


Date 1 September 2004

BRITISH ELECTRICITY TRADING AND TRANSMISSION ARRANGEMENTS

**DESIGNATION OF THE STC (SYSTEM OPERATOR – TRANSMISSION OWNER
CODE)**

The document set out in the attached Schedule is hereby designated by the Secretary of State as the STC (System Operator – Transmission Owner Code) for the purposes of standard condition B12 of electricity transmission licences granted pursuant to section 6(1)(b) of the Electricity Act 1989.



Dr E.A.M. Baker
Director, Domestic and European Markets, Energy Markets Unit
For and on behalf of the Secretary of State for Trade and Industry

Department of Trade and Industry

1 Victoria Street
London SW1H 0ET

Fax

Minicom

Enquiries +44 (0)20 7215 5000

www.dti.gov.uk

**THE SYSTEM OPERATOR
TRANSMISSION OWNER CODE**

THE SYSTEM OPERATOR TRANSMISSION OWNER CODE
--

SECTION A: APPLICABILITY OF SECTIONS AND CODE STRUCTURE

1. Introduction
2. Structure of the Code
3. Access to the Code
4. Precedence

SECTION B: GOVERNANCE

1. Introduction
2. Parties
3. Admission of New Parties
4. Party Details
5. Withdrawal
6. The Committee
7. Amendment of the Code and Code Procedures

SECTION C: TRANSMISSION SERVICES AND OPERATIONS**Part One: Provision of Transmission Services**

1. Introduction
2. Transmission Services
3. Services Capability Specification
4. Transmission Services Limits
5. Configuration on NGC's Directions
6. NGC Obligations

Part Two: Transmission Outage Planning

1. Introduction
2. Outage Plan
3. Outage Proposals
4. NGC Issue of the Outage Plan
5. Change Process Following Issue of Final Version of Outage Proposal
6. Implementation of Outages
7. Emergency Return to Service During an Outage

Part Three: Other

1. Introduction
2. Testing Transmission Owner's Transmission Systems
3. Requirement to Enter into Interface Agreement
4. Event Reporting and Joint Investigations
5. Black Start
6. Energisation and De-Energisation
7. Provision of Training

SECTION D: PLANNING CO-ORDINATION

Part One: Transmission Planning

1. Introduction
2. Transmission Planning
3. Default Planning Boundary
4. Seven Year Statement

Part Two: Construction

1. Introduction
2. NGC Construction Applications
3. Provision of Construction Planning Assumptions Following a NGC Construction Application

4. TO Construction Offers
5. Acceptance of TO Construction Offers by NGC
6. General Provisions Concerning the Development of TO Construction Offers
7. General Provisions Concerning New Connections and Modifications
8. Co-ordination of Construction Projects
9. Communications Plant
10. Connection Site Rules
11. Site Responsibility Schedules
12. Access
13. Disconnection and Removal of Transmission Connection Assets

SECTION E: PAYMENTS AND BILLING

1. Introduction
2. TO Charges
3. Invoicing and Payment
4. Disputes
5. Interest on Late Payment

SECTION F: COMMUNICATIONS AND DATA

1. Introduction
2. General Confidentiality
3. Restrictions on the Provision of Information Between the Parties

SECTION G: GENERAL PROVISIONS

1. Introduction
2. Safety and Environment

3. Nuclear Installations
4. Limitation of Liability
5. Third Party Rights
6. Transfer and Sub-Contracting
7. Intellectual Property
8. Force Majeure
9. Privilege
10. Waiver
11. Nominated Representative
12. Communications
13. Counterparts
14. Severance of Terms
15. Language
16. Data Protection Act
17. Jurisdiction
18. Governing Law
19. No Partnership

SECTION H : DISPUTE RESOLUTION

1. Introduction
2. General
3. Escalation
4. Referrals to the Authority
5. Referrals to Arbitration

SECTION I: TRANSITION

1. Introduction
2. Provisions of the Code Not in Effect During the Transition Period
3. General Provisions
4. Transitional Provisions in Relation to Section C, Part One
5. Transitional Provisions in Relation to Section C, Part Two
6. Transitional Provisions in Relation to Section C, Part Three
7. Transitional Provisions in Relation to Section D, Part One
8. Transitional Provisions in Relation to Current Users
9. Transitional Provisions in Relation to New Transitional Applications During the Period From 1 January to the Go Live Date
10. General Provisions Concerning the Development of Current User Offers and New Transitional Offers
11. Criteria for Assessing Those Transmission Systems Affected by Applications During the Transition Period
12. Site Responsibility Schedules
13. Disputes

SECTION J: INTERPRETATION AND DEFINITIONS

1. Introduction
2. Interpretation and Construction
3. Definitions

SCHEDULES

- | | |
|------------------------|---|
| Schedule One: | Code Accession Agreement |
| Schedule Two: | List of Code Procedures |
| Schedule Three: | Information and Data Exchange Specification |
| Schedule Four: | Criteria for Assessing Those Transmission Systems Affected by a Construction Project |

Schedule Five:	NGC Connection Applications
Schedule Six:	NGC Modification Applications
Schedule Seven:	System Construction Applications
Schedule Eight:	TO Construction Offers
Schedule Nine:	TO Construction Terms
Schedule Ten:	Charges

SECTION A: APPLICABILITY OF SECTIONS AND CODE STRUCTURE

1. INTRODUCTION

1.1 This Section A sets out:

1.1.1 the structure of the Code;

1.1.2 the definition of Code Procedures and an explanation of their relationship with other parts of the Code;

1.1.3 provisions relating to publication of and access to the Code;

1.1.4 the relationship of the Code with other documents.

2. STRUCTURE OF THE CODE

2.1 The Code

2.1.1 The Code comprises each of the sub-paragraphs, paragraphs, Parts, Sections, Schedules, and Code Procedures.

2.2 TO Construction Agreements

2.2.1 Each TO Construction Agreement contemplated to be entered into pursuant to Section D, Part Two of this Code shall, unless otherwise agreed between the Parties to such TO Construction Agreement, contain the terms, or contain terms substantially in the same form as, those set out in Schedule Nine.

2.2.2 Each TO Construction Agreement entered into pursuant to Section D, Part Two of this Code and in force from time to time shall constitute a separate agreement governed by the terms of this Code and will be read and construed accordingly.

2.3 Code Procedures

2.3.1 The Code Procedures form a part of the Code and set down processes and procedures that the Relevant Parties consider and agree are appropriate to support their compliance with the rest of the Code.

2.3.2 The Code Procedures shall be those listed in Schedule Two which Schedule shall be updated from time to time in accordance with Section B, paragraph 7.3.

2.3.3 Unless otherwise specified, a reference in other parts of the Code (including, for the avoidance of doubt, in any other Code Procedure) to a Code Procedure shall be deemed to be a reference to the version of that Code Procedure then in force as indicated in the then current version of Schedule Two.

2.3.4 Each Relevant Party shall comply with the Code Procedures where and to the extent that such Code Procedures relate to such Relevant Party.

2.3.5 Code Procedures may be amended and new Code Procedures created in accordance with Section B, paragraph 7.3.

3. ACCESS TO THE CODE

- 3.1 Subject to paragraph 3.3, a copy of the Code shall be published on the Code Website.
- 3.2 Notwithstanding paragraph 3.1 and subject always to paragraph 3.3, the Committee Secretary shall provide a copy of the Code (including, for the avoidance of doubt, any Code Procedure) or any past versions of same, to any person on request, which may be subject (other than in the case of the Authority) to payment by such person of a reasonable charge. A reasonable charge shall be an amount not exceeding the reasonable cost to the Committee Secretary of making and providing such copy.
- 3.3 A Code Procedure, or part(s) thereof, may not be published or otherwise made available to other Parties, any third person or communicated to the public, including by publication on the Code Website or otherwise, where Relevant Parties agree that the disclosure of the contents of such Code Procedure, or part(s) thereof (including, without limitation, names and personal contact details) would substantially prejudice the interests of such Relevant Parties or persons identified therein and have notified the Parties, Committee Secretary and the Authority to this effect.
- 3.4 The Committee Secretary shall maintain and keep up to date a library of all past and current versions of the Code (including, for the avoidance of doubt, of each Code Procedure).

4. PRECEDENCE

- 4.1 In the event of any inconsistency between the provisions of a Code Procedure and any other parts of the Code that are not Code Procedures then such other parts of the Code shall prevail.
- 4.2 In the event of any inconsistency between the provisions of the Code and the provisions of any other document established or adopted under and pursuant to the Code then the provisions of the Code shall prevail.
- 4.3 In the event of any inconsistency between the provisions of one Code Procedure and another, the Relevant Parties to such Code Procedures as are inconsistent shall agree which provision(s) shall take precedence pending amendment of the Code Procedure(s) as relevant under Section B paragraph 7.3, and such Relevant Parties shall promptly take such steps in accordance with Section B paragraph 7.3 to remove such inconsistency.
- 4.4 A Party may refer a failure to agree pursuant to paragraph 4.3 to the Authority as a Dispute pursuant to Section H, paragraph 4.1.
- 4.5 The provisions of this paragraph 4 shall be subject to any express provision to the contrary in any part of the Code not contained in a Code Procedure.

SECTION B: GOVERNANCE

1. INTRODUCTION

1.1 This Section B sets out:

- 1.1.1 arrangements for admission of Transmission Licensees as Parties to the Code;
- 1.1.2 arrangements for withdrawal of Parties from the Code;
- 1.1.3 arrangements for the establishment and operation of the Committee; and
- 1.1.4 procedures for making amendments to the Code.

2. PARTIES

2.1 For the purposes of this Code, a "**Party**" is a person who is, for the time being, bound by the Code by virtue of being a Party to the Framework Agreement.

3. ADMISSION OF NEW PARTIES

3.1 Accession Procedure for Party Applicants

3.1.1 Only a Transmission Licensee which is obliged from time to time by its Transmission Licence to enter into the Framework Agreement shall have the right to enter into and be a Party to the Framework Agreement subject to, and in accordance with, the provisions of this paragraph 3.

3.1.2 A Party Applicant shall submit to the Committee Secretary:

3.1.2.1 an application form which is in such form as the Parties may from time to time prescribe, giving its Party Details as at the time of its application, together with any supporting documentation so prescribed; and

3.1.2.2 a written undertaking from the Party Applicant (in the form prescribed in the application form) that the Party Details of such Party Applicant are complete and accurate in all material respects.

3.1.3 Upon receipt of the items referred to in sub-paragraph 3.1.2, the Committee Secretary shall promptly:

3.1.3.1 check that the application form has been duly completed by the Party Applicant and the relevant supporting documentation has been provided and, where necessary, liaise with the Party Applicant in order to ensure that the Party Applicant completes the application form and provides any such supporting documentation required;

3.1.3.2 notify the Authority of the name of the Party Applicant;

- 3.1.3.3 prepare an Accession Agreement for execution by the Party Applicant;
 - 3.1.3.4 execute and deliver such Accession Agreement on behalf of all Parties to the Party Applicant for execution;
 - 3.1.3.5 send a certified copy of such Accession Agreement, duly executed by the Party Applicant, to the Party Applicant and other Parties; and
 - 3.1.3.6 give notice of the accession of such Party Applicant to the Authority.
- 3.1.4 Subject to and in accordance with the provisions of this paragraph 3.1, each Party hereby irrevocably and unconditionally authorises the Committee Secretary to execute and deliver an Accession Agreement to a Party Applicant on its behalf and to admit the Party Applicant as a Party.
- 3.1.5 Accession of a Party Applicant to the Framework Agreement shall be effective on and from the date of the Accession Agreement.

3.2 **Party Entry Processes**

- 3.2.1 Following accession to the Framework Agreement under sub-paragraph 3.1.5, a Transmission Licensee shall be a Party save that the rights and obligations of such Party and the rights and obligations of the other Parties in respect of such Party under Sections C, D and paragraphs 2.2 and 3 of Section G of this Code shall not take effect, unless and to the extent otherwise agreed between the Parties, until the date of notification of completion of the Party Entry Processes (as defined in sub-paragraph 3.2.3 below) for that Party under sub-paragraph 3.2.4.
- 3.2.2 For the avoidance of doubt, where this Code provides for agreement to be made between the Parties, on acceding to the Framework Agreement, a Party shall be deemed to agree with any and all decisions that have been reached by the other Parties prior to the date of the relevant Accession Agreement until such time as the Parties shall otherwise agree.
- 3.2.3 As soon as reasonably practicable, but in any event not more than 30 days following the accession of a Party to the Framework Agreement under sub-paragraph 3.1.5, each Party shall use its reasonable endeavours to agree the procedures, processes and steps required to be taken by each of the Parties (such agreement not to be unreasonably withheld) such that each Party can comply and continue to comply with its obligations under this Code including any obligations or rights referred to in sub-paragraph 3.2.1 (here referred to as the **“Party Entry Processes”**) on and from the date of notification of completion of such Party Entry Processes under sub-paragraph 3.2.4. The Party Entry Processes shall include, without limitation, the establishment and testing of communications arrangements, exchange of data, development and amendment of, creation or accession to (as appropriate) Services Capