may set up one or more standing groups (each a "**Standing Group**") to consider and report to the **Amendments Panel** on issues specified by the **Amendments Panel** relating to the connection and use of system arrangements in [England & Wales](#)[Great Britain](#). The **Amendments Panel** may change issues specified from time to time as it sees fit. In setting up a **Standing Group**, the **Amendments Panel** shall determine the terms of reference of the **Standing Group** (and may change those terms of reference from time to time as it sees fit) and specify a time period within which the **Standing Group** is to report to it on the issue it is to consider and may establish other timetable requirements in relation to the intended scope of the

Standings Group's considerations. At the end of the time period by which the **Standing Group** is to report, the **Amendments Panel** shall decide whether the **Standing Group** is to continue and, if it is to continue, shall specify a time period in which it is to further report.

- 8.18.2 A **Standing Group** shall comprise at least five (5) persons (who may be **Panel Members**) selected by the **Amendments Panel** from those nominated by **CUSC Parties** for their relevant experience and/or expertise in the aspect or issue to be considered by such **Standing Group** (and the **Amendments Panel** shall ensure, as far as possible, that an appropriate cross-section of representation, experience and expertise is represented on such **Standing Group**) provided that there shall always be at least one member representing **NGC** and if, and only if, the **Amendments Panel** is of the view that an **Amendment Proposal** is likely to have an impact on the **STC**, the **Amendments Panel** may invite the **STC** committee to appoint a representative to become a member of the **Standing Group**. A representative of the **Authority** may attend any meeting of a **Standing Group** as an observer and may speak at such meeting.
- 8.18.3 **NGC** shall in consultation with the **Amendments Panel** appoint the chairman of each **Standing Group** who shall act impartially and as an independent chairman.
- 8.18.4 The **Amendments Panel** may add further members to a **Standing Group** after it is established.
- 8.18.5 The **Amendments Panel** may (but shall not be obliged to) replace any member of a **Standing Group** appointed pursuant to Paragraph 8.18.2 at any time if such member is unwilling or unable for whatever reason to fulfil that function and/or is deliberately and persistently disrupting or frustrating the work of the **Standing Group**.
- 8.18.6
- (a) Each **Standing Group** chairman shall prepare a report to the **Amendments Panel** responding to the matter detailed in the terms of reference in accordance with the time period set by the **Amendments Panel**.
 - (b) If a **Standing Group** is unable to reach agreement on any such matter, the report must reflect the views of the members of the **Standing Group**.

- (c) The report will be circulated in draft form to **Standing Group** members and a period of not less than five (5) **Business Days** given for comments thereon. Any unresolved comments made shall be reflected in the final report.
- (d) The chairman or another member (nominated by the chairman) of the **Standing Group** shall attend the next **Amendments Panel** meeting following delivery of the report and may be invited to present the findings and/or answer the questions of **Panel Members** in respect thereof. Other members of the **Standing Group** may also attend such **Amendments Panel** meeting.

8.18.7 Subject to the provisions of this Paragraph 8.18 and unless otherwise determined by the **Amendments Panel**, the **Standing Group** shall develop and adopt its own internal working procedures for the conduct of its business and shall provide a copy of such procedures to the **Panel Secretary**. Unless the **Amendments Panel** otherwise determines, meetings of each **Standing Group** shall be open to attendance by a representative of any **CUSC Party**, any **BSC Party** or the **GECC** and any person invited by the chairman or any other member of that **Standing Group**, and the chairman or any other member of that **Standing Group** may invite any person to speak at such meetings.

8.19 CONSULTATION

8.19.1 After consideration of any **Working Group** report on the **Amendment Proposal** and if applicable any **Working Group Alternative Amendment** by the **Amendments Panel** and a determination by the **Amendments Panel** to proceed to wider consultation by **NGC**, **NGC** shall consult on the **Amendment Proposal** and if applicable any **Working Group Alternative Amendment** with:

- (i) **CUSC Parties**; and
- (ii) such other persons who may properly be considered to have an appropriate interest in it.

Where following the establishment of a **Working Group**, or the decision of the **Amendments Panel** to proceed directly to consultation by **NGC**, in relation to an **Amendment Proposal**, the terms of reference of a **Standing Group** have been amended by the **Amendments Panel** to include the ability to comment on that **Amendment Proposal**, that **Standing Group** as a body shall be

deemed to fall within sub-paragraph (ii) above and therefore shall be able to respond to **NGC's** consultation. It shall not, however, in so doing undertake the functions of a **Working Group**. In the absence of such a change in terms of reference, the **Standing Group** as a body shall have no ability to respond to any consultation.

- 8.19.2 The consultation will be undertaken by issuing a Consultation Paper (and its provision in electronic form on the **NGC Website** and in electronic mails to **CUSC Parties** and such other persons, who have supplied relevant details, shall meet this requirement).
- 8.19.3 The Consultation Paper will contain the proposed drafting for the **Amendment Proposal** and any **Working Group Alternative Amendment** (unless the **Authority** decides none is needed in the **Amendment Report** under Paragraph 8.19.4) and will indicate the issues which arose in the **Working Group** discussions, where there has been a **Working Group** and will incorporate **NGC's** and the **Amendments Panel's** initial views on the way forward.
- 8.19.4 Where **NGC** is proposing to recommend to the **Authority** that a **Proposed Amendment** or **Working Group Alternative Amendment** should not be made, **NGC** shall consult with the **Authority** as to whether the **Authority** would like the **Amendment Report** to include the proposed text to amend the **CUSC**. If it does not, no text needs to be included. If it does, and no detailed text has yet been prepared, **NGC** shall prepare such text to modify the **CUSC** in order to give effect to such **Proposed Amendment** or **Working Group Alternative Amendment** and shall seek the views of the relevant **Working Group**.
- 8.19.5 Consultation Papers will be copied to **Core Industry Document Owners** [and the secretary of the STC committee](#).
- 8.19.6 If a **CUSC Party** proposes a **Consultation Alternative Amendment** **NGC** shall as soon as practicable consult on the basis of Paragraph 8.19.2 with the parties identified in Paragraph 8.19.1 as to whether this **Consultation Alternative Amendment** better facilitates achievement of the **CUSC Objective** than the **Proposed Amendment** and any **Working Group Alternative Amendment**. The position on legal drafting of the text shall be the same as that set out in Paragraphs 8.19.3 and 8.19.4. A **CUSC Party** may not propose a **Consultation Alternative Amendment** following the start of the further period of consultation described in this Paragraph 8.19.6. A **Consultation Alternative Amendment** shall not be subject to the confidentiality

provisions described in Paragraph 8.22.1.

8.20 AMENDMENT REPORT

8.20.1 Subject to **NGC's** consultation having been completed, **NGC** shall prepare and submit to the **Authority** a report (the "**Amendment Report**") in accordance with this Paragraph 8.20 for each **Amendments Proposal** which is not withdrawn.

8.20.2 The matters to be included in an **Amendment Report** shall be the following (in respect of the **Amendment Proposal**):

- (a) the **Proposed Amendment** and any **Working Group Alternative Amendment** or **Consultation Alternative Amendment**;
- (b) the recommendation of **NGC** as to whether or not the **Proposed Amendment** (or any **Alternative Amendment** as provided below) should be made;
- (c) a summary (agreed by the **Amendments Panel**) of the views (including any recommendations) from **Panel Members** and/or the **Working Group** as the case may be made during the consultation in respect of the **Proposed Amendment** and of any **Alternative Amendment**;
- (d) an analysis of whether (and, if so, to what extent) the **Proposed Amendment** would better facilitate achievement of the **Applicable CUSC Objective(s)**;
- (e) an analysis of whether (and, if so, to what extent) the **Working Group Alternative Amendment** would better facilitate achievement of the **Applicable CUSC Objective(s)** as compared with the **Proposed Amendment** and any **Consultation Alternative Amendment** and the current version of the **CUSC**;
- (f) an analysis of whether (and if so to what extent) any **Consultation Alternative Amendment** as compared with the **Proposed Amendment**, and any **Working Group Alternative Amendment**, and the current version of the **CUSC** would better facilitate achievement of the **Applicable CUSC Objective(s)**;
- (g) the proposed date for the implementation of the **Proposed Amendment** or any **Alternative Amendment**;
- (h) an assessment of:

- (i) the impact of the **Proposed Amendment** and any **Alternative Amendment** on the **Core Industry Documents** and the STC;
- (ii) the changes which would be required to the **Core Industry Documents** and the STC in order to give effect to the **Proposed Amendment** and any **Alternative Amendment**;
- (iii) the mechanism and likely timescale for the making of the changes referred to in Paragraph (ii);
- (iv) the changes and/or developments which would be required to central computer systems and, if practicable, processes used in connection with the operation of arrangements established under the **Core Industry Documents** and the STC;
- (v) the mechanism and likely timescale for the making of the changes referred to in Paragraph (iv);
- (vi) an estimate of the costs associated with making and delivering the changes referred to in Paragraphs (ii) and (iv), such costs are expected to relate to: for (ii) the costs of amending the **Core Industry Document(s)** and STC and for (iv) the costs of changes to computer systems and possibly processes which are established for the operation of the **Core Industry Documents** and the STC.

together with a summary of representations in relation to such matters;

- (i) to the extent such information is available to **NGC**, an assessment of the impact of the **Proposed Amendment** and any **Alternative Amendment** on **CUSC Parties** in general (or classes of **CUSC Parties** in general), including the changes which are likely to be required to their internal systems and processes and an estimate of the development, capital and operating costs associated with implementing the changes to the **CUSC** and to **Core Industry Documents** and the STC;
- (j) copies of (and a summary of) all written representations or objections made by consultees during the consultation in respect of the **Proposed Amendment** and any **Alternative Amendment** and subsequently maintained;

- (k) a copy of any impact assessment prepared by **Core Industry Document Owners** and the **STC committee** -and the views and comments of **NGC** in respect thereof.

- 8.20.3 A draft of the **Amendment Report** will be circulated by **NGC** to **CUSC Parties** and **Panel Members** (and its provision in electronic form on the **NGC Website** and in electronic mails to **CUSC Parties** and **Panel Members**, who must supply relevant details, shall meet this requirement) and a period of no less than five (5) **Business Days** given for comments to be made thereon. Any unresolved comments made shall be reflected in the final **Amendment Report**.
- 8.20.4 Each **Amendment Report** shall be addressed and furnished to the **Authority** and none of the facts, opinions or statements contained in such **Amendment Report** may be relied upon by any other person.
- 8.20.5 In accordance with the **Transmission Licence**, the **Authority** may approve the **Proposed Amendment** or an **Alternative Amendment** contained in the **Amendment Report** (which shall then be an "**Approved Amendment**" until implemented). If the **Authority** believes that neither the **Proposed Amendment** (nor any **Alternative Amendment**) would not better facilitate achievement of the **Applicable CUSC Objectives**, then there will be no approval. In such a case, **NGC** will notify **CUSC Parties** and will raise the issue at the next **Amendments Panel** meeting.
- 8.20.6 **NGC** shall copy (by electronic mail to those persons who have supplied relevant details to **NGC**) the **Amendment Report** to:
- (i) each **CUSC Party**;
 - (ii) each **Panel Member**; and
 - (iii) any person who may request a copy,
- and shall place a copy on the **NGC Website**.

8.21 URGENT AMENDMENT PROPOSALS

- 8.21.1 If any **CUSC Party** recommends to the **Panel Secretary** that a proposal should be treated as an **Urgent Amendment Proposal** in accordance with this Paragraph 8.21, the **Panel Secretary** shall notify the **Panel Chairman** who shall then endeavour to obtain the views of the **Amendments Panel** as to the matters set out in Paragraph 8.21.2. If for any reason the **Panel Chairman** is

unable to do that, the **Panel Secretary** shall do so.

8.21.2 The matters referred to in Paragraph 8.21.1 are:

- (a) whether such proposal should be treated as an **Urgent Amendment Proposal** in accordance with this Paragraph 8.21 and
- (b) if so, the procedure and timetable to be followed in respect of such **Urgent Amendment Proposal**.

8.21.3 If:

- (a) the **Amendments Panel** agrees that such proposal should be treated as an **Urgent Amendment Proposal**; or
- (b) where the **Panel Chairman** or the **Panel Secretary** was unable to contact all **Panel Members**, the majority of **Panel Members** contacted so agree; or
- (c) where the **Panel Chairman** or the **Panel Secretary** was unable to contact any other **Panel Member**, the **Panel Chairman** considers that such proposal should be treated as an **Urgent Amendment Proposal**,

the **Panel Chairman** or, in his absence, the **Panel Secretary** shall forthwith consult the **Authority** as to whether such **Amendment Proposal** is an **Urgent Amendment Proposal** and, if so, as to the procedure and timetable which should apply in respect thereof.

8.21.4 The **Amendments Panel** shall:

- (a) not treat any **Amendment Proposal** as an **Urgent Amendment Proposal** except with the prior consent of the **Authority**;
- (b) comply with the procedure and timetable in respect of any **Urgent Amendment Proposal** approved by the **Authority**; and
- (c) comply with any direction of the **Authority** issued in respect of any of the matters on which the **Authority** is consulted pursuant to Paragraph 8.21.3.

8.21.5 For the purposes of this Paragraph 8.21.5, the procedure and timetable in respect of an **Urgent Amendment Proposal** may (with the approval of the **Authority** pursuant to Paragraph 8.21.3) deviate from all or part of the **Amendment Procedures** to follow

any other procedure or timetable approved by the **Authority**.

- 8.21.6 The **Amendment Report** in respect of an **Urgent Amendment Proposal** shall include a statement as to why the **CUSC Party** believes that such **Amendment Proposal** should be treated as an **Urgent Amendment Proposal** and the extent to which the procedure followed deviated from the **Amendment Procedures** (other than the procedures in this Paragraph 8.21).
- 8.21.7 Each **CUSC Party** and each **Panel Member** shall take all reasonable steps to ensure that an **Urgent Amendment Proposal** is considered, evaluated and (subject to the approval of the **Authority**) implemented as soon as reasonably practicable, having regard to the urgency of the matter and, for the avoidance of doubt, an **Urgent Amendment Proposal** may (subject to the approval of the **Authority**) result in the **CUSC** being amended on the day on which such proposal is submitted.
- 8.21.8 Where an **Urgent Amendment Proposal** results in an amendment being made in accordance with Paragraph 8.23, the **Amendments Panel** shall determine whether or not to submit the Amendment for review by a **Standing Group** in accordance with Paragraph 8.18 on terms specified by the **Amendment Panel** in order to consider and report as to whether any **Alternative Amendment** could, as compared with the amendment being made better facilitate achieving the **Applicable CUSC Objectives** in respect of the subject matter of that **Urgent Amendment Proposal**.

8.22 CONFIDENTIALITY

- 8.22.1 Any representations submitted by a person pursuant to the **Amendment Procedures** may be made publicly available save as otherwise expressly requested by such person by notice in writing to **NGC**.
- 8.22.2 The **Amendment Panel** and **NGC** shall not be liable for any accidental publication of a representation which is the subject of a request made under Paragraph 8.22.1.
- 8.22.3 For the avoidance of doubt, all representations (whether or not marked confidential) shall be sent to the **Authority**.

8.23 IMPLEMENTATION

- 8.23.1 The **CUSC** shall be modified in accordance with the terms of the direction by the **Authority** relating to, or other approval by the

Authority of, the **Proposed Amendment** or any **Alternative Amendment** contained in the relevant **Amendment Report**.

8.23.2 **NGC** shall forthwith notify (by publication on the **NGC Website** and, where relevant details are supplied by electronic mail):

- (a) each **CUSC Party**;
- (b) each **Panel Member**;
- (c) the **Authority**;
- (d) each **Core Industry Document Owner**,
- (e) the secretary of the **STC** committee;

of the change so made and the effective date of the change.

8.23.3 An amendment of the **CUSC** shall take effect from the time and date specified in the direction, or other approval, from the **Authority** referred to in Paragraph 8.23.1 or, in the absence of any such time and date, from 00:00 hours on the day falling ten (10) **Business Days** after the date of such direction, or other approval, from the **Authority**.

8.23.4 An amendment made pursuant to and in accordance with Paragraph 8.23.1 shall not be impaired or invalidated in any way by any inadvertent failure to comply with or give effect to this Section.

8.23.5 If an amendment is made to the **CUSC** in accordance with the **Transmission Licence** but other than pursuant to the other **Amendment Procedures** in this Section 8, the **Amendments Panel** shall determine whether or not to submit the amendment for review by a **Standing Group** in accordance with Paragraph 8.18 on terms specified by the **Amendment Panel** in order to consider and report as to whether any **Alternative Amendment** could, as compared with the amendment being made better facilitate achieving the **Applicable CUSC Objectives** in respect of the subject matter of the original amendment.

ANNEX 8A ELECTION OF USERS' PANEL MEMBERS

8A.1 GENERAL

8A.1.1 Introduction

8A.1.1.1 This Annex 8A sets out the basis for election of **Users' Panel Members** and **Alternate Members** for the purpose of Paragraphs 8.3.2. and 8.6.2

8A.1.1.2 This Annex 8A shall apply:

- (a) in relation to each year (the "**Election Year**") in which the term of office of **Users' Panel Members** and **Alternate Members** expires, for the purposes of electing **Users' Panel Members** and **Alternate Members** to hold office with effect from 1st October in that year;
- (b) subject to and in accordance with Paragraph 8A.4, upon a **Users' Panel Member** and **Alternate Members** ceasing to hold office before the expiry of his term of office.

8A.1.1.3 For the purposes of an election under Paragraph 8A.1.1.2(a) references to **Users** are to persons who are **Users** as at 20th June in the election year.

8A.1.1.4 **NGC** shall administer each election of **Users' Panel Members** and **Alternate Members** pursuant to this Annex 8A.

8A.1.2 Election timetable

8A.1.2.1 **NGC** shall not later than 1st July in the election year prepare and circulate to all **Users** (by publication on the **NGC Website** and, where relevant details are supplied, by electronic mail), with a copy to the **Authority**, an invitation to nominate candidates who must be willing to be either a **User Panel Member** or an **Alternate Member** and a timetable for the election (the "**Election Timetable**"), setting out:

- (a) the date by which nominations of candidates are to be received, which shall not be less than three (3) weeks after the timetable is circulated;
- (b) the date by which **NGC** shall circulate a list of candidates and voting papers;
- (c) the date by which voting papers are to be submitted, which shall not be less than three (3) weeks after the date for circulating voting papers;

- (d) the date by which the results of the election will be made known, which shall not be later than 15th September in the **Election Year**.

8A.1.2.2 If for any reason it is not practicable to establish an election timetable in accordance with Paragraph 8A.2.1.1 or to proceed on the basis of an election timetable which has been established, **NGC** may establish a different timetable, or revise the election timetable, by notice to all **Users**, the **Amendments Panel** and the **Authority**, provided that such timetable or revised timetable shall provide for the election to be completed before 1st October in the **Election Year**.

8A.1.2.3 A nomination or voting paper received by **NGC** later than the respective required date under the election timetable (subject to any revision under Paragraph 8A.1.2.2) shall be disregarded in the election.

8A.2. CANDIDATES

8A.2.1 Nominations

8A.2.1.1 Nominations for candidates shall be made in accordance with the **Election Timetable**.

8A.2.1.2 Subject to Paragraph 8A.1.1.3, each **User** may nominate one candidate for election by giving notice to **NGC**.

8A.2.2 List of candidates

8A.2.2.1 **NGC** shall draw up a list of the nominated candidates and circulate the list to all **Users** by the date specified in the **Election Timetable**.

8A.2.2.2 The list shall specify the **User** by whom each candidate was nominated and any affiliations which the candidate may wish to have drawn to the attention of **Users**.

8A.2.2.3 If seven (7) or fewer candidates are nominated (or where Paragraph 8A.4 applies only one such candidate is nominated), no further steps in the election shall take place and such candidate(s) shall be treated as elected as **Users' Panel Members** and Paragraph 8A.3.2.4 shall apply in relation to such candidate(s).

8A.3. VOTING

8A.3.1 Voting papers

8A.3.1.1 Voting papers shall be submitted in accordance with the election timetable.

8A.3.1.2 Each **User** may submit one voting paper.

8A.3.2 Preference votes and voting rounds

8A.3.2.1 Each **User** submitting a voting paper shall vote by indicating on the voting paper a first, second and third preference ("**Preference Votes**") among the candidates.

8A.3.2.2 A voting paper need not indicate a second, or a third, preference, but the same candidate may not receive more than one **Preference Vote** in a voting paper.

8A.3.2.3 Candidates shall be elected in three voting rounds (together where necessary with a further round under Paragraph 8A.3.6) in accordance with the further provisions of this Paragraph 8A.3.

8A.3.2.4 **NGC** shall determine which candidates are elected and announce (to the **Authority** and all **Users**) the results of the election in accordance with the election timetable.

8A.3.2.5 **NGC** shall not disclose the **Preference Votes** cast by **Users** or received by candidates; but a **User** may by notice to the **Authority** require that the **Authority** scrutinise the conduct of the election, provided that such **User** shall bear the costs incurred by the **Authority** in doing so unless the **Authority** recommends that the election results should be annulled.

8A.3.2.6 Further references to voting papers in this Paragraph 8A.3 do not include voting papers which are invalid or are to be disregarded (i.e. voting papers not made or submitted in accordance with the **CUSC**.)

8A.3.3 First voting round

8A.3.3.1 In the first voting round:

(a) the number of first **Preference Votes** allocated under all voting papers to each candidate shall be determined.

(b) the first round qualifying total shall be:

$$(T / N) + 1$$

where

T is the total number of first **Preference Votes** in all voting papers;

N is the number of **Users' Panel Members** and **Alternate Members** to be elected.

8A.3.3.2 If the number of first **Preference Votes** allocated to any candidate is equal to or greater than the first round qualifying total, that candidate shall be elected.

8A.3.4 Second voting round

8A.3.4.1 In the second voting round:

- (a) the remaining candidates are those which were not elected in the first voting round;
- (b) the remaining voting papers are voting papers other than those under which the first **Preference Votes** were for candidates elected in the first voting round;
- (c) the number of first and second **Preference Votes** allocated under all remaining voting papers to each remaining candidate shall be determined;
- (d) the second round qualifying total shall be

$$(T' / N') + 1$$

where T' is the total number of first **Preference Votes** and second **Preference Votes** allocated under all remaining voting papers; N' is the number of **Panel Members** and **Alternate Members** remaining to be elected after the first voting round.

8A.3.4.2 If the number of first and second **Preference Votes** allocated to any remaining candidate is equal to or greater than the second round qualifying total, that candidate shall be elected.

8A.3.5 Third voting round

8A.3.5.1 In the third voting round:

- (a) the remaining candidates are those which were not elected in the first or second voting rounds;
- (b) the remaining voting papers are voting papers other than those under which the first or second **Preference Votes** were for candidates elected in the first or second voting rounds;
- (c) the number of first, second and third **Preference Votes** allocated under all remaining voting papers to each remaining candidate shall be determined;
- (d) the third round qualifying total shall be

$$(T'' / N'') + 1$$

where T" is the total number of first **Preference Votes**, second **Preference Votes** and third **Preference Votes** allocated under all remaining voting papers;

N" is the number of **Panel Members** remaining to be elected after the first and second voting rounds.

8A.3.5.2 If the number of first, second and third **Preference Votes** allocated to any remaining candidate is equal to or greater than the third round qualifying total, that candidate shall be elected.

8A.3.6 Further provisions

8A.3.6.1 If after any voting round the number of candidates achieving the required **Preference Votes** threshold exceeds the number of persons remaining to be elected, the following tie-break provisions shall apply between the tied candidates. In addition, if after the third voting round any **Panel Member(s)** or **Alternate Member(s)** remain to be elected the following tie-break provisions shall apply between the remaining candidates:

- (a) the tied or remaining candidates (as applicable) shall be ranked in order of the number of first **Preference Votes** allocated to them, and the candidate(s) with the greatest number of such votes shall be elected;
- (b) in the event of a tie between two or more candidates within Paragraph (a), the candidate(s) (among those tied) with the greatest number of second **Preference Votes** shall be elected;
- (c) in the event of a tie between two or more candidates within Paragraph (b), **NGC** shall select the candidate(s) (among those tied) to be elected by drawing lots.

8A.3.7 Alternate Members and Panel Members

The seven (7) candidates receiving the greatest number of votes shall be elected as **Users' Panel Members** and the next five (5) shall be elected as **Alternate Members**.

8A.4. VACANCIES

8A.4.1 General

8A.4.1.1 If a **Panel Member** (the "**Resigning**" **Panel Member**) or an **Alternate Member** (the "**Resigning**" **Alternate Member**") ceases to hold office pursuant to Paragraph 8.5:

- (a) not less than 6 months before the expiry of the term of his office, Paragraph 8A.4.2 shall apply.
- (b) less than 6 months before the expiry of the term of his office, Paragraph 8A.4.3 shall apply.

8A.4.1.2 The provisions of Paragraph 8A.2.1.2 shall apply, mutatis mutandis, to any replacement **Panel Member** or **Alternate Member** under this Paragraph 8A.4.

8A.4.2 Replacement for not less than 6 months

8A.4.2.1 Where this Paragraph 8A.4.2 applies, a replacement **Panel Member** or **Alternate Member** shall be elected (for the remainder of the term of office of the **Resigning Panel Member** or **Resigning Alternate Member**) in accordance with Paragraph 8A.2 and 8A.3 but subject to the further provisions of this Paragraph 8A.4.2.

8A.4.2.2 Only those **Users** who voted for the **Resigning Panel Member** or **Resigning Alternate Member**, or who did not vote for (and are not **Affiliates** of any **User** which voted for) any elected **Panel Member** or **Alternate Member** still serving, shall participate in the election by nominating candidates or submitting voting papers.

8A.4.2.3 **NGC** shall circulate to all **Users** a list of the **Users** who are to participate in the election.

8A.4.2.4 For the purposes of this Paragraph 8A.4.2 a **User** is considered (in any election of **Users' Panel Members** and **Alternate Members**) to have voted for an elected candidate where that **User** indicated a **Preference Vote** in favour of that candidate which was counted (under the first or second or third voting round or further round under Paragraph 8A.3.6, as the case may be) in electing that candidate.

8A.4.2.5 The timetable for the election shall be expedited and **NGC** shall prepare a timetable accordingly.

8A.4.3 Replacement for less than 6 months

8A.4.3.1 Where this Paragraph 8A.4.3 applies, the **User** which nominated the **Resigning Panel Member** or **Resigning Alternate Member** shall be entitled (by notice to **NGC**) to appoint a replacement **Panel Member** or **Alternate Member** for the remainder of the term of office of the **Resigning Panel Member** or **Resigning Alternate Member**.

8A.4.3.3 If such **User** does not appoint a replacement, the position shall remain vacant until the next full election.

END OF SECTION 8

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CUSC - SECTION 9

INTERCONNECTORS

9.1 INTRODUCTION

This Section 9 of the **CUSC** deals with **Interconnectors** other than **Distribution Interconnector Owners** (which are dealt with in Section 3). Part I provides for connection to the **NGC-GB Transmission System** by an **Interconnector Owner** and Part II for use of the **NGC-GB Transmission System** by **Interconnector Users** and **Interconnector Error Administrators**.

PART I - CONNECTION TO THE NGC-GB TRANSMISSION SYSTEM BY INTERCONNECTOR OWNERS

9.2 CONNECTION - INTRODUCTION

This Part I deals with connection to the **NGC-GB Transmission System** by an **Interconnector Owner**. The **User** for the purposes of this Part I will therefore be the **Interconnector Owner**. Given that the **Existing Contractual Arrangements** in respect of the **Interconnectors** between ~~England and Scotland~~ and England and France were not as at the **CUSC Implementation Date** governed by the **MCUSA** there is no obligation for the **Interconnector Owner** in the ~~these~~ cases to enter into Part 1 of Section 9 as at the **CUSC Implementation Date** provided always that upon termination of such **Existing Contractual Arrangements** any subsequent **Connection** to the **NGC-GB Transmission System** shall be entered into and governed by the terms of this **CUSC**.

9.3 BEING OPERATIONAL, CONNECTION AND ENERGISATION

9.3.1 Right to Remain Connected

Subject to the other terms and conditions of the relevant **Bilateral Connection Agreement** and the **Grid Code** and any **Operating Agreement**, each **User** as between **NGC** and that **User** shall have the right for the **User's Equipment** to remain connected to the **NGC-GB Transmission System** at the **Connection Site** of an **Interconnector** specified in the relevant **Bilateral Connection**

Agreement once **Commissioned** and then for the duration of the relevant **Bilateral Connection Agreement** in relation to that **Connection Site**.

9.3.2 **Right to Remain Energised and Operational**

Subject to the other provisions of the **CUSC**, the **relevant Bilateral Connection Agreement** and the **Grid Code** and any **Operating Agreement** each **User** as between **NGC** and that **User** shall have the right for the **User's Equipment** at the **Connection Site** of an **Interconnector** to remain **Energised** and **Operational** once **Commissioned** for the duration of the **Bilateral Connection Agreement** in relation to that **Connection Site**.

9.3.3 **Obligation to Remain Connected**

- (a) Without prejudice to its rights to make **Modifications** to the **User's Plant** (and/or **User's Equipment** as the case may be) pursuant to the **CUSC** and subject to the provisions of Paragraph 5.2 and the other provisions of the **CUSC**, the **Grid Code** and any **Operating Agreement**, the **User** shall keep the **User's Equipment** at the **Connection Site** of an **Interconnector** connected to the **NGC-GB Transmission System** until **Decommissioning** or **Disconnection** is permitted pursuant to the **CUSC** and the relevant **Bilateral Connection Agreement**.
- (b) For as long as the **User** is connected to the **NGC-GB Transmission System** and the **User's Equipment** is **Energised** and **Operational** the **User** shall ensure:
 - (i) that there is an **Interconnector Error Administrator** appointed in respect of that **Interconnector**; and
 - (ii) that any party with whom it enters into an agreement for use of that **Interconnector** is a party to the **CUSC** and is in receipt of a **Use of System Interconnector Confirmation Notice** prior to and during its use of that **Interconnector**.

9.4 **EXPORT OF POWER FROM THE INTERCONNECTOR CONNECTION SITE**

Subject to the other provisions of the **CUSC**, the relevant **Bilateral Connection Agreement** and the **Grid Code** and any **Operating Agreement**, **NGC** shall accept into the **NGC-GB Transmission**

System at the **Connection Site** of an **Interconnector** power up to the **Transmission Entry Capacity** as specified in Appendix C to the relevant **Bilateral Connection Agreement** except to the extent (if any) that **NGC** is prevented from doing so by transmission constraints which could not be avoided by the exercise of **Good Industry Practice**.

9.5 **IMPORT OF POWER TO THE INTERCONNECTOR CONNECTION SITE**

Subject to the other provisions of the **CUSC**, the relevant **Bilateral Connection Agreement**, the **Grid Code** and any **Operating Agreement**, **NGC** shall transport a supply of power to a **Connection Site** of an **Interconnector** through the **NGC-GB Transmission System** up to the amount specified in the **Bilateral Connection Agreement** except to the extent (if any) that **NGC** is prevented from doing so by transmission constraints which could not be avoided by the exercise of **Good Industry Practice** by **NGC**.

9.6 The **User** shall not permit the transfer of any amount of electricity onto the **NGC-GB Transmission System** in excess of the **Transmission Entry Capacity** specified in Appendix C to the relevant **Bilateral Connection Agreement** or permit the taking of any amounts of electricity off the **NGC-GB Transmission System** in excess of the value as specified in Appendix C to the relevant **Bilateral Connection Agreement** save as expressly permitted or instructed pursuant to an **Emergency Instruction** under the **Grid Code** or save as expressly permitted pursuant to any **Operating Agreement** or the **Fuel Security Code** or as may be necessary or expedient in accordance with **Good Industry Practice**.

9.6A **Connection Entry Capacity**

With respect to a particular connection to the **NGC Transmission System**, each **User**, as between **NGC** and that **User**, shall not operate its **User's Equipment** such that any of it exceeds the **Connection Entry Capacity** specified for each **Generating Unit** or the **Connection Entry Capacity** to the **Connection Site** such figures being set out in Appendix C to the relevant **Bilateral Connection Agreement** save as expressly permitted pursuant to an **Emergency Instruction** under the **Grid Code** or save as expressly permitted pursuant to any **Operating Agreement** or the **Fuel Security Code** or as may be necessary or expedient in accordance with **Good Industry Practice**.

9.7 MAINTENANCE OF TRANSMISSION CONNECTION ASSETS

Subject to the other provisions of the **CUSC**, the relevant **Bilateral Connection Agreement**, the **Grid Code** and any **Operating Agreement**, **NGC** shall use all reasonable endeavours to maintain the ~~**NGC**~~ **Transmission Connection Assets** at each **Connection Site** of an **Interconnector** in the condition necessary to render the same fit for the purpose of passing power up to the **Connection Entry Capacity** specified in Appendix C to the **Bilateral Connection Agreement** as appropriate between the **User's Equipment** and the **NGC****GB Transmission System**.

9.8 OUTAGES

Subject to the provisions of the **Grid Code** and any **Operating Agreement**, **NGC** and the **User** shall as between themselves be entitled to plan and execute outages of parts of, in the case of **NGC**, the **GB Transmission System** or **Transmission Plant** or **Transmission Apparatus** and, in the case of the **User**, its **System** or **Plant** or **Apparatus** at any time and from time to time.

9.9 CONNECTION CHARGES

9.9.1 Connection Charges

Subject to the provisions of the **CUSC**, and the relevant **Bilateral Connection Agreement**, each **User** shall, as between **NGC** and that **User**, with effect from the relevant date set out in the relevant **Bilateral Connection Agreement** be liable to pay to **NGC** the **Connection Charges** calculated and applied in accordance with the **Statement of the Connection Charging Methodology** and as set out in the relevant **Bilateral Connection Agreement**. The **User** shall make those payments in accordance with the provisions of the **CUSC**. **NGC** shall apply and calculate the **Connection Charges** in accordance with the **Statement of the Connection Charging Methodology**.

9.9.2 Obligation to provide Security

The **User** shall provide **NGC** with **Security Cover** in respect of **Termination Amounts** in respect of ~~**NGC**~~ **Transmission Connection Assets** commissioned after the **Transfer Date** in accordance with the provisions of Part III of Section 2.

9.9.3 Outturn Reconciliation

- (a) The following provisions relate to the ability for invoices to be issued for **Connection Charges** based on an estimate of the cost of **NGC-Transmission Connection Asset Works**, and for a reconciliation once those costs are known.
- (b) **NGC** shall be entitled to invoice the **User** for **Connection Charges** payable in accordance with the **CUSC** in respect of any **Plant** and **Apparatus** installed as part of the **NGC-Transmission Connection Asset Works** on the basis set out in the **Statement** of the **Connection Charging Methodology**, until the final cost of carrying out the said **NGC-Transmission Connection Asset Works** shall have been determined.
- (c) As soon as practicable after the **Completion Date** and in any event within one year thereof **NGC** shall provide to the **User** a written statement specifying the **Connection Charges** calculated in accordance with the **Charging Statements** based on the cost of carrying out the **NGC-Transmission Connection Asset Works** (the “**Cost Statement**”). **NGC** shall be entitled to revise Appendix B to the relevant **Bilateral Connection Agreement** accordingly.
- (d) In the event that the **Connection Charges** specified in the **Cost Statement** are greater than the amount paid by the **User** based on **NGC’s** estimate under Paragraph 2.14.3(b), the **User** shall pay to **NGC** the difference between the two amounts plus interest on a daily basis from the date of payment by the **User** of the amounts calculated on **NGC’s** estimate to the date of payment by the **User** of the difference at the **Base Rate**. In the event that the **Connection Charges** specified in the **Cost Statement** are less than the amount paid by the **User** based on **NGC’s** estimate, **NGC** shall pay to the **User** the difference between the two amounts plus interest on a daily basis from the date of payment by the **User** of the amounts calculated on **NGC’s** estimate to the date of repayment by **NGC** at the **Base Rate**. Such payment of reconciliation shall be made by one party to the other within 28 (twenty eight) days of the **Cost Statement**.

9.9.4 Connection Charges – One-off Charges

- (a) The following provisions relate to the payment for certain **One-off Works**, which arise in relation to the construction of a **Connection Site**.

- (b) The **User** shall forthwith on the relevant date set out in the relevant **Bilateral Connection Agreement** be liable to pay to **NGC** the **One-off Charge** (if any) as set out in the relevant **Bilateral Connection Agreement**.
- (c) **NGC** shall invoice the **User** for an amount equal to **NGC's** estimate of the **One-off Charge** before, on or after the relevant date set out in the relevant **Bilateral Connection Agreement** and the **User** shall pay to **NGC** the amount stated in the **NGC** invoice at the later of such relevant date or 28 (twenty eight) days after the date of the said invoice.
- (d) As soon as practicable thereafter **NGC** shall provide the **User** with a statement of the **One-off Charge**. In the event of the amount specified in the statement being more than the amount paid by the **User** to **NGC** in terms of Paragraph 2.14.4(c), the **User** shall pay to **NGC** the difference plus interest on a daily basis from the date of the invoice under Paragraph 2.14.4(c) to the date of invoice for the difference at the **Base Rate** from time to time within 28 days (twenty eight) days of the date of **NGC's** invoice. In the event of the amount specified in the statement being less than the amount paid by the **User** under the terms of Paragraph 2.14.4(c), **NGC** shall forthwith pay to the **User** an amount equal to the difference plus interest calculated on a daily basis at the **Base Rate** from the date of payment by the **User** under Paragraph 2.14.4(c) to the date on which the difference is repaid by **NGC**.

9.9.5 Connection Charges – Site Specific Maintenance Charge

- (a) **NGC** shall be entitled to invoice each **User** for the indicative **Site Specific Maintenance Charge** in each **Financial Year** as set out in the **Statement of the Connecting Charging Methodology**.
- (b) As soon as reasonably practicable and in any event by 31 July in each **Financial Year** **NGC** shall:
 - (i) in accordance with the **Statement of the Connection Charging Methodology** calculate the actual **Site Specific Maintenance Charge** that would have been payable by the **User** during the preceding **Financial Year** (the "**Actual Charge**") and compare this with the indicative **Site Specific Maintenance Charge**

received from the **User** during the preceding **Financial Year** (the “**Notional Charge**”) and

- (ii) prepare and send to the **User** a **Maintenance Reconciliation Statement** specifying the **Actual Charge** and the **Notional Charge** for the preceding **Financial Year**.
- (c) Two months after the date of issue of the **Maintenance Reconciliation Statement** and in any event by 30 September **NGC** shall issue a credit note in relation to any sums shown by the **Maintenance Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** (such invoice to be payable within 30 days of the date of the invoice) and in each case interest thereon calculated pursuant to Paragraph 9.9.5(e) below.
- (d) Interest on all amounts due under this Paragraph 9.9.5 shall be payable by the paying **CUSC Party** to the other on such amounts from the date of payment applicable to the month concerned until the date of invoice for such amounts and such interest shall be calculated on a daily basis at a rate equal to the **Base Rate** during such period.

9.9.6 Payment

The **Connection Charges** in the **Financial Year** in which the **Charging Date** occurs shall be apportioned as follows:-

For each complete calendar month from **Charging Date** to the end of the **Financial Year** in which the **Charging Date** occurs the **User** shall be liable to pay one twelfth of the **Connection Charges** and for each part of a calendar month the **User** shall be liable to pay to **NGC** one twelfth of the **Connection Charges** prorated by a factor determined by the number of days for which the **User** is liable divided by the total number of days in such calendar month.

- 9.9.7 The provisions of Paragraphs 2.15 (Revision of Charges), 2.16 (Data Requirements), 2.17 (Replacement of [NGC-Transmission Connection Assets](#)), 2.18 Termination Amounts Re-use) and 2.19 to 2.22 inclusive (Security and Termination Amounts) of the **CUSC** shall apply to this Section 9 as if set out herein in full.

9.10 USE OF SYSTEM CHARGES - Transmission Network Use of System Charges

9.10.1 Subject to the provisions of the **CUSC**, and any relevant **Bilateral Agreement**, together with the relevant **Charging Statements**, the **User** shall with effect from the relevant date set out in the relevant **Bilateral Agreement**, be liable to pay to **NGC** the **Transmission Network Use of System Charges** in accordance with the **CUSC** calculated in accordance with the **Statement of Use of System Charges** and the **Statement of the Use of System Charging Methodology**. **NGC** shall apply and calculate the **Use of System Charges** in accordance with the **Statement of Use of System Charges** and the **Statement of the Use of System Charging Methodology**.

9.10.2 Data Requirements

9.10.2.1 On or before the end of the second week of December in each **Financial Year**, each **User** shall supply **NGC** with such data as **NGC** may from time to time reasonably request pursuant to the **Charging Statements** to enable **NGC** to calculate the tariffs for the **Transmission Network Use of System Charges** for the **Financial Year** to which the data relates;

9.10.2.2 On or before the 10th day in March in each **Financial Year**, each **User** shall supply **NGC** on **NGC's** reasonable request with its **Demand Forecast** for the following **Financial Year** pursuant to the **Charging Statements** to enable **NGC** to use such **Demand Forecast** as the basis for calculation of the **Transmission Network Use of System Charges** for the **Financial Year** to which the **Demand Forecast** relates.

9.10.2.3 In the event that a **User** fails to provide a **Demand Forecast** in accordance with Paragraph 9.10.2.2 above the **User** shall be deemed to have submitted as its **Demand Forecast** the last **Demand Forecast** supplied under Paragraph 9.10.3.1.

9.10.3 Variation Of Forecasts During The Financial Year

9.10.3.1 Each **User** shall notify **NGC** of any revision to its **Demand Forecast** at least quarterly or at such intervals as may be agreed between **NGC** and the **User** from time to time.

9.10.3.2 In the event that a **User** fails to provide a revised **Demand Forecast** in accordance with Paragraph 9.10.3.1 above the **User**

shall be deemed to have submitted as its revised **Demand Forecast** that submitted at the previous quarter.

9.10.3.3 Subject to Paragraph 9.10.4, **NGC** shall revise the **Transmission Network Use of System Charges** payable by a **User** to take account of any revised **Demand Forecast** and shall commence charging the revised **Transmission Network Use of System Charges** from the first day of the month following the month in which such revised **Demand Forecast** was received provided always that such **Demand Forecast** is provided before the 10th day of such month.

9.10.4 Validation of Demand Forecasts

9.10.4.1 The **Demand Forecast** shall represent a **User's** reasonable estimate of its **Demand**.

9.10.4.2 **NGC** shall notify the **User** in the event that the **Transmission Network Use of System Charges** due from the **User** to **NGC** or from **NGC** to the **User** (as the case may be) calculated by **NGC** using the **Demand Forecast** differ by more than 20% from that calculated by **NGC** using the **NGC's** forecast **Demand** as provided for in the **Charging Statements**.

9.10.4.3 In the event that **NGC** does not receive a satisfactory explanation for the difference between the **Demand Forecast** and **NGC's** forecast **Demand** or a satisfactory revised **Demand Forecast** from the **User** within 5 **Business Days** of such notice then **NGC** shall be entitled to invoice a **User** for **Transmission Network Use of System charges** calculated on the basis of the **NGC** forecast **Demand**.

9.10.4.4 Any dispute regarding a **Demand Forecast** or the resulting **Transmission Network Use of System Charges** shall be a **Charging Dispute**.

9.10.5 Reconciliation Statements

9.10.5.1 Calculation of Initial Reconciliation

On or before 30 June in each **Financial Year**, **NGC** shall promptly calculate in accordance with the **Statement of the Use of System Charging Methodology** and the **Statement of Use of System Charges** the **Demand** related or generation related **Transmission Network Use of System Charges** (as the case may be) that would have been payable by the **User** during each

month during the preceding **Financial Year (Actual Amount)**. **NGC** shall then compare the **Actual Amount** with the amount of **Demand** related or generation related **Transmission Network Use of System Charges** (as the case may be) paid during each month during the preceding **Financial Year** by the **User** (the "**Notional Amount**").

Generation Reconciliation

- 9.10.5.2 As soon as reasonably practicable and in any event by 30 April in each **Financial Year** **NGC** shall prepare a generation reconciliation statement the "**Generation Reconciliation Statement**") in respect of generation related **Transmission Network Use of System Charges** and send it to the **User**. Such statement shall specify the **Actual Amount** and the **Notional Amount** of generation related **Transmission Network Use of System Charges** for each month during the relevant **Financial Year** and, in reasonable detail, the information from which such amounts were derived and the manner in which they were calculated.
- 9.10.5.3 Together with the **Generation Reconciliation Statement**, **NGC** shall issue a credit note in relation to any sums shown by the **Generation Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** and in each case interest thereon calculated pursuant to Paragraph 9.10.4.4 below.
- 9.10.5.4 As soon as reasonably practicable and in any event by 30 June in each **Financial Year** **NGC** shall then prepare an initial **Demand** reconciliation statement (the "**Initial Demand Reconciliation Statement**") in respect of **Demand** related **Transmission Network Use of System Charges** and send it to the **User**. Such statement shall specify the **Actual Amount** and the **Notional Amount** of **Demand** related **Transmission Network Use of System Charges** for each month during the relevant **Financial Year** and, in reasonable detail, the information from which such amounts were derived and the manner in which they were calculated.
- 9.10.5.5 Together with the **Initial Demand Reconciliation Statement** **NGC** shall issue a credit note in relation to any sum shown by the **Initial Demand Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** and in each case interest thereon calculated pursuant to Paragraph 9.10.4.6;
- 9.10.5.6 General Provisions

- (a) Invoices issued under Paragraph 9.10.4.3 shall be payable within 30 days of the date of the invoice;
- (b) Interest on all amounts due under this Paragraph 9.10.4 shall be payable by the paying **CUSC Party** to the other on such amounts from the date of payment applicable to the month concerned until the date of actual payment of such amounts and such interest shall be calculated on a daily basis at a rate equal to the **Base Rate** during such period.

9.10.5.7 Final Reconciliation Statement

- (a) **NGC** shall as soon as reasonably practicable following receipt by it of the **Final Reconciliation Settlement Run** or **Final Reconciliation Volume Allocation Run** as appropriate in respect of the last **Settlement Day** in each **Financial Year** issue a further **Demand** reconciliation statement (the “**Final Demand Reconciliation Statement**”) in respect of **Demand** related **Transmission Network Use of System Charges** payable in respect of each month of that **Financial Year** showing:-
 - (i) any change in the **Demand** related **Transmission Network Use of System Charges** from those specified in the **Initial Demand Reconciliation Statement** provided in accordance with Paragraph 9.10.4.4;
 - (ii) whether the change represent a reconciliation payment owing by **NGC** to a **User** or by a **User** to **NGC**.
 - (iii) the amount of interest determined in accordance with Paragraph 9.10.4.6 above; and
 - (iv) the information from which the amounts in (i) above are derived and the manner of their calculation.
- (b) Together with the **Final Demand Reconciliation Statement** **NGC** shall issue a credit note in relation to any sum shown in the **Final Demand Reconciliation Statement** to be due to the **User** or an invoice in respect of sums due to **NGC** and in each case interest thereon calculated pursuant to Paragraph 9.10.4.6.
- (c) Payment of any invoice issued pursuant to Paragraph 9.10.4.7(b) above or the application of any credit note issued pursuant to that paragraph against any liability of

the **User** to **NGC** for **Demand** related **Transmission Network Use of System Charges** will be in full and final settlement of all **Demand** related **Transmission Network Use of System Charges** for the **Financial Year** to which the invoice or credit note relates provided that nothing in this Paragraph 9.10.4.7(c) shall affect the rights of the parties under the provisions of Paragraph 7.3.5 of the **CUSC**.

9.10.6 Paragraphs 3.14.1 - 3.14.4 (Revision of Charges) shall apply as if set out herein in full.

9.10.7 Each **User** shall as between **NGC** and that **User** provide **NGC** with **Security Cover** in respect of **Transmission Network Use of System Demand Reconciliation Charges** in accordance with Part III of Section 3.

9.10.8 Paragraphs 3.21 to 3.25 inclusive (Credit Requirements) as they relate to **Transmission Network Use of System Demand Reconciliation Charges** shall apply as if set out herein in full.

9.11 SPECIAL AUTOMATIC FACILITIES

NGC and each **User** shall, as between **NGC** and that **User** operate respectively the **NGC-GB Transmission System** and the **User's Equipment** in accordance with the schemes set out in Appendix F3 to the relevant **Bilateral Connection Agreement** and/or any **Operating Agreement**.

9.12 PROTECTION AND CONTROL RELAY SETTINGS/FAULT CLEARANCE TIMES

NGC and the **User** shall record the respective protection and control relay settings and fault clearance times to be operated by each of them in documents in the format set out in Appendix F4 to the relevant **Bilateral Connection Agreement** and shall operate them accordingly.

9.13 OTHER SITE SPECIFIC TECHNICAL CONDITIONS

9.13.1 The **User** shall ensure that, in the case of a **Connection Site Commissioned** prior to the **Transfer Date**, on the **Transfer Date**, and in the case of a **Connection Site Commissioned** after the **Transfer Date**, on the **Completion Date(s)**, the **User's Equipment** complies with the site specific technical conditions set out in Appendix F5 to the relevant **Bilateral Connection Agreement** and/or in the relevant **Operating Agreement**.

9.13.2 The **User** shall use all reasonable endeavours to ensure during the period in which it is a party to a particular **Bilateral Connection Agreement** that the **User's Equipment** which is subject to that **Bilateral Connection Agreement** shall continue to comply with the site-specific technical conditions set out in Appendix F5 to that **Bilateral Connection Agreement** and/or in the relevant **Operating Agreement**.

9.13.3 If the **User** or **NGC** wishes to modify, alter or otherwise change the site specific technical conditions relating to a **Connection Site** or the manner of their operation:

- (a) under Appendix F4 to the relevant **Bilateral Connection Agreement** it may do so upon obtaining the agreement of the other party such agreement not to be unreasonably withheld;
- (b) under Appendices F1 or F3 or F5 to the relevant **Bilateral Connection Agreement** it shall be deemed to be a **Modification** for the purposes of the **CUSC**.

9.13.4 Where, in the case of a **Connection Site Commissioned [in England and Wales](#)** prior to the **Transfer Date**, on or immediately prior to the **Transfer Date** a **User's Equipment** subject to a particular **Bilateral Connection Agreement** has any of the following technical attributes or facilities:

- (a) circuit breaker fail protection
- (b) pole slipping protection
- (c) fault disconnection facilities
- (d) automatic switching equipment
- (e) control arrangements
- (f) voltage and current signals for system monitoring
- (g) control telephony
- (h) operational metering,

the **User** shall, as between **NGC** and that **User**, use all reasonable endeavours to ensure that during the period of such **Bilateral Connection Agreement** the **User's Equipment** which is subject to that **Bilateral Connection Agreement** retains such technical attributes or facilities provided always that if the **User** wishes to modify alter or

otherwise change the same or their operation it may do so by following the procedures relating to a **Modification** in accordance with the **CUSC**.

9.14 SAFETY RULES

9.14.1 In relation to a **Connection Site** in England and Wales **NGC** and the **User** will each supply to the other and in relation to a **Connection Site** in Scotland **NGC** shall procure that the **Relevant Transmission Licensee** supplies to the **User** a copy of their **Safety Rules** current from time to time, including any site-specific **Safety Rules**, and also a copy of the **Local Safety Instructions** applicable at each **Connection Site** from time to time.

9.14.2 In relation to a **Connection Site** in Scotland each **User** will supply to the **Relevant Transmission Licensee** a copy of their **Safety Rules** current from time to time, including any site-specific **Safety Rules**, and also a copy of the **Local Safety Instructions** applicable at each **Connection Site** from time to time.

9.15 INTERFACE AGREEMENT

9.15.1 In relation to **Connection Sites** and **New Connection Sites** in England and Wales **NGC** and the **User** undertakes to enter into an **Interface Agreement** with each other and in relation to **Connection Sites** and **New Connection Sites** in Scotland **NGC** shall procure that the **Relevant Transmission Licensee** shall enter into an **Interface Agreement** with a **User** in either case in a form to be agreed between them but based substantially on the forms set out in Schedule 2 as appropriate ~~in relation to **Connection Site(s)** and **New Connection Site(s)**~~ where such **Interface Agreement(s)** is/are required pursuant to the applicable **Bilateral Connection Agreement** or otherwise.

9.15.2 In relation to **Connection Sites** and **New Connection Sites** in Scotland the **User** undertakes to enter into an **Interface Agreement** with the **Relevant Transmission Licensee** in a form to be agreed between them but based substantially on the forms set out in Exhibit O to the **CUSC** as appropriate where such **Interface Agreement(s)** is/are required pursuant to the applicable **Bilateral Connection Agreement** or otherwise.

9.16 PRINCIPLES OF OWNERSHIP

9.16.1 Subject to any contrary agreement in any **Bilateral Connection Agreement** or elsewhere, the division of ownership of **Plant** and **Apparatus** shall be at the electrical boundary, such boundary to be in relation to **Plant** and **Apparatus** located between the **NGCGB Transmission System** and an **Interconnector** at the busbar clamp on the busbar side of the busbar isolators in the **Interconnector** transformer circuits at a **Connection Site**.

9.16.2 For the avoidance of doubt nothing in this Paragraph 9.16 shall effect any transfer of ownership in any **Plant** or **Apparatus**.

9.17 EVENT OF DEFAULT

9.17.1 Where **NGC** has given notice of event of default to an **Interconnector User** or **Interconnector Error Administrator** in accordance with Section 5 **NGC** shall be entitled to request the **User** to cease or procure the cessation of the transfer of power across the relevant **Interconnector** by or on behalf of that **Interconnector User** or **Interconnector Error Administrator**.

9.17.2 As soon as practicable after such request from **NGC** the **User** shall cease or procure the cessation of the transfer of power across the relevant **Interconnector** by or on behalf of that **Interconnector User**.

9.18 NEW CONNECTION SITES

9.18.1 If the **User** wishes to connect a **New Connection Site** it shall complete and submit to **NGC** a **Connection Application** and comply with the terms thereof.

9.18.2 Without prejudice to [Standard Condition C7D] of the **Transmission Licence** **NGC** shall make a **Connection Offer** to that **User** as soon as practicable after receipt of the **Connection Application** and (save where the **Authority** consents to a longer period) in any event not more than 3 months after receipt by **NGC** of the **Connection Application**.

9.18.3 The **Connection Offer** shall remain open for acceptance for 3 months from its receipt by that **User** unless either that **User** or **NGC** makes an application to the **Authority** under [Standard Condition C7D] of the **Transmission Licence**, in which event the **Connection Offer** shall remain open for acceptance until the date

14 days after any determination by the **Authority** pursuant to such application.

- 9.18.4 If the **Connection Offer** is accepted by that **User** the connection shall proceed according to the terms of the **CUSC** and the relevant **Bilateral Connection Agreement** and **Construction Agreement** entered into consequent upon acceptance of the **Offer**.

PART II - USE OF THE ~~NGC-GB~~ TRANSMISSION SYSTEM BY INTERCONNECTOR USERS AND INTERCONNECTOR ERROR ADMINISTRATORS

9.19 INTRODUCTION

This Part II deals with rights and obligations relating to use of the ~~NGC-GB~~ Transmission System by **Interconnector Users** and **Interconnector Error Administrators** (whether in respect of an **Interconnector** governed by the **Existing Contractual Arrangements** or otherwise). An **Interconnector Error Administrator** is deemed to be using the ~~NGC-GB~~ Transmission System because of its registered **BM Units** in respect of which it has an obligation to pay **Balancing Services Use of System Charges**. The **User** for the purposes of this Part II will therefore be an **Interconnector User** and/or an **Interconnector Error Administrator**. Where the **Interconnector Error Administrator** is **NGC** or **Interconnectors Business**, the **User** for the purposes of this Part II will be **NGC**.

9.20 RIGHTS TO USE THE ~~NGC-GB~~ TRANSMISSION SYSTEM

- 9.20.1 Subject to the provisions of the **CUSC**, the **Grid Code** and any relevant **Operating Agreement** **NGC** shall as between **NGC** and that **User** transport a supply of power through the ~~NGC-GB~~ Transmission System together with such margin as **NGC** shall in its reasonable opinion consider necessary having due regard to **NGC's** duties under the **Transmission Licence** except to the extent (if any) that **NGC** is prevented from doing so by transmission constraints or by insufficiency of generation which, in either case, could not have been avoided by the exercise of **Good Industry Practice** by **NGC**.

9.20.2 This right is subject to there being a **Bilateral Connection Agreement** between the **Interconnector Owner** and **NGC** for the **Connection Site** of the relevant **Interconnector**.

9.20.3 The **User** acknowledges that breach of the provisions of the **CUSC** by an **Interconnector Owner** may give rise to **Deenergisation** or **Disconnection** of the **Connection Site** of that **Interconnector** pursuant to Section 5.

9.20.4 Subject to the provisions of the **Grid Code** and any **Operating Agreement** **NGC** shall be entitled to plan and execute outages of parts of ~~its~~ the **GB Transmission System** or **Transmission Plant** or **Transmission Apparatus** at any time and from time to time.

9.21 USE OF SYSTEM APPLICATION

9.21.1 If a **User** wishes to use the ~~**NGC-GB**~~ **Transmission System** in accordance with this Part II, it shall complete and submit to **NGC** a **Use of System Application** and comply with the terms thereof.

9.21.2 Without prejudice to [Standard Condition C7D] of the **Transmission Licence**, **NGC** shall make a **Use of System Offer** to that prospective **User** as soon as practicable after receipt of the **Use of System Application** and (save where the **Authority** commits to a longer period) in any event not more than 28 days after receipt by **NGC** or the **Use of System Application**.

9.21.3 The **Use of System Offer** shall be in the form of **Use of System Interconnector Offer Notice**. The provisions of [Standard Condition C7D] shall apply to an application by a **User** under this Section 9 Part II as if the **Use of System Interconnector Offer Notice** and **Use of System Interconnector Confirmation Notice** was an agreement for the purposes of that condition.

9.21.4 The **Use of System Interconnector Offer** shall remain open for acceptance for 28 days from its receipt by that **User** unless either that **User** or **NGC** makes an application to the **Authority** under [Standard Condition C7E] of the **Transmission Licence**, in which event the **Use of System Interconnector Offer Notice** shall remain open for acceptance until the date 14 days after any determination by the **Authority** pursuant to such application.

9.21.5 Upon acceptance of the **Use of System Interconnector Offer** (as offered by **NGC** or determined by the **Authority**) by the **User** and the issuing by **NGC** of a **Use of System Interconnector**

Confirmation Notice, the **User** shall have the right to use the **NGC-GB Transmission System** in accordance with this Section. Such right shall continue until a **Use of System Termination Notice** is submitted pursuant to Paragraph 9.23.1 or the use ceases in accordance with 9.23.2.

9.21.6 Such rights shall be conditional upon the **Applicant**, if it is not already a party to the **CUSC Framework Agreement**, becoming a party to the **CUSC Framework Agreement**.

9.22 USE OF SYSTEM CHARGES- Balancing Services Use of System Charges

9.22.1 Subject to the provisions of the **CUSC**, together with the relevant **Charging Statements**, each **User** shall with effect from the relevant date set out in the relevant **Use of System Interconnector Confirmation Notice** given to a **User** be liable to pay to **NGC** in accordance with the **CUSC** in respect of each **Settlement Day** the **Balancing Services Use of System Charges** calculated in accordance with the **Statement of the Use of System Charges Methodology**.

9.22.2 **NGC** shall apply and calculate the **Balancing Services Use of System Charges** in accordance with the **Statement of Use of System Charges** and the **Statement of the Use of System Charging Methodology**.

9.22.3 Each **User** shall as between **NGC** and that **User** provide **NGC** with **Security Cover** in respect of **Transmission Services Use of System Charges** and **Balancing Services Use of System Charges** in accordance with the provisions of Part III of Section 3.

9.22.4 Paragraphs 3.21 to 3.24 (Credit Requirements) as they relate to **Transmission Services Use of System Charges** and **Balancing Services Use of System Charges** shall apply as if set out herein in full and as if references to **Generators** were references to **Interconnector Users** and to **Interconnector Error Administrators** (as the case may be).

9.22.5 Balancing Services Use of System Charges

Notwithstanding the provisions of Paragraph 6.6.1 the following provisions shall apply to the payment of the **Balancing Services Use of System Charges**.

- (a) **NGC** shall not later than 17.00 hours on the relevant **Notification Date** (and if this is not practicable as soon as possible thereafter as **NGC**, acting reasonably, considers is practicable) despatch an advice notice to the **User** in respect of the **Settlement Day** in relation to which the **Balancing Services Use of System Charges** are due on the relevant **Payment Date**.
- (b) The information on the advice notice in respect of each **Settlement Day** shall include the name of the **User** and the total amount payable to **NGC** in respect of **Balancing Services Use of System Charges** and in all cases together with any **Value Added Tax** thereon during each **Settlement Day**.
- (c) **NGC** shall, within a reasonable time thereafter provide a valid **Value Added Tax** invoice in respect of **Balancing Services Use of System Charges** identified on the advice note.
- (d) The **User** shall pay the **Balancing Services Use of System Charges** specified in the advice notice together with the **Value Added Tax** thereon to **NGC** no later than 12.30 hours on the **Payment Date** specified on the advice note in respect of such **Settlement Date** as if they were payments made in the manner specified in Paragraph 6.6.3 of the **CUSC**.

9.22.6 Reconciliation

As soon as reasonably practicable after receipt by **NGC** of the **Final Reconciliation Volume Allocation Run** in respect of a **Settlement Day** **NGC** shall prepare and submit to each **Interconnector User** a statement (which may form part of an invoice or other document) calculated in accordance with the data specified in the **Statement of the Use of System Charging Methodology** in respect of that **Settlement Day** ("**Balancing Services Use of System Reconciliation Statement**"), showing the new value (if any) of data (as specified in the **Statement of the Use of System Charging Methodology** in force on that **Settlement Day**) attributable to the **User** in respect of such **Settlement Day** and the amount of **Balancing Services Use of System Charges** payable by the **User** on the basis of the new value (the "**Reconciled Charge**").

9.22.7 In the event that:

- (a) the **Reconciled Charge** exceeds the **Balancing Services Use of System Charges** paid by the **User** in respect of that

Settlement Day (“Initial Charge”) **NGC** shall at its option either:

- (i) send to the **User** as soon as reasonably practicable after issue of the **Balancing Services Use of System Reconciliation Statement** an invoice for the amount by which the **Reconciled Charge** exceeds the **Initial Charge** and interest thereon calculated in accordance with the provisions set out in Paragraph 9.22.8; or
 - (ii) include such amount in another invoice in respect of **Balancing Services Use of System Charges** to the **User**.
- (b) the **Reconciled Charge** is less than the **Initial Charge** **NGC** shall at its option either:-
- (i) send to the **User** as soon as reasonably practicable after issue of the **Balancing Services Use of System Reconciliation Statement** a credit note for the amount by which the **Initial Charge** exceeds the **Reconciled Charge** and interest thereon calculated in accordance with the provisions set out in Paragraph 9.22.8; or
 - (ii) include such amount as a credit in an invoice in respect of **Balancing Services Use of System Charges** from **NGC** to the **User**.

9.22.8 Interest payable in respect of each reconciliation payment shall accrue from and including the relevant **Use of System Payment Date** up to but excluding the date upon which the amounts specified in the **Balancing Services Use of System Reconciliation Statement** are paid, and shall be at a rate equal to the **Base Rate** for the time being and from time to time. Interest shall accrue from day to day.

9.22.9 If **NGC** receives written notice from any **User** or from the relevant **BSC Agent** that an error has occurred in any data forming part of or used within the **Initial Volume Allocation Run** which affects the costs to **NGC** of offers and bids in the **Balancing Mechanism** accepted by **NGC** in respect of any **Settlement Day**, and that error has been ratified in accordance with the procedures for ratification set out in the **Balancing and Settlement Code** it shall use its reasonable endeavours to, as soon as reasonably practicable after receipt of such notice, issue a dispute reconciliation statement (“**Dispute Statement**”) to the **User** in

respect of that **Settlement Day**.

- 9.22.10 Any **Dispute Statement** issued pursuant to Paragraph 9.22.9 above shall show the amount of **Balancing Services Use of System Charges** payable by the **User** on the basis of the ratified data.
- 9.22.11 (a) In the event that the amount shown in any **Dispute Statement** exceeds the aggregate amount paid by the **User** in respect of the **Settlement Day** to which the **Dispute Statement** relates under any invoices issued pursuant to Paragraph 9.22.5 and Paragraph 9.22.7 above (after taking into account any credit notes issued) **NGC** shall submit to the **User** a further invoice for such excess and interest thereon calculated in accordance with Paragraph 9.22.8;
- (b) In the event that the amount shown in any **Dispute Statement** is less than the aggregate amount paid by the **User** in respect of the **Settlement Day** to which the **Dispute Statement** relates under any invoices issued pursuant to Paragraph 9.22.5 and Paragraph 9.22.7 above (after taking into account any credit notes issued) **NGC** shall submit to the **User** a credit note for the amount by which the amount paid exceeds the amount shown in the **Dispute Statement** together with interest thereon calculated in accordance with Paragraph 9.22.8;
- 9.22.12 If at any time prior to receipt by **NGC** of the **Final Reconciliation Volume Allocation Run** in respect of a **Settlement Day** **NGC** receives written notice from any **User** or the relevant **BSC Agent** of an error occurring in any data forming part of or used within the **Initial Volume Allocation Run** or the **Reconciliation Volume Allocation Run** which in either case affects the data (as specified in the **Statement of the Use of System Charging Methodology**) used in the calculation of **Balancing Services Use of System Charges** for that **Settlement Day**, which error:-
- (a) is not taken into account in the **Final Reconciliation Volume Allocation Run**; and
- (b) has been ratified in accordance with the procedures for ratification set out in the **Balancing and Settlement Code**,
- then **NGC** shall use its reasonable endeavours to prepare the **Balancing Services Use of System Reconciliation Statement** on the basis of the ratified data.

9.22.13 The right to submit **Balancing Services Use of System Reconciliation Statements** and **Dispute Statements** and the consequential invoices and/or credit notes shall survive the termination of the **User's** rights under the **CUSC** and the parties agree that the provisions of this Paragraph 9.22 shall remain in full force and effect and shall continue to bind them after such termination (the version in existence as at the date of termination being the applicable version, in the case of any amendments).

9.22.14 Reconciliation Payments

Each **User**, or as the case may be, **NGC**, shall pay the amounts set out in any invoice or credit note issued pursuant to Paragraphs 9.22.7 or 9.22.11 respectively above, either in accordance with the applicable requirements for payment of other sums due under that invoice in the case of sums shown in an invoice also dealing with other payments, or in other cases within 5 **Business Days** of the date of the **Balancing Services Use of System Reconciliation Statement or Dispute Statement** as appropriate.

9.22.15 Revision of Charges

- (a) Subject to Paragraph (b) below, **NGC** shall give the **User** not less than 2 months prior written notice of any revision to the **Statement of the Use of System Charging Methodology** which will affect the application and calculation of the **Balancing Services Use of System Charges**, which notice shall specify the date upon which such revisions become effective (which may be at any time). The **User** shall pay any such revised charges with effect from the date specified in such notice.
- (b) Where in accordance with the **Transmission Licence**, the **Authority** determines a shorter period than two months for the implementation of a revision to the charges which will affect the application and calculation of the **Balancing Services Use of System Charge**, the notice period will be determined by the **Authority**. The notice will specify when the revision is effective and the **User** shall pay any such revised charges with effect from the date specified in such notice.

9.23 **TERMINATION AND RELATED PROVISIONS**

9.23.1 A **User** may terminate its use of the **NGC-GB Transmission System** by giving **NGC** a **Use of System Termination Notice** not less than 28 days prior to such termination of use and the right

to use the ~~NGC-GB~~ **Transmission System** shall cease upon the termination date in the **Use of System Termination Notice**.

- 9.23.2.1 Use shall cease forthwith upon:
- (a) There ceasing to be a **Bilateral Connection Agreement** or termination of the **Existing Contractual Arrangements** for the **Connection Site** of the relevant **Interconnector**;
 - (b) disconnection of the **Connection Site** of the relevant **Interconnector** pursuant to Section 5 or, in the case of the French ~~or Scottish~~ **Interconnectors**, pursuant to the **Existing Contractual Arrangements**;
 - (c) an **Event of Default** by the **User** as provided for in Section 5.
- 9.23.2.2 Use shall be suspended for the period of any **Deenergisation** of the **Connection Site** of the relevant **Interconnector** pursuant to the **CUSC**, or in the case of the French ~~or Scottish~~ **Interconnector**, the **Existing Contractual Arrangements**.
- 9.23.3 Prior to termination by a **User** under Paragraph 9.23.1 above, the **User** shall pay to **NGC** all **Balancing Services Use of System Charges** payable by the **User** in respect of the **Financial Year** in which the cessation takes place.
- 9.23.4 Termination of use under this Paragraph 9.23 shall not relieve a User of its obligation under 9.22 to pay any outstanding **Balancing Services use of System Charges** in respect of any **Settlement Day** for which the **Payment Date** fell after the date of the termination of use.
- 9.23.5 The right of **NGC** to request the **Interconnector Owner** to cease or procure the cessation of the transfer of power across the relevant **Interconnector** as provided for in Paragraph 9.17 and Section 5 of the **CUSC** is subject, in the case of the French ~~and Scottish~~ **Interconnectors**, to the **Existing Contractual Arrangements** providing for this.

END OF SECTION 9

CUSC - SECTION 10

TRANSITIONAL ISSUES

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- 10.2 MCUSA/CUSC Disputes
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CUSC - SECTION 10

TRANSITIONAL ISSUES

10.1 INTRODUCTION

This Section 10 deals with issues arising out of the transition from the **MCUSA**, and associated documents to the **CUSC**. Each paragraph deals with an issue that arises, although certain paragraphs would affect other paragraphs within this Section 10 as provided therein.

10.2 MCUSA/CUSC DISPUTES

10.2.1 This Section sets out the process for dealing with disputes which relate to a period prior to the introduction of the **CUSC** and those disputes which relate to the period after the introduction of the **CUSC**. A dispute which covers a period prior to the introduction of the **CUSC** is known as a “**MCUSA Dispute**”, and a dispute which covers a period after the introduction of the **CUSC** is known as a “**CUSC Dispute**”.

10.2.2 MCUSA Dispute

A **MCUSA Dispute** will be dealt with in accordance with the provisions of the **MCUSA** dispute resolution provisions which comprise the process under Clause 14.7 of the **MCUSA** and the provisions of Clause 26 of the **MCUSA** (and the equivalent provisions in the relevant **Supplemental Agreements**).

10.2.3 CUSC Disputes

A **CUSC Dispute** will be dealt with in accordance with the provisions of Section 7 of the **CUSC**.

10.2.4 Where a dispute involves issues relating to both the pre **CUSC** period and the period after the **CUSC Implementation Date**, then the issues relating to the pre **CUSC** period will be determined as a “**MCUSA Dispute**” and the issues relating to the period after the **CUSC Implementation Date** shall be determined as a “**CUSC Dispute**”.

10.2.5 Generally, the introduction of the **CUSC** by amending the **MCUSA** into the **CUSC Framework Agreement**, the various **Bilateral Agreements**, the **Mandatory Services Agreements** and related documents does not affect or prejudice the rights and obligations

of parties in relation to the **MCUSA** prior to the creation of the **CUSC**.

10.3 OUTSTANDING OFFERS/CONSTRUCTION

10.3.1 Construction Completed

Where construction is completed there will not be a separate **Construction Agreement**, but the existing **Supplemental Agreement** (and any Agreement for Construction Works) in relation to construction elements (including the Operational Notification, as that term is defined in the relevant **Supplemental Agreement**) (and with any necessary changes to reflect that it solely reflects construction related issues) will be regarded as a continuing “deemed” **Construction Agreement** (and the definition of **Construction Agreement** shall be construed to include such deemed agreements), with the **User** also having a new **Bilateral Agreement**.

10.4 SUPPLEMENTAL AGREEMENT - EXISTING VARIATIONS

10.4.1 In relation to certain existing **Supplemental Agreements**, variations to the standard **Supplemental Agreement** Type provisions have been agreed in accordance with the provisions of the **MCUSA** (which are different to those changes made pursuant to the NETA Implementation Scheme Part C). Accordingly, given that the exercise of creating the **CUSC** has been to codify the existing provisions, those variations have been reflected in relation to the relevant **User** by the inclusion of an additional clause in the relevant **Bilateral Agreement** (or where there is no **Bilateral Agreement**, in an exchange of letters between **NGC** and the relevant **User**). Insofar as those variations are set out, then the specified provisions of the **CUSC** will be overridden by those variations.

10.4.2 Insofar as there is a future change to the **CUSC** in accordance with the **Transmission Licence** and the provisions of Section 8 which specifically addresses the issue so dealt with, and specifically provides that those provisions themselves would be overridden by the amendment to the **CUSC**, then the relevant provisions in the **Bilateral Agreement** (or letter) would be so varied by that **CUSC** amendment.

10.4.3 For the avoidance of doubt, the variations specified in this section will only apply to the position under an existing **Supplemental Agreement** as at the **CUSC Implementation Date**, if after that date an issue arises for a new connection and/or use which is dealing with the same type of issue, it will not lead to a similar

approach being adopted in that relevant **Bilateral Agreement** (or in relation to use of system without a **Bilateral Agreement**). Namely the provisions of this Paragraph 10.4 are intended only to deal with the issues arising on implementation of the **CUSC** and do not provide an ongoing mechanism.

10.5 OUTTURNING

Under the provisions of the existing **Supplemental Agreements** and **Agreements for Construction Works** to effect a **Modification** at a **Connection Site NGC** is entitled to charge **Connection Charges** based on an estimate of the cost of the ~~NGC-Transmission Connection~~ **Asset Works**. **NGC** then has an obligation to carry out an outturn reconciliation process to determine the final cost of carrying out these works. Notwithstanding the provision in Paragraph 2.14.3(c) of the **CUSC** requiring the **Cost Statement** to be provided within one year of the **Completion Date NGC** and each relevant **User** acknowledge that this has proven impractical on a number of completed schemes and agree that the words “and in any event within one year thereof” shall not apply in respect of all schemes completed prior to 31 March 2000.

10.6 PRE-CUSC VOTING OF AMENDMENTS PANEL

- 10.6.1 The process undertaken immediately prior to the introduction of **CUSC** to put in place the **Panel Members** and **Alternate Members** elected by **Users** of the first **Amendments Panel**, although undertaken before the relevant provisions were in force, is agreed by **CUSC Parties** to constitute the appointment of the first set of **Panel Members** and **Alternate Members** elected by **Users** under the **CUSC**.
- 10.6.2 The terms of office of such **Panel Members** and **Alternate Members** elected by **Users** will be deemed to have begun on the **CUSC Implementation Date**.

END OF SECTION 10

CUSC - SECTION 11

INTERPRETATION AND DEFINITIONS

CONTENTS

- 11.1 Introduction
- 11.2 Interpretation and Construction
- 11.3 Definitions

SECTION 11

INTERPRETATION AND DEFINITIONS

11.1 INTRODUCTION

This Section sets out general rules to be applied in interpreting the **CUSC**, **Bilateral Agreements**, **Construction Agreements** and **Mandatory Services Agreements**. It also sets out the defined terms used by the **CUSC** (other than those defined elsewhere in the **CUSC**) and other agreements. Those other agreements may, in accordance with Paragraph 11.2.2, have their own further interpretation rules and defined terms which apply only to the individual agreements.

11.2 INTERPRETATION AND CONSTRUCTION:

11.2.1 In the **CUSC** and in each **Bilateral Agreement** and in each **Mandatory Services Agreement** and each **Construction Agreement**:

- (a) the interpretation rules in this Paragraph 11.2; and
- (b) the words and expressions defined in Paragraph 11.3,

shall, unless the subject matter or context otherwise requires or is inconsistent therewith, apply.

11.2.2 Save as otherwise expressly provided in the **CUSC**, in the event of any inconsistency between the provisions of any **Bilateral Agreement**, **Mandatory Services Agreement** or **Construction Agreement** and the **CUSC**, the provisions of the **Bilateral Agreement** or **Mandatory Services Agreement** or **Construction Agreement** shall prevail in relation to the **Connection Site** which is the subject thereof to the extent that the rights and obligations of **Users** not party to that **Bilateral Agreement**, **Mandatory Services Agreement** or **Construction Agreement** are not affected.

11.2.3 If in order to comply with any obligation in the **CUSC**, any **Bilateral Agreement** or any **Construction Agreement** any **CUSC Party** is under a duty to obtain the consent or approval (including any statutory licence or permission) (“the **Consent**”) of a third party (or the **Consent** of another **CUSC Party**) such obligation shall be deemed to be subject to the obtaining of such **Consent** which the **CUSC Party** requiring the **Consent** shall use its reasonable endeavours to obtain including (if there are

reasonable grounds therefor) pursuing any appeal in order to obtain such **Consent**.

- 11.2.4 If such **Consent** is required from any **CUSC Party** then such **CUSC Party** shall grant such **Consent** unless it is unable to do so or it would be unlawful for it to do so provided that such grant by such **CUSC Party** may be made subject to such reasonable conditions as such **CUSC Party** shall reasonably determine.
- 11.2.5 For the avoidance of doubt if the **CUSC Party** who is under a duty to obtain such **Consent** fails to obtain such **Consent** having complied with this Paragraph 11.2 the obligation on that **CUSC Party** (in relation to which such **Consent** is required) shall cease.
- 11.2.6 In the **CUSC** and in each **Bilateral Agreement** and in each **Mandatory Services Agreement** and each **Construction Agreement**:
- (a) unless the context otherwise requires all references to a particular Paragraph, Part, Section, Schedule or Exhibit shall be a reference to that Paragraph, Part, Section, Schedule or Exhibit in or to the **CUSC** and all references to a particular Appendix shall be a reference to that Appendix to a **Bilateral Agreement** or **Mandatory Services Agreement** or **Construction Agreement** (as the case may be);
 - (b) a table of contents and headings are inserted for convenience only and shall be ignored in construing the **CUSC** or a **Bilateral Agreement**, **Construction Agreement** or **Mandatory Services Agreement** as the case may be;
 - (c) references to the words “include” or “including” are to be construed without limitation to the generality of the preceding words;
 - (d) unless the context otherwise requires any reference to an Act of Parliament or any part or section or other provision of or schedule to an Act of Parliament shall be construed, at the particular time, as including a reference to any modification, extension or re-enactment thereof then in force and to all instruments, orders or regulations then in force and made under or deriving validity from the relevant Act of Parliament; and
 - (e) references to the masculine shall include the feminine and references in the singular shall include the plural and vice versa and words denoting persons shall include any

individual, partnership, firm, company, corporation, joint venture, trust, association, organisation or other entity, in each case whether or not having separate legal personality.

11.3 DEFINITIONS

The following terms shall have the following meanings:

“Accession Agreement”	an agreement in or substantially in the form of Exhibit A to the CUSC whereby an applicant accedes to the CUSC Framework Agreement ;
“Acceptance Volume”	as defined in the Balancing and Settlement Code ;
“Act”	the Electricity Act 1989;
“Active Power”	the product of voltage and the in-phase component of alternating current measured in units of watts and standard multiples thereof i.e. 1000 watts = 1kW 1000 kW = 1MW 1000 MW = 1GW 1000 GW = 1TW;
“Actual Amount”	as defined in Paragraph 3.12;
“Additional Scheduling Data”	as defined in the Grid Code on the day prior to the NETA Go-live Date ;
“Affected User”	as defined in Paragraph 6.9.3.2;
“Affected User”	a User : a) with Transmission Entry Capacity for the Connection Site against which the affected BM Unit is registered and who is paying or in receipt of generator Transmission Network Use of System Charges by reference to such Transmission Entry Capacity ; or b) an Interconnector Owner ;
“Affected User Modification”	as defined in Paragraph 6.9.3.2;

“Affiliate”	in relation to NGC (and in relation to Paragraphs 6.14 and 8A.4.2.2, any User) means any holding company or subsidiary of NGC (or the User as the case may be) or any subsidiary of a holding company of NGC (or the User as the case may be), in each case within the meaning of sections 736, 736A and 736B of the Companies Act 1985 as substituted by section 144 of the Companies Act 1989;
“Agency Business”	any business of NGC or any Affiliate or Related Undertaking in the purchase or other acquisition or sale or other disposal of electricity as agent for any other Authorised Electricity Operator ;
“Agreed Ancillary Services”	Part 2 System Ancillary Services and Commercial Ancillary Services ;
“Alternate Members”	persons appointed as such pursuant to Paragraph 8.6.2;
“Alternative Amendment”	Means collectively any Working Group Alternative Amendment or Consultation Alternative Amendment ;
“Allowed Interruption”	shall mean an Interruption as a result of any of the following: <ul style="list-style-type: none"> a) an Event other than an Event on the GB Transmission System; b) an event of Force Majeure pursuant to Paragraph 6.19 of the CUSC; c) a Total Shutdown or Partial Shutdown; d) action taken under the Fuel Security Code; e) Disconnection or Deenergisation by or at the request of NGC under Section 5 of the CUSC;

	<p>f) the result of a direction from the Authority or the Secretary of State;</p> <p>or if provided for in a Bilateral Agreement with the affected User;</p>
"Amendment Procedures"	the procedures for the amendment of the CUSC (including the implementation of Approved Amendments) as set out in Section 8;
"Amendment Process"	the part of the Amendment Procedures relating to consideration by the Amendments Panel and Working Groups , consultation by NGC and preparation of an Amendment Report by NGC ;
"Amendment Proposal"	a proposal which is not rejected pursuant to Paragraphs 8.15.3 or 8.15.4;
"Amendments Panel"	the body established and maintained pursuant to Paragraph 8.2;
"Amendment Register"	as defined in Paragraph 8.12.1;
"Amendment Report"	a report prepared pursuant to Paragraph 8.20;
"Ancillary Services"	System Ancillary Services and/or Commercial Ancillary Services as the case may be;
"Ancillary Services Agreement"	an agreement between NGC and a User or other person to govern the provision of and payment for one or more Ancillary Services , which term shall include without limitation a Mandatory Services Agreement ;
"Annual Average Cold Spell (ACS) Conditions"	a particular combination of weather elements which gives rise to a level of peak Demand within an NGC Financial Year which has a 50% chance of being exceeded as a result of weather variation alone;
"Apparatus"	all equipment in which electrical conductors are used, supported or of which they may form a part;

“Applicant”	a person applying for connection and/or use of system under the CUSC ;
"Applicable CUSC Objectives"	as defined in the Transmission Licence ;
“Approved Amendment”	as defined in Paragraph 8.20.5;
“Approved Credit Rating”	a short term debt rating of not less than A1 by Standard and Poor’s Corporation or a rating not less than P1 by Moody’s Investor Services, or a long term rating which correlates to those short term ratings, or an equivalent rating from any other reputable credit agency approved by NGC ; or such other lower rating as may be reasonably approved by NGC from time to time;
“Authorised Electricity Operator”	any person (other than NGC in its capacity as operator of the NGC GB Transmission System) who is authorised to generate, transmit <u>participate in the transmission of</u> , distribute or supply electricity and for the purposes of <u>[Standard Condition C7]</u> of the Transmission Licence shall include any person who has made application to be so authorised which application has not been refused and any person transferring electricity to or from <u>England and Wales</u> <u>Great Britain</u> across an interconnector or who has made application for use of interconnector which has not been refused;
“Authorised Recipient”	in relation to any Protected Information , means any Business Person who, before the Protected Information had been divulged to him by NGC or any Subsidiary of NGC , had been informed of the nature and effect of Paragraph 6.15.1 and who requires access to such Protected Information for the proper performance of his duties as a Business Person in the course of Permitted Activities ;

“Authority”	the Director General of Electricity Supply appointed for the time being pursuant to section 1 of the Act or, after the coming into force of section 1 of the Utilities Act 2000, the Gas and Electricity Markets Authority established by that section;
“Back Stop Date”	in relation to an item of Derogated Plant , the date by which it is to attain its Required Standard , as specified in or pursuant to the relevant Derogation ;
“Balancing and Settlement Code” or “BSC”	as defined in the Transmission Licence ;
“Balancing Code” or “BC”	as defined in the Grid Code ;
“Balancing Mechanism”	as defined in the Transmission Licence ;
“Balancing Services”	as defined in the Transmission Licence ;
“Balancing Services Activity”	as defined in the Transmission Licence ;
“Balancing Services Agreement”	an agreement between NGC and a User or other person governing the provision of and payment for one or more Balancing Services ;
“Balancing Services Use of System Charges”	the element of Use of System Charges payable in respect of the Balancing Services Activity ;
“Balancing Services Use of System Reconciliation Statement”	as defined in Paragraph 3.15.1

"Bank Account"

a separately designated bank account in the name of **NGC** at such branch of Barclays Bank PLC, or such branch of any other bank, in the City of London as is notified by **NGC** to the **User**, bearing interest from (and including) the date of deposit of principal sums to (but excluding) the date of withdrawal of principal sums from such account, mandated for withdrawal of principal solely by **NGC** against delivery of a **Notice of Drawing** for the amount demanded therein and mandated for the transfer of any interest accrued to the **Bank Account** to such bank account as the **User** may specify;

"Base Rate"

in respect of any day, the rate per annum which is equal to the base lending rate from time to time of Barclays Bank PLC as at the close of business on the immediately preceding **Business Day**;

"Bi-annual Estimate"

an estimate pursuant to Paragraph 2.21.2 of all payments to be made or which may be required to be made by the **User** in any relevant period, such estimate to be substantially in the form set out in Exhibit [\[FL\]](#) to the **CUSC**;

"Bid-Offer Acceptance"

as defined in the **Balancing and Settlement Code**;

"Bid-Offer Volume"

as defined in the **Balancing and Settlement Code**;

"Bilateral Agreement"

in relation to a **User**, a **Bilateral Connection Agreement** or a **Bilateral Embedded Generation Agreement** between **NGC** and the **User**;

"Bilateral Connection Agreement"

an agreement entered into pursuant to Paragraph 1.3.1 a form of which is set out in Exhibit 1 to **Schedule 2**;

"Bilateral Embedded Generation Agreement"

an agreement entered into pursuant to Paragraph 1.3.1, a form of which is set out in Exhibit 2 to **Schedule 2**;

“BM Unit”	as defined in the Balancing and Settlement Code ;
“BM Unit Identifiers”	the identifiers (as defined in the Balancing and Settlement Code) of the BM Units ;
“BM Unit Metered Volume”	as defined in the Balancing and Settlement Code ;
“British Grid Systems Agreement”	the agreement made on 30 March 1990 of that name between NGC, Scottish Hydro Electric plc, and Scottish Power plc;
“BSC Agent”	as defined in the Balancing and Settlement Code ;
“BSC Framework Agreement”	as defined in the Transmission Licence ;
“BSC Panel”	the Panel as defined in the Balancing and Settlement Code ;
“BSC Party”	a person who is for the time being bound by the Balancing and Settlement Code by virtue of being a party to the BSC Framework Agreement ;
“Business Day”	any week-day other than a Saturday on which banks are open for domestic business in the City of London;
“Business Person”	any person who is a Main Business Person or a Corporate Functions Person and “Business Personnel” shall be construed accordingly;
“CCGT Unit”	a Generating Unit within a CCGT Module ;
“Charging Dispute”	as defined in Paragraph 7.2.1;
“Charging Statements”	the Statement of the Connection Charging Methodology , the Statement of the Use of System Charging Methodology , and the Statement of Use of System Charges ;
"Code of Practice"	as defined in the Balancing and Settlement Code ;

“Combined Cycle Gas Turbine Module” or “CCGT Module”

a collection of **Generating Units** (registered under the **Grid Code PC**) comprising one or more **Gas Turbine Units** (or other gas based engine units) and one or more **Steam Units** where, in normal operation, the waste heat from the **Gas Turbine Units** is passed to the water/steam system of the associated **Steam Units** and where the component units within the **CCGT Module** are directly connected by steam or hot gas lines to enable those units to contribute to the efficiency of the combined cycle operation of the **CCGT Module**;

“Commercial Ancillary Services”

as defined in the **Grid Code**;

“Commercial Boundary”

(unless otherwise defined in the relevant **Mandatory Services Agreements**), the commercial boundary between either **NGC** or a **Public Distribution System Operator** (as the case may be) and the **User** at the higher voltage terminal of the generator step-up transformer;

“Commercial Services Agreement”

an agreement between **NGC** and a **User** or other person to govern the provision of and payment for one or more **Agreed Ancillary Services**;

“Commissioned”

in respect of **Plant** and **Apparatus** commissioned before the **Transfer Date** means **Plant** and **Apparatus** recognised as having been commissioned according to the commissioning procedures current at the time of commissioning and in respect of **Plant and Apparatus** commissioned after the **Transfer Date** means **Plant** and/or **Apparatus** certified by the **Independent Engineer** as having been commissioned in accordance with the relevant **Commissioning Programme**;

“Commissioning Programme”

in relation to a particular user, as defined in its **Construction Agreement**;

“Commissioning Programme Commencement Date”

as defined in relation to a particular **User** in the **Construction Agreement**;

“Competent Authority”	the Secretary of State , the Authority and any local or national agency, authority, department, inspectorate, minister <u>(including Scottish ministers)</u> , ministry, official or public or statutory person (whether autonomous or not) of, or of the government of, the United Kingdom or the European Community;
“Completion Date”	in relation to a particular User , as defined in its Construction Agreement ;
“Composite Demand Charges”	in respect of a User its Demand related Transmission Network Use of System Charges for each Transmission Network Use of System Demand Zone ;
“Confidential Information”	all data and other information supplied to a User by another CUSC Party under the provisions of the CUSC or any Bilateral Agreement, Construction Agreement or Mandatory Services Agreement ;
“Connected Planning Data”	in relation to a particular user, as defined in its Construction Agreement ;
"Connection"	a direct connection to the <u>NGCGB</u> Transmission System by a User ;
“Connection Application”	an application for a New Connection Site in the form or substantially in the form set out in Exhibit B to the CUSC ;

“Connection Charges”

charges made or levied or to be made or levied for the carrying out (whether before or after the date on which the **Transmission Licence** comes into force) of works and provision and installation of electrical plant, electric lines and ancillary meters in constructing entry and exit points on the **NGC GB Transmission System**, together with charges in respect of maintenance and repair of such items in so far as not otherwise recoverable as **Use of System Charges**, all as more fully described in the **Transmission Licence**, whether or not such charges are annualised, including all charges provided for in the statement of **Connection Charging Methodology** (such as **Termination Amounts** and **One-off Charges**);

“Connection Charging Methodology”

as defined in the **Transmission Licence**;

“Connection Conditions” or “CC”

that portion of the **Grid Code** which is identified as the **Connection Conditions**;

“Connection Entry Capacity”

the figure specified as such for the **Connection Site** and each **Generating Units** as set out in Appendix C of the relevant **Bilateral Connection Agreement**;

“Connection Offer”

an offer for a **New Connection Site** in the form or substantially in the form set out in Exhibit C including any revision or extension of such offer;

“Connection Site”

each location more particularly described in the relevant **Bilateral Agreement** at which a **User's Equipment** and **NGC-Transmission Connection Assets** required to connect that **User** to the **NGC-GB Transmission System** are situated. If two or more **Users** own or operate **Plant** and **Apparatus** which is connected at any particular location that location shall constitute two (or the appropriate number of) **Connection Sites**;

“Connection Site Demand Capability”	the capability of a Connection Site to take power to the maximum level forecast by the User from time to time and forming part of the Forecast Data supplied to NGC pursuant to the Grid Code together with such margin as NGC shall in its reasonable opinion consider necessary having regard to NGC’s duties under its Transmission Licence ;
“Consents”	in relation to a particular User , as defined in its Construction Agreement , and as provided for in Section 11;
“Construction Agreement”	an agreement entered into pursuant to Paragraph 1.3.2;
“Construction Programme”	in relation to a particular User , as defined in its Construction Agreement ;
“Construction Works”	In relation to a particular User , as defined in its Construction Agreement ;
“Consultation Alternative Amendments”	any alternative expressly proposed as such (which contains the information required by Paragraph 8.15.2 and sufficient detail to enable consideration of the alternative) by a CUSC Party in response to NGC’s Consultation on any Amendment Proposal and any Working Group Alternative Amendment which the CUSC Party better facilitates the Applicable CUSC Objectives than the Amendment Proposal or Working Group Alternative Amendment or the current version of the CUSC ;
“Control Telephony”	as defined in the Grid Code ;
"Contract Test"	a test (not being a Reactive Test) described in a Market Agreement ;
"Contract Start Days"	as defined in Paragraph 3.3 of Schedule 3, Part I;
“Core Industry Documents”	as defined in the Transmission Licence ;

"Core Industry Document Owner"	in relation to a Core Industry Document , the body(ies) or entity(ies) responsible for the management and operation of procedures for making changes to such document;
"Corporate Functions Person"	any person who is: <ul style="list-style-type: none"> (a) a director of NGC; or (b) an employee of NGC or any of its subsidiaries carrying out any administrative, finance or other corporate services of any kind which in part relate to the Main Business; or (c) engaged as an agent of or adviser to or performs work in relation to or services for the Main Business;
"Cost Statement"	as defined in Paragraph 2.14.3;
"Credit Rating"	the credit requirements set by NGC from time to time in relation to Termination Amounts ;
"CUSC"	this Connection and Use of System Code ;
"CUSC Framework Agreement"	as defined in the Transmission Licence ;
"CUSC Implementation Date"	the date on which the conditions in the Transmission Licence relating to the Connection and Use of System Code first come into effect <u>00.01 on the 18 September 2001;</u>
"CUSC Party"	as defined in the Transmission Licence ;
"Customer"	a person to whom electrical power is provided (whether or not he is the provider of such electrical power) other than power to meet Station Demand of that person;
"Data Registration Code" or "DRC"	the portion of the Grid Code which is identified as the Data Registration Code ;
"Deenergisation" or "Deenergise(d)"	the movement of any isolator, breaker or switch or the removal of any fuse whereby no electricity can flow to or from the relevant System through the User's Equipment ;

“Defaulting Party“	as defined in Paragraph 4.3.2.11;
“Defendant Party“	as defined in Paragraph 7.5.1;
“De-Load“	the difference (expressed in MW) between the Maximum Export Limit and the Final Physical Notification Data as adjusted by the Acceptance Volume in respect of a Bid-Offer Acceptance (if any), and “De-Loaded“ shall be construed accordingly;
“Demand“	the demand of MW and Mvar of electricity (i.e. both Active Power and Reactive Power), unless otherwise stated;
“Demand Forecast“	a Users forecast of its Demand submitted to NGC in accordance with paragraphs 3.10, 3.11 and 3.12;
“Derogation“	a direction issued by the Authority relieving a CUSC Party from the obligation under its Licence to comply with such parts of the Grid Code or any Distribution Code or in the case of NGC the Transmission Licence as may be specified in such direction and “Derogated“ shall be construed accordingly;
“Derogated Plant“	Plant or Apparatus which is the subject of a Derogation ;
“De-synchronisation“	the act of taking a BM Unit off a System to which it has been Synchronised , by opening any connecting circuit breaker, and “De-synchronised“ shall be construed accordingly;
“Detailed Planning Data“	detailed additional data which NGC requires under the PC in support of Standard Planning Data;

“Directive”

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

“Disconnect” or “Disconnection”

without prejudice to the interpretation of the terms **“Disconnect”** or **“Disconnection”** to **Users** acting in capacities other than those detailed, the following definitions shall apply:

- (a) for **Users** acting in their capacity as **Generators** with **Embedded Large Power Stations** or **Embedded Medium Power Stations**, passing power on to a **Distribution System** through a connection to a **Distribution System** which had not been commissioned as at the **Transfer Date**, means permanent physical disconnection of the **User's Equipment** at the site of connection to the **Distribution System**;
- (b) for **Users** who are **Trading Parties** (as defined in the **Balancing and Settlement Code**) acting in their capacity as responsible for **Small Power Stations** which are **Embedded**, means, permanent physical disconnection of the **User's Equipment** or **Equipment** for which the **User** is responsible (as defined in Section K of the **Balancing and Settlement Code**) at the site of connection to the **Distribution System**;
- (c) for **Users** acting in a capacity other than those detailed in (a) or (b), means permanent physical disconnection of a **User's Equipment** at any given **Connection Site** which permits removal thereof from the **Connection Site** or removal of all **NGC's Transmission Connection Assets** therefrom (as the case may be);

“Dispute Resolution Procedure”

the procedures set out in Section 7;

“Dispute Statement”

as defined in Paragraph 3.15.4;

“Distribution Agreement”	an agreement entered into by a User with the owner/operator of the Distribution System for the connection of the User’s Equipment (or equipment for which the User is responsible (as defined in Section K of the Balancing and Settlement Code) to and use of such Distribution System ;
“Distribution Code(s)”	the Distribution Code(s) drawn up by Public Distribution System Operators pursuant to the terms of their respective Licence(s) as from time to time revised in accordance with those Licences ;
“Distribution Interconnector”	as defined in the Balancing and Settlement Code ;
“Distribution Interconnector Owner”	the Owner of a Distribution Interconnector or of that part of a Distribution Interconnector directly connected to a Distribution System ;
“Distribution Licence”	a licence issued under section 6(1)(c) of the Act ;
“Distribution System”	the system consisting (wholly or mainly) of electric lines owned or operated by any Authorised Electricity Operator and used for the distribution of electricity from Grid Supply Points or generation sets or other entry points to the point of delivery to Customers or Authorised Electricity Operators , and includes any Remote Transmission Assets operated by such Authorised Electricity Operator and any electrical plant and meters owned or operated by the Authorised Electricity Operator in connection with the distribution of electricity, but shall not include any part of the NGC-GB Transmission System ;
“Dormant CUSC Party”	a CUSC Party which does not enjoy any ongoing rights and/or obligations for the period of its dormancy under the CUSC , as provided for in Section 5;
“Earthing”	as defined in the Grid Code ;

“EdF Documents”	as defined in the Balancing and Settlement Code ;
"Election Timetable"	as defined in Paragraph 8A.1.2.1;
"Election Year"	as defined in Paragraph 8A.1.1.2;
“Electricity Arbitration Association”	as the phrase ' Electricity Supply Industry Arbitration Association ' is defined in the Grid Code ;
“Embedded”	a direct connection to a Distribution System or the System of any other User to which Customers and/or Power Stations are connected;
“Emergency Instruction”	as defined in the Grid Code ;
“Energisation” or “Energise(d)”	the movement of any isolator, breaker or switch or the insertion of any fuse so as to enable Energy to flow from and to the relevant System through the User's Equipment ;
“Energy”	<p>the electrical energy produced, flowing or supplied by an electric circuit during a time interval, being the integral with respect to time of the power, measured in units of watt-hours or standard multiples thereof i.e.</p> <p>1000 Wh = 1KWh</p> <p>1000 KWh = 1MWh</p> <p>1000 MWh = 1GWh</p> <p>1000 GWh = 1TWh;</p>
“Energy Metering Equipment”	as the phrase “Metering Equipment” is defined in the Balancing and Settlement Code ;
“Energy Metering System”	as the phrase “Metering System” is defined in the Balancing and Settlement Code ;
“Enhanced Reactive Power Service”	as defined in Paragraph 1.2 of Schedule 3, Part I;

“Enhanced Rate”	in respect of any day the rate per annum which is 4% per annum above the Base Rate ;
“Escrow Account”	a separately designated bank account in the name of NGC at such branch of Barclays Bank PLC or such branch of any other bank, in the City of London as is notified by NGC to the User , bearing interest from (and including) the date of deposit of principal sums to (but excluding) the date of withdrawal of principal sums from such account, mandated for withdrawal of any sums solely by NGC ;
“Estimated Demand”	the forecast Demand (Active Power) data filed with NGC pursuant to the Charging Statements ;
“Event”	as defined in the Grid Code ;
“Event of Default”	any of the events set out in Section 5 as constituting an event of default;
“Excitation System”	the equipment providing the field current of a machine, including all regulating and control elements as well as field discharge or suppression equipment and protective devices;

“Existing Contractual Arrangements”

shall mean in the case of the **Interconnector** between England and France existing as at the **CUSC Implementation Date** the Interconnector Framework Agreement made between **NGC** and R.T.E. dated 11 December 2000 as amended from time to time, the Operating Agreement known as the “Procedures for Operation of the Cross Channel Link Pink Version or Version Rose” dated 3 April 1989 as amended from time to time and the Protocol between CEGB and Electricité de France dated 16 June 1981 ~~and in the case of the Interconnector between England and Scotland existing as at the CUSC Implementation Date the Use of Interconnector Agreement (Scotland) 1991 made between NGC and Scottish Power plc and Scottish Hydro Electric plc dated 30 April 1991 as amended from time to time and the British Grid Systems Agreement;~~

“External Interconnection”

as defined in the **Grid Code**;

“Externally Interconnected System Operator”

as defined in the **Grid Code**;

“Final Adjustments Statement

as defined in Paragraph 4.3.2.6(b);

“Final Demand Reconciliation Statement”

as defined in Paragraph 3.12.7(a);

“Final Monthly Statement“

as defined in Paragraph 4.3.2.6;

“Final Physical Notification Data”

as defined in the **Balancing and Settlement Code**;

“Final Reconciliation Settlement Run”

as defined in the **Balancing and Settlement Code**;

“Final Reconciliation Volume Allocation Run”

as defined in the **Balancing and Settlement Code**;

“Final Statement“

as defined in Paragraph 4.3.2.6(a);

“Final Sums”

in relation to a particular **User**, as defined in its **Construction Agreement**;

“Financial Year”	the period of 12 months ending on 31st March in each calendar year;
"First Offer"	as defined in Paragraph 6.10.4;
"First User"	as defined in Paragraph 6.10.3;
“FMS Date”	1st April 1993;
“Force Majeure”	in relation to any CUSC Party any event or circumstance which is beyond the reasonable control of such CUSC Party and which results in or causes the failure of that CUSC Party to perform any of its obligations under the CUSC including act of God, strike, lockout or other industrial disturbance, act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, lack of water arising from weather or environmental problems, explosion, fault or failure of Plant and Apparatus (which could not have been prevented by Good Industry Practice), governmental restraint, Act of Parliament, other legislation, bye law and Directive (not being any order, regulation or direction under section 32, 33, 34 and 35 of the Act) provided that lack of funds shall not be interpreted as a cause beyond the reasonable control of that CUSC Party ;
“Frequency”	the number of alternating current cycles per second (expressed in Hertz) at which a System is running;
“Frequency Deviation”	a positive or negative deviation from Target Frequency ;
“Frequency Response”	an automatic response by a BM Unit or CCGT Unit to a change in Frequency with the aim of containing System Frequency within the limits provided for under the Grid Code ;
“Frequency Sensitive Mode”	as defined in the Grid Code ;

"Fuel Security Code"	the document of that title designated as such by the Secretary of State as from time to time amended;
"Gas and Electricity Consumers Council" or "GECC"	the body set up pursuant to section 2 of the Utilities Act 2000;
<u>"GB Transmission System" or "GBTS"</u>	<u>the system consisting (wholly or mainly) of high voltage electric wires owned or operated by Transmission Licensees within Great Britain and used for the transmission of electricity from one generating station to a sub-station or to another generating station or between sub-stations or to or from any Interconnector and includes any electrical plant or meters owned or operated by any Transmission Licensee within Great Britain in connection with the transmission of electricity;</u>
"Gas Turbine Unit"	a Generating Unit driven by a gas turbine (for instance an aero-engine);
"Generating Plant"	a Large Power Station ;
"Generating Unit"	unless otherwise provided in the Grid Code any Apparatus which produces electricity;
"Generation Business"	the authorised business of NGC or any Affiliate or Related Undertaking in the generation of electricity or the provision of Balancing Services , in each case from pumped storage and from the Kielder hydro-electric generating station;
"Generation Capacity"	the normal full load capacity of a Generating Unit as declared by the Generator , less the MW consumed by the Generating Unit through the Generating Unit's unit transformer when producing the same;
"Generation Licence"	the licence granted to a Generator pursuant to section 6(1)(a) of the Act ;
"Generation Reconciliation Statement"	as defined in Paragraph 3.12.2;

“Generator”	a person who generates electricity under licence or exemption under the Act ;
“Genset”	as defined in the Grid Code ;
“Good Industry Practice”	in relation to any undertaking and any circumstances, the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking under the same or similar circumstances;
<u>“Great Britain”</u>	<u>as defined in Schedule 1 of the Transmission Licence;</u>
“Grid Code”	the Grid Code drawn up pursuant to the Transmission Licence , as from time to time revised in accordance with the Transmission Licence ;
“Grid Supply Point”	a point of delivery from the NGCGB Transmission System to a Distribution System or a Non-Embedded Customer ;
“Gross Asset Value”	the value calculated by NGC in accordance with recognised accounting principles and procedures as published by NGC from time to time;
“High Frequency Response”	as defined in the Grid Code ;
“High Voltage” or “HV”	a voltage exceeding 650 volts;
“Holding Payment”	that component of the payment for Mode A Frequency Response calculated in accordance with Paragraph 4.1.3.9;
“Indemnified Persons”	as defined in Paragraph 8.11.1;
“Independent Engineer”	in relation to a particular User , as defined in its Construction Agreement ;
“Initial Charge”	as defined in Paragraph 3.15.2;
“Initial Demand Reconciliation Statement”	as defined in Paragraph 3.12.4;

"Initial Volume Allocation Run"	as defined in the Balancing and Settlement Code ;
"Intellectual Property" or "IPRs"	patents, trade marks, service marks, rights in designs, trade names, copyrights and topography rights (whether or not any of the same are registered and including applications for registration of any of the same) and rights under licences and consents in relation to any of the same and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of the same which may subsist anywhere in the world;
"Interconnected System Operator"	as defined in the Balancing and Settlement Code ;
"Interconnector"	as defined in the Balancing and Settlement Code ;
"Interconnectors Business"	the business of NGC or any Affiliate or Related Undertaking in the ownership and/or operation of any Interconnector ;
"Interconnector Error Administrator"	as defined in the Balancing and Settlement Code ;
"Interconnector Owner"	the owner of an Interconnector , or of that part of an Interconnector , directly connected to the NGC-GB Transmission System ;

“Interconnector User”

- (a) in relation to an **Interconnector** connected to the **NGCGB Transmission System**, as defined in the **Balancing and Settlement Code**; and
- (b) in relation to a **Distribution Interconnector**, a Lead Party (as defined in the **Balancing and Settlement Code**) in respect of a single **BM Unit** where under Section K5 of the **Balancing and Settlement Code** the **BM Unit** has been allocated in relation to that **Distribution Interconnector** or if there is no such allocation, as defined in the **Balancing and Settlement Code**;

“Interface Agreement”

the agreement(s) entered into pursuant to Paragraph 2.11 and Paragraph 9.15 based substantially on the forms set out in Exhibit O to the **CUSC** ;

“Interruption”

where solely as a result of **Deenergisation of Plant and Apparatus** forming part of the **NGCGB Transmission System**;

- a) a **BM Unit** comprised in the **User’s Equipment** of an **Affected User** (other than an **Interconnector Owner**) is **Deenergised**; or
- b) an **Interconnector** of an **Affected User** who is an **Interconnector Owner** is **Deenergised**;

“Interruption Payment”

the payment for each day or part thereof of the **Interruption Period** calculated as follows:

1. In the case of a **Relevant Interruption** arising as a result of a **Planned Outage** the higher of:

- A. the £ per MW calculated by reference to the total TNUoS income derived from generators divided by the total system **Transmission Entry Capacity**, in each case using figures for the **Financial Year** prior to that in which the **Relevant Interruption** occurs, this is then divided by 365 to give a daily £ per MW rate; or
- B. the actual £ per MW of an **Affected User** by reference to the tariff in the **Use of System Charging Statement** for the **Financial Year** in which the **Relevant Interruption** occurs divided by 365 to give a daily £ per MW rate.

A or B are then multiplied by:

- a) in the case of an **Affected User** other than an **Interconnected Owner** the MW arrived at after deducting from the **Transmission Entry Capacity** for the **Connection Site** the sum of the **Connection Entry Capacity** of the unaffected **BM Units** at the **Connection Site**; and
- b) in the case of an **Affected User** who is an **Interconnector Owner** the MW specified in the **Transmission Entry Capacity** for the **Connection Site**.

2. In the case of all other **Relevant Interruptions**:

For the first 24 hours of the **Relevant Interruption**, a sum equal to the price in £/MWh for the relevant **Settlement Period(s)** (as provided for in Section T 1.5.3 of the **Balancing and Settlement Code**).

Multiplied by:

- a) in the case of an **Affected User** other than an **Interconnector Owner** the MW arrived at after deducting from the **Transmission Entry Capacity** for the **Connection Site** the sum of the **Connection Entry Capacity** of the unaffected **BM Units** at the **Connection site**; and
- b) in the case of an **Affected User** who is an **Interconnector Owner** the MW specified in the **Transmission Entry Capacity** for the **Connection Site**

and after the first 24 hours a sum calculated as 1 above.

Provided always that an **Affected User** shall not receive payment for more than one **Relevant Interruption** in any given day;

“Interruption Period”

the period in days commencing with the notification by **NGC** to the **Affected User** of the start of **Relevant Interruption** and ending on the notification by **NGC** the **Affected User** that the **Relevant Interruption** has ended;

“Isolation”

as defined in the **Grid Code**;

“Joint System Incident”

Paragraphs (a) and (b) below are without prejudice to the application of Paragraph 6.4 to **Users** acting in capacities other than those detailed in Paragraphs (a) and (b),

- (a) for **Users** in respect of their **Connection Sites** which were not **Commissioned** as at the **Transfer Date**, shall have the meaning given to that term in the **Grid Code**;

for **Users** acting in their capacity as **Generators** with **Embedded Large Power Stations** or **Embedded Medium Power Stations** and who are passing power onto a **Distribution System** through a connection with a **Distribution System** which was not **Commissioned** as at the **Transfer Date**, means an event wherever occurring (other than on an **Embedded Medium Power Station** or **Embedded Small Power Station**) which, in the opinion of **NGC** or a **User** has or may have a serious and/or widespread effect, being (in the case of an event on a **User(s) System(s)**) (other than on an **Embedded Medium Power Station** or **Embedded Small Power Station**), on the **NGCGB Transmission System**, and (in the case of an event on the **NGCGB Transmission System**), on a **User(s) System(s)** (other than on an **Embedded Independent Generating Plant**);

“Lagging”

in relation to **Reactive Power**, exporting Mvar;

“Land Charge”

the charge (if any) set out in Appendix B to a **Bilateral Connection Agreement**.

“Large Power Station”

as defined in the **Grid Code**;

“Leading”

in relation to **Reactive Power**, importing Mvar;

“Letter of Credit”

- (a) in respect of Paragraph 2.22 shall mean an irrevocable standby letter of credit in a form reasonably satisfactory to **NGC** but in any case expressed to be governed by the Uniform Customs and Practice for Documentary Credits 1993 Revision ICC Publication No. 500 or such other form as may be reasonably satisfactory to **NGC** and allowing for partial drawings and providing for the payment to **NGC** on demand forthwith on and against **NGC’s** delivery to the issuer thereof of a **Notice of Drawing** of the amount demanded therein;
- (b) in all other cases shall mean an unconditional irrevocable standby letter of credit in such form as **NGC** may reasonably approve issued for the account of the **User** in sterling in favour of **NGC**, allowing for partial drawings and providing for the payment to **NGC** forthwith on demand by any United Kingdom clearing bank or any other bank which in each case has a long term debt rating of not less than single “A” by Standard and Poor’s Corporation or by Moody’s Investors Services, or such other bank as **NGC** may approve and which shall be available for payment at a branch of the issuing bank;

“Licence”

any licence granted pursuant to Section 6 of the **Act**;

“Licence Standards”

the standards to be met by **NGC** under [\[Special Condition A2\]](#) of the **Transmission Licence**;

“Liquidated Damages”

in relation to a particular **User**, as defined in its **Construction Agreement**;

“Local Safety Instructions”

as defined in the **Grid Code**;

"MCUSA"	the Master Connection and Use of System Agreement dated 30 March 1990 (now amended to become the CUSC Framework Agreement);
"Main Business"	any business of NGC or any of its subsidiaries as at the Transfer Date or which it is required to carry on under the Transmission Licence , other than the Generation Business ;
"Main Business Person"	any employee of NGC or any director or employee of its subsidiaries who is engaged solely in the Main Business and "Main Business Personnel" shall be construed accordingly;
"Maintenance Reconciliation Statement"	the statement prepared in accordance with Paragraph 2.14.5 and Paragraph 9.9.5;
"Mandatory Ancillary Services"	Part I System Ancillary Services ;
"Mandatory Services Agreement"	an agreement between NGC and a User to govern the provision of and payment for Mandatory Ancillary Services ;
"Market Agreement"	as defined in Paragraph 3.1 of Schedule 3, Part I;
"Market Day"	as defined in Paragraph 3.3 of Schedule 3, Part I;
"Material Effect"	an effect causing a CUSC Party NGC or a Relevant Transmission Licensee to effect any works or to alter the manner of operation of its Transmission Plant and/or Transmission Apparatus at the Connection Site or the site of connection or a User to effect any works or to alter the manner of operation of its Plant and/or Apparatus at the Connection Site or the site of connection which in either case involves that party that CUSC Party in expenditure of more than £10,000;
"Maximum Export Limit"	as defined in the Grid Code ;
"Medium Power Station"	as defined in the Grid Code ;

"Meters"	as defined in the Balancing and Settlement Code
"Metering Equipment"	as defined in the Balancing and Settlement Code ;
"Meter Operator Agent"	as defined in the Balancing and Settlement Code ;
"Metering System"	as defined in the Balancing and Settlement Code ;
"Methodology"	the Statement of the Use of System Charging Methodology or the Statement of the Connection Charging Methodology (and "Methodologies" shall be construed accordingly);
"Mode A Frequency Response"	as defined in Paragraph 4.1.3.3;
"Modification"	any actual or proposed replacement, renovation, modification, alteration, or construction by or on behalf of a User or NGC to either that CUSC Party's <u>the User's Plant or Apparatus</u> or the manner of its operation <u>or Transmission Plant or Transmission Apparatus or the manner of its operation</u> which <u>in either case</u> has or may have a Material Effect on another CUSC Party at a particular Connection Site ;
"Modification Application"	an application in the form or substantially in the form set out in Exhibit I to the CUSC ;
"Modification Notification"	a notification in the form or substantially in the form set out in Exhibit K to the CUSC ;
"Modification Offer"	an offer in the form or substantially in the form set out in Exhibit J to the CUSC , including any revision or extension of such offer;

“Natural Demand”

the **Demand (Active Power)** which is necessary to meet the needs of **Customers** excluding that **Demand (Active Power)** met by **Embedded Generating Units** whose generation is not traded by **Trading Parties** through **Energy Metering Systems** registered under the **Balancing and Settlement Code**;

“Net Asset Value”

the **Gross Asset Value** of the **NGC Transmission Connection Asset** in question less depreciation over the **Replacement Period** calculated in accordance with recognised accounting principles and procedures;

“New Connection Site”

a proposed **Connection Site** in relation to which there is no **Bilateral Agreement** in force between the **CUSC Parties**;

"New CUSC Party"

as defined in Paragraph 6.13;

"NGC"

The National Grid Company plc (No: 2366977) whose registered office is at National Grid House, Kirby Corner Road, Coventry, CV4 8JY;

~~**“NGC Assets”**~~

~~the **Plant and Apparatus** owned by **NGC** necessary to connect the **User's Equipment** to the **NGC Transmission System** at any particular **Connection Site** in respect of which **NGC** charges **Connection Charges** (if any) as listed or identified in Appendix A to the **Bilateral Connection Agreement** relating to each such **Connection Site**;~~

~~**“NGC Asset Works”**~~

~~in relation to a particular **User**, as defined in its **Construction Agreement**;~~

"NGC Credit Rating"

any one of the following:-

(a) a credit rating for long term debt of A- and A3 respectively as set by Standard and Poor's or Moody's respectively;

(b) an indicative long term private credit rating of A- and A3 respectively as set by Standard and Poor's or Moody's as the basis of issuing senior unsecured debt;

(c) a short term rating by Standard and Poor's or Moody's which correlates to a long term rating of A- and A3 respectively; or

(d) where the **User's Licence** issued under the Electricity Act 1989 (as amended by the Utilities Act 2000) requires that User to maintain a credit rating, the credit rating defined in that **User's Licence**.

"NGC's Engineering Charges"

the charges levied by **NGC** in relation to an application for connection and/or use of the **NGC-GB Transmission System**;

~~**"NGC Reinforcement Works"**~~

~~in relation to a particular **User**, as defined in its **Construction Agreement**;~~

~~**"NGC Transmission System"**~~

~~the system consisting (wholly or mainly) of high voltage electric lines owned or operated by **NGC** and used for the transmission of electricity from one **Power Station** to a sub-station or to another **Power Station** or between sub-stations or to or from any **External Interconnection** and includes any **Plant and Apparatus** and meters owned or operated by **NGC** in connection with the transmission of electricity but does not include any **Remote Transmission Assets**;~~

"NGC Website"

the site established by **NGC** on the World-Wide Web for the exchange of information among **CUSC Parties** and other interested persons in accordance with such restrictions on access as may be determined from time to time by **NGC**;

“NGC Works”	in relation to a particular User, as defined in its Construction Agreement;
"Nominated Registered Capacity"	as defined in Appendix 5 of Schedule 3, Part I;
“Non- Performing Party”	as defined in Paragraph 6.19;
“Non-Embedded Customer”	a Customer except for a Public Distribution System Operator receiving electricity direct from the NGC GB Transmission System irrespective of from whom it is supplied;
“Notice of Drawing”	a notice of drawing signed by or on behalf of NGC substantially in the form set out in Exhibit N to the CUSC ;
“Notification Date”	as defined in the Balancing and Settlement Code ;
“Notional Amount”	as defined in Paragraph 3.12;
"Nuclear Generator"	as defined in Paragraph 6.11;
<u>“Nuclear Site Licences Provisions Agreement”</u>	<u>shall mean any of the agreements between (a) NGC and Magnox Electric plc (formerly called Nuclear Electric plc) dated 30 March 1990, (b) NGC and British Energy Generation Limited dated 31 March 1996, (c) ...[insert Scottish equivalents as known].</u>
“Obligatory Reactive Power Service	as defined in Paragraph 1.1 of Schedule 3, Part I;
“Offer”	an offer for connection to and/or use of the NGC GB Transmission System made by NGC in relation to the CUSC ;
“One Off Charge“	the costs, including profits and overheads of carrying out the One Off Works , together with the Net Asset Value of any asset made redundant as a result of the NGC Construction Works an estimate of which is specified in Appendix B1 to the relevant Construction Agreement and/or Bilateral Agreement ;

“One Off Works”	the works described in Appendix B1 to the relevant Construction Agreement and/or Bilateral Agreement ;
“Operating Agreement(s)”	the operating agreements or arrangements identified in the Bilateral Connection Agreement between NGC and the Interconnector Owner of the relevant Interconnector and made between either NGC and the relevant Interconnector Owner and/or NGC and the relevant Interconnected System Operator ;
“Operating Code” or “OC”	the portion of the Grid Code which is identified as the Operating Code ;
“Operation Diagrams”	as defined in the Grid Code ;
“Operational”	in relation to a Connection Site means that the same has been Commissioned (which for the avoidance of doubt does not necessarily include commissioning of Generating Units connected at the Connection Site) and that the User can use such User's Equipment to undertake those acts and things capable of being undertaken by BSC Parties ;
“Operational Date”	the date on which NGC issues the Operational Notification ;
“Operational Effect”	any effect on the operation of any System which causes that System to operate (or be at a materially increased risk of operating) differently to the way in which it would have normally operated in the absence of that effect;
“Operational Intertripping”	the automatic tripping of circuit breakers to prevent abnormal system conditions occurring, such as over voltage, overload, system instability etc. after the tripping of other circuit breakers following power system fault(s) which includes System to Power Station and System to Demand intertripping schemes;

“Operational Metering Equipment”	meters, instrument transformers (both voltage and current), transducers, metering protection equipment including alarms circuitry and their associated outstations as may be necessary for the purpose of CC.6.5.6 of the Grid Code and the corresponding provision of the relevant Distribution Code ;
“Operational Notification”	the notice of that name given to the User by NGC under Paragraph 3.2.6;
"Original Party"	as defined in the CUSC Framework Agreement ;
“Other Dispute”	as defined in Paragraph 7.2.3;
“Other Party”	as defined in Paragraph 7.5.1;
“Other User”	as defined in Paragraph 6.10.3;
“Output”	the actual Active Power or Reactive Power output achieved by a BM Unit ;
“Panel Chairman”	a person appointed as such in accordance with Paragraph 8.3.1;
"Panel Member"	any of the persons listed in Paragraph 8.2.1.2;
"Panel Secretary"	a person appointed as such in accordance with Paragraph 8.2.1.3;
“Part 1 System Ancillary Services”	as defined in Grid Code CC 8.1;
“Part 2 System Ancillary Services”	as defined in Grid Code CC 8.1;
"Partial Shutdown "	as defined in the Grid Code ;
"Party Liable "	as defined in Paragraph 6.12.1;
“Payment Date”	as defined in the Balancing and Settlement Code ;

“Pending Amendment Proposal”	an Amendment Proposal in respect of which, at the relevant time, the Authority has not yet made a decision as to whether to direct such Proposed Amendment to be made pursuant to the Transmission Licence (whether or not an Amendment Report has been submitted in respect of such Amendment Proposal);
“Performance Bond”	an on first demand without proof or conditions irrevocable performance bond or performance guarantee executed as a deed in a form reasonably satisfactory to NGC but in any case allowing for partial drawings and providing for the payment to NGC on demand forthwith on and against NGC’s delivery to the issuer thereof of a Notice of Drawing of the amount demanded therein;
“Permitted Activities”	activities carried on for the purposes of the Main Business ;
“Physical Notification”	as defined in the Balancing and Settlement Code ;
“Planned Outage”	as defined in the Grid Code ;
“Planning Code” or PC	that portion of the Grid Code which is identified as the Planning Code ;
“Plant”	fixed and moveable items used in the generation and/or supply and/or transmission of electricity other than Apparatus
“Pool Member”	as defined in the Balancing and Settlement Code ;
“Pooling and Settlement Agreement”	as defined in the Balancing and Settlement Code ;
“Power Station”	an installation comprising one or more Generating Units (even where sited separately) owned and/or controlled by the same Generator , which may reasonably be considered as being managed as one Power Station ;

“Practical Completion Date”	in relation to a particular User , as defined in its Construction Agreement
“Preference Votes”	as defined in Paragraph 8A.3.2.1;
“Proceedings”	as defined in Paragraph 6.23.1;
“Progress Report”	as defined in Paragraph 8.13;
“Primary Response”	as defined in the Grid Code ;
“Proposed Amendment”	an amendment to the CUSC which has been proposed by way of Amendment Proposal but which has not been made;
“Proposer”	in relation to a particular Amendment Proposal , the person who makes such Amendment Proposal ;
“Protected Information”	any information relating to the affairs of a CUSC Party which is furnished to Business Personnel pursuant to the CUSC or a Bilateral Agreement or a Mandatory Services Agreement or a Construction Agreement or pursuant to a direction under section 34 of the Act or pursuant to the provisions of the Fuel Security Code unless, prior to such information being furnished, such CUSC Party has informed the recipient thereof by notice in writing or by endorsement on such information, that the said information is not to be regarded as Protected Information ;
“Provisional Statement”	as defined in Paragraph 4.3.2.1(a);
“Provisional Monthly Statement”	as defined in Paragraph 4.3.2.1;
“Provisional Adjustments Statement”	as defined in Paragraph 4.3.2.1(b);
“Public Distribution System Operator”	a holder of a Distribution Licence who was the holder, or is a successor to a company which was the holder of a Public Electricity Supply Licence relating to distribution activities in England and/or Wales <u>Great Britain</u> on the CUSC Implementation Date

"Public Electricity Supply Licence"	a licence issued under section 6(1)(c) of the Act prior to the coming in force of section 30 of the Utilities Act 2000;
"Qualified Bank" or "Qualifying Bank"	a City of London branch of a bank, its successors and assigns, which has throughout the validity period of the Performance Bond or Letter of Credit it issues in favour of NGC , a rating of at least A- in Standard and Poor's long term debt rating or A3 in Moody's long term debt rating provided that such bank is not during such validity period put on any credit watch or any similar credit surveillance which gives NGC reasonable cause to doubt that such bank may not be able to maintain the aforesaid rating throughout the validity period and no other event has occurred which gives NGC reasonable cause to have such doubt;

**"Qualified Company" or
"Qualifying Company"**

a company which is a public company of a private company within the meaning of section 1(3) of the Companies Act 1985 and which is either a shareholder of the **User** or any holding company of such shareholder (the expression holding company having the meaning assigned thereto by section 736, Companies Act 1985 as supplemented by section 144(3), Companies Act 1989) and which has throughout the validity period of the **Performance Bond** it gives in favour of **NGC**, a rating of at least A- in Standard and Poor's long term debt rating or A3 in Moody's long term debt rating or such lesser rating which **NGC** may in its absolute discretion allow by prior written notice given pursuant to a resolution of its board of directors for such period and on such terms as such resolution may specify provided that such company is not during such validity period put on any credit watch or any similar credit surveillance procedure which gives **NGC** reasonable cause to doubt that such company may not be able to maintain the aforesaid rating throughout the validity period of the **Performance Bond** and no other event has occurred which gives **NGC** reasonable cause to have such doubt;

"Qualifying Guarantee"

a guarantee in favour of **NGC** in a form proposed by the **User** and agreed by **NGC** (whose agreement shall not be unreasonably withheld or delayed) and which is provided by an entity which holds an **Approved Credit Rating**;

"Rated MW"

as defined in the **Grid Code**;

"Reactive Despatch Instruction"

an instruction relating to **Reactive Power** given by **NGC** to a **Generator** in accordance with **[Grid Code BC2]**;

"Reactive Energy"

as defined in the **Balancing and Settlement Code**;

“Reactive Power”	the product of voltage and current and the sine of the phase angle between them measured in units of voltamperes reactive and standard multiples thereof i.e.:- 1000 Var = 1Kvar 1000 Kvar = 1Mvar;
“Reactive Test”	a test conducted pursuant to Grid Code OC 5.5.1;
“Reasonable Charges”	reasonable cost reflective charges comparable to charges for similar services obtainable in the open market;
“Reconciled Charge”	as defined in Paragraph 3.15.1 and like terms shall be construed accordingly;
“Reenergisation” or “Reenergised”	any Energisation after a Deenergisation ;
“Registered Data”	those items of Standard Planning Data and Detailed Planning Data which upon connection become fixed (subject to any subsequent changes);
“Registrant”	as defined in the Balancing and Settlement Code ;
“Regulations”	the Electricity Supply Regulations 1988 or any amendment or re-enactment thereof;
“Rejected Amendment Proposal”	an Amendment Proposal in respect of which the Authority has decided not to direct NGC to modify the Code pursuant to the Transmission Licence in the manner set out herein;
“Related Undertaking”	in relation to NGC (and for the purposes of Paragraph 6.15, a User) means any undertaking in which NGC has a participating interest as defined by section 260(1) of the Companies Act 1985 as substituted by section 22 of the Companies Act 1989;
"Release Date"	as defined in Paragraph 2.22.2;
“Relevant Interruption”	an Interruption other than an Allowed Interruption ;

<u>“Relevant Transmission Licensee”</u>	<u>means SP Transmission Limited in south of Scotland and Scottish Hydro- Electric Transmission Limited in north of Scotland;</u>
“Remote Transmission Assets”	any Plant and Apparatus or meters owned by NGC which (a) are embedded in a Distribution System or a User System and which are not directly connected by Plant and/or Apparatus owned by NGC to a sub-station owned by NGC and (b) are by agreement between NGC and such Public Distribution System Operator or User under the direction and control of such Public Distribution System Operator or User ;
“Replacement Period”	in relation to a <u>a NGC— Transmission Connection Asset</u> , the period commencing on the date on which such <u>NGC Transmission Connection Asset</u> is or was originally Commissioned , after which it is assumed for accounting purposes such <u>NGC Transmission Connection Asset</u> will need to be replaced, which shall be 40 years unless otherwise agreed between the CUSC Parties to a Bilateral Agreement and recorded in the relevant Bilateral Agreement ;
“Required Amount”	as defined in Paragraph 2.21.2(c);
“Required Standard”	in relation to an item of Derogated Plant , the respective standard required of that item (which shall not exceed that required by the Grid Code or the Licence Standards , as the case may be) as specified in or pursuant to the relevant Derogation ;
“Resigning Alternate Member	As defined in Paragraph 8A.4.1
“Resigning Panel Member”	as defined in Paragraph 8A.4.1.
“Response”	Primary Response, Secondary Response and High Frequency Response or any of them as the case may be;

“Response Energy Payment”

that component of the payment for Mode A **Frequency Response** calculated in accordance with Paragraph 4.1.3.9A;

“Retail Price Index”

the general index of retail prices published by the Office for National Statistics each month in respect of all items or:

- (a) if the said index for any month in any year shall not have been published on or before the last day of the third month after such month such index for such month or months as the parties hereto agree produces as nearly as possible the same result shall be substituted or in default of the parties reaching agreement within six weeks after the last day of such three month period then as determined by a sole Chartered Accountant appointed by agreement by both parties or in the absence of agreement on the application of either party by the President of the **Electricity Arbitration Association** who shall act as an expert and whose decision shall be final and binding on the parties; or
- (b) if there is a material change in the basis of the said index, such other index as the parties agree produces as nearly as possible the same result shall be substituted or in default of the parties reaching agreement within six weeks after the occurrence of the material change in the basis of the said index then as determined by the sole Chartered Accountant appointed by agreement by both parties or in the absence of agreement on the application of either party by the President of the **Electricity Arbitration Association** who shall act as an expert and whose decision shall be final and binding on the parties;

“Safety Coordinator(s)”

a person or persons nominated by **NGC** and each **User** in relation to **Connection Points** (as defined in the **Grid Code**) in England and Wales and/or nominated by the **Relevant Transmission Licensee** and each **User** in relation to **Connection Points** in Scotland to be responsible for the co-ordination of **Safety Precautions** (as defined in the **Grid Code**) at each **Connection Point** when work and/or testing is to be carried out on a system which necessitates the provision of Safety Precautions on HV **Apparatus**, pursuant to OC8;

“Safety Rules”

the rules of **NGC**, a **Relevant Transmission Licensee** or a **User** that seek to ensure that persons working on **Plant** and/or **Apparatus** to which the rules apply are safeguarded from hazards arising from the **System**;

“Second Offer”

as defined in Paragraph 6.10.4;

“Secondary Response”

as defined in the **Grid Code**;

“Secretary of State”

has the meaning given to that term in the **Act**;

“Secured Amount Statement”

a statement accompanying the **Bi-annual Estimate** setting out the amount to be secured by the **User** under Paragraph 2.21 based on figures contained in the **Bi-annual Estimate** being the amount for which security shall be provided to **NGC** pursuant to that Paragraph such statement to be substantially in the form set out in Exhibit M to the **CUSC**;

“Security Amount”

in respect of the **User** the aggregate of available amounts of each outstanding (a) **Letter of Credit**, (b) **Qualifying Guarantee** and (c) the principal amount (if any) of cash that the **User** has paid to the credit of the **Escrow Account** (and which has not been repaid to the **User**); for the purpose of this definition, in relation to a **Letter of Credit** or **Qualifying Guarantee** “available amount” means the face amount thereof less (i) payments already made thereunder and (ii) claims made thereunder but not yet paid;

“Security Cover”	the aggregate amount for the time being which the User shall be required by NGC to provide and maintain by way of security in accordance with the CUSC ;
“Separate Business”	each of the Transmission and Interconnectors Businesses taken separately from one another and from any other business of NGC , but so that where all or any part of such business is carried out by an Affiliate or Related Undertaking of NGC such part of the business as is carried out by that Affiliate or Related Undertaking shall be consolidated with any other such business of NGC (and of any other Affiliate or Related Undertaking) so as to form a single Separate Business ;
“Settlement Administration Agent”	as defined in the Balancing and Settlement Code ;
“Settlement Day”	as defined in the Balancing and Settlement Code ;
“Settlement Period”	as defined in the Balancing and Settlement Code ;
“Site Common Drawings”	as defined in the Grid Code ;
“Site Responsibility Schedule”	a schedule containing the information and prepared on the basis of the provisions set out in Appendix 1 of the CC ;
“Site Specific Maintenance Charge”	the element of the Connection Charges relating to maintenance and repair calculated in accordance with the Connection Charging Methodology ;
“Small Independent Generating Plant”	a Medium Power Station ;
“Small Power Station”	as defined in the Grid Code ;
“Small Power Station Trading Party”	a Trading Party trading on behalf of one or more Small Power Stations whether owned by the Trading Party or another person;

“Statement of the Connection Charging Methodology”	the statement produced pursuant to and in accordance with [Standard Condition C7B] of the Transmission Licence , as modified from time to time;
“Statement of Use of System Charges”	the statement produced pursuant to and in accordance with [Standard Condition C7] of the Transmission Licence , as modified from time to time;
“Statement of the Use of System Charging Methodology”	the statement produced pursuant to [Standard Condition C7] of the Transmission Licence , as modified from time to time;
“Station Demand”	<p>in respect of any generating station and Generator, means that consumption of electricity (excluding any supply to any Customer of the relevant Generator who is neither such Generator nor a member of a qualifying group of which such Generator is a part) from the NGC-GB Transmission System or a Distribution System at premises on the same site as such generating station, with premises being treated as on the same site as each other if they are:</p> <ul style="list-style-type: none"> <li data-bbox="794 1227 1145 1254">(i) the same premises; <li data-bbox="794 1294 1337 1321">(ii) immediately adjoining each other; <li data-bbox="794 1438 1431 1960">(iii) separated from each other only by road, railway or watercourse or by other premises (other than a pipe-line, electric line or similar structure) occupied by the consumer in question or by any other person who together with that consumer forms a qualifying group; and for the purpose of this definition “generating station” and “qualifying group” shall have the meanings given those expressions when used in the Electricity (Class Exemptions from the Requirement for a Licence) Order 1990;

"Steam Unit"	a Generating Unit whose prime mover converts the heat energy in steam to mechanical energy;
"Subsidiary"	has the meaning given to that term in section 736A of the Companies Act 1985;
"Supplemental Agreement"	an agreement entered into pursuant to clause 2 of the MCUSA ;
"Supplier"	a person who holds a Supply Licence ;
"Supply Agreement"	an agreement between a Non-Embedded Customer and a Supplier for the supply of electricity to the Non-Embedded Customer's Connection Site ;
"Supply Licence"	a licence granted under section 6(1)(d) of the Act ;
"Synchronous Compensation"	the operation of rotating synchronous apparatus for the specific purpose of either generation or absorption of Reactive Power ;
"Synchronised"	the condition where an incoming BM Unit or CCGT Unit or System is connected to the busbars of another System so that the Frequencies and phase relationships of that BM Unit or CCGT Unit or the System , as the case may be, and the System to which it is connected are identical;
"System Ancillary Services"	Mandatory Ancillary Services and Part 2 System Ancillary Services ;
"System"	any User System or the NGCGB Transmission System as the case may be;
<u>"System Operator - Transmission Owner Code or STC"</u>	<u>the STC entered into by NGC pursuant to the Transmission Licence as from time to time revised in accordance with the Transmission Licence;</u>

"Target Frequency"	the Frequency determined by NGC in its reasonable opinion as the desired operating Frequency of the Total System . This will normally be 50.00 Hz plus or minus 0.05 Hz, except in exceptional circumstances as determined by NGC in its reasonable opinion. An example of exceptional circumstances may be difficulties caused in operating the System during disputes affecting fuel supplies;
"Tendered Capability Breakpoints"	as defined in Paragraph 1.4 of Appendix 5 of Schedule 3, Part I;
"Tenders"	as defined in Paragraph 3.3 of Schedule 3, Part I;
"Tenderers"	as defined in Paragraph 3.3 of Schedule 3, Part I;
"Tender Period"	as defined in Paragraph 3.3 of Schedule 3, Part I;
"Term"	without prejudice to the interpretation of Term in respect of Users acting in other capacities, for Users acting in respect of their Connection Sites which were not Commissioned at the Transfer Date , it means the term of the relevant Bilateral Connection Agreement commencing on the date of the Bilateral Connection Agreement and ending in accordance with Clause 9 of that agreement;
"Termination Amount"	in relation to a Connection Site , the amount calculated in accordance with the Charging Statements ;
"Third Party Claim"	as defined in Paragraph 7.5.3;
"Total Shutdown"	as defined in the Grid Code ;
"Total System"	the NGC-GB Transmission System and all User Systems in England and Wales <u>Great Britain</u> ;
"Trading Party"	as defined in the Balancing and Settlement Code ;

"Trading Unit"	as defined in the Balancing and Settlement Code ;
"Transfer Date"	"24.00" hours on 30th March 1990;
"Transfer Scheme"	schemes made under sections 65 and 66 of the Act and effected on the Transfer Date ;
<u>"Transmission"</u>	<u>means, when used in conjunction with another term relating to equipment, whether defined or not, that the associated term is to be read as being part of or directly associated with the GB Transmission System and not of or with the User System;</u>
"Transmission Business"	the authorised business of NGC or any Affiliate or Related Undertaking in the planning, development, construction and maintenance of the NGC-GB Transmission System (whether or not pursuant to directions of the Secretary of State made under section 34 or 35 of the Act) and the operation of such system for the transmission of electricity, including any business in providing connections to the NGC-GB Transmission System but shall not include (i) any other Separate Business or (ii) any other business (not being a Separate Business) of NGC or any Affiliate or Related Undertaking in the provision of services to or on behalf of any one or more persons;
<u>"Transmission Connection Assets"</u>	<u>the Transmission Plant and Transmission Apparatus necessary to connect the User's Equipment to the GB Transmission System at any particular Connection Site in respect of which NGC charges Connection Charges (if any) as listed or identified in Appendix A to the Bilateral Connection Agreement relating to each such Connection Site;</u>
<u>"Transmission Connection Asset Works"</u>	<u>in relation to a particular User, as defined in its Construction Agreement;</u>

“Transmission Entry Capacity”	the figure specified as such as set out in Appendix C of the relevant Bilateral Connection Agreement or Bilateral Embedded Generation Agreement ;
“Transmission Licence”	the licence granted to NGC under section 6(1)(b) of the Act ;
“Transmission Network Services”	as defined in the Transmission Licence ;
“Transmission Network Use of System Charges”	the element of Use of System Charges payable in respect of Transmission Network Services (including for the avoidance of doubt Transmission Network Use of System Demand Reconciliation Charges);
“Transmission Network Use of System Demand Zone”	each of the zones identified by NGC in the Charging Statements for charging of Transmission Network Use of System Charges in relation to Demand ;
“Transmission Network Use of System Demand Reconciliation Charges”	sums payable by the User to NGC under invoices issued to the User pursuant to Paragraph 3.12.7;
“Transmission Services Activity”	as defined in the Transmission Licence ;
“Transmission Services Use of System Charges”	the element of Use of System Charges payable in respect of the Transmission Services Activity ;
<u>“Transmission Reinforcement Works”</u>	<u>in relation to a particular User, as defined in its Construction Agreement;</u>

“Transmission System”

the **System** consisting (wholly or mainly) of high voltage electric lines owned or operated by Transmission Licensees and used for the transmission of electricity from one generating station to a sub-station or to another generating station or between sub-stations or to or from any Interconnector and including any electrical plant and meters owned or operated by a Transmission Licensee in connection with the transmission of electricity but shall not include Remote Transmission Assets;

“Triennial Review Date”

as defined in Paragraph 4.1.3.20;

“Undertaking”

as defined in section 259 of the Companies Act 1985;

"Unusual Load Characteristics"

loads which have characteristics which are significantly different from those of the normal range of domestic, commercial and industrial loads (including loads which vary considerably in duration or magnitude).

“Urgent Amendment Proposal”

an **Amendment Proposal** treated or to be treated as an **Urgent Amendment Proposal** in accordance with Paragraph 8.21;

“Use of System”

use of the **NGCGB Transmission System** for the transport of electricity by any **Authorised Electricity Operator** or **Interconnector User** or **Interconnector Error Administrator**;

“Use of System Application”

an application for a **Bilateral Embedded Generation Agreement** or for **Use of System** in the form or substantially in the form set out in Exhibit D or F to the **CUSC** as appropriate;

“Use of System Charges”

charges made or levied or to be made or levied by **NGC** for the provision of services as part of the **Transmission Business** to any **Authorised Electricity Operator** as more fully described at [Standard Condition C7 and C7A and of Schedule 3] to the **Transmission Licence** and in the **Bilateral Agreements** and Section 3 and Section 9 Part II but shall not include **Connection Charges**;

“Use of System Interconnector Confirmation Notice”

the part of the **Use of System Interconnector Offer and Confirmation Notice** by which **NGC** confirms the use of the **NGC-GB Transmission System** by an **Interconnector User** or an **Interconnector Error Administrator**;

“Use of System Interconnector Offer and Confirmation Notice”

the notice which combines the offer and confirmation in relation to the use of the **NGC-GB Transmission System** by an **Interconnector User** or an **Interconnector Error Administrator**, in the form set out in Exhibit H to the **CUSC**;

“Use of System Interconnector Offer Notice”

the part of the **Use of System Interconnector Offer and Confirmation Notice** by which **NGC** offers an **Interconnector User** or an **Interconnector Error Administrator** use of the **NGC-GB Transmission System**;

“Use of System Offer”

an offer made by **NGC** to a **User** pursuant to Paragraph 3.7 or 9.21 substantially in the form of Exhibit G (**Use of System Supply Offer**) or Exhibit E (**Use of System Generation Offer**) or Exhibit H (**Use of System Interconnector Offer**) to the **CUSC**;

“Use of System Payment Date”

the date for payment of **Use of System Charges**;

“Use of System Supply Confirmation Notice”

the part of the **Use of System Supply Offer and Confirmation Notice** by which **NGC** confirms the use of the ~~**NGC**~~**GB Transmission System** by a **Supplier**;

“Use of System Supply Offer and Confirmation Notice”

the notice which combines the offer and confirmation in relation to the use of the ~~**NGC**~~**GB Transmission System** by a **Supplier**, in the form set out in Exhibit G to the **CUSC**;

“Use of System Supply Offer Notice”

the part of the **Use of System Supply Offer and Confirmation Notice** by which **NGC** offers a **Supplier** use of the ~~**NGC**~~**GB Transmission System**;

"Use of System Termination Notice"

the notice to be given to terminate **Use of System** by a **Supplier** or an **Interconnector User**, or an **Interconnector Error Administrator** in accordance with the **CUSC**;

"User"

a person who is a party to the **CUSC Framework Agreement** other than **NGC**;

“User Development”

shall have the meaning set out in the **Connection Application** or the **Use of System Application** as the case may be;

“User's Equipment”

the **Plant** and **Apparatus** owned by a **User** (ascertained in the absence of agreement to the contrary by reference to the rules set out in Paragraph 2.12) which: (a) is connected to ~~**NGC**~~**the Transmission Connection Assets** forming part of the ~~**NGC**~~**GB Transmission System** at any particular **Connection Site** to which that **User** wishes so to connect, or (b) is connected to a **Distribution System** to which that **User** wishes so to connect;

“User's Licence”

a **User's** licence to carry on its business granted pursuant to Section 6 of the **Act**;

“User System”

any system owned or operated by a **User** comprising **Generating Units** and/or **Distribution Systems** (and/or other systems consisting (wholly or mainly) of electric lines which are owned or operated by a person other than a **Public Distribution System Operator** and **Plant** and/or **Apparatus** connecting **Generating Units, Distribution Systems** (and/or other systems consisting wholly or mainly of electric lines which are owned or operated by a person other than a **Public Distribution System Operator** or **Non-Embedded Customers** to the ~~NGCGB~~ **Transmission System** or (except in the case of **Non-Embedded Customers**) to the relevant other **User System**, as the case may be, including any **Remote Transmission Assets** operated by such **User** or other person and any **Plant** and/or **Apparatus** and meters owned or operated by such **User** or other person in connection with the distribution of electricity but does not include any part of the ~~NGCGB~~ **Transmission System**;

“Valid”

valid for payment to be made thereunder against delivery of a **Notice of Drawing** given within the period stated therein;

"Value Added Tax"

United Kingdom value added tax or any tax supplementing or replacing the same;

“Working Group”

a **Working Group** established by the **Amendments Panel** pursuant to Paragraph 8.17.1.

“Working Group Alternative Amendment”

An alternative amendment to the **Amendment Proposal** developed by the **Working Group** under the **Working Group** terms of reference and which is believed by a member or members of the **Working Group** to better facilitate the **Applicable CUSC Objectives** than the **Amendment Proposal** or the current version of the **CUSC**;

END OF SECTION 11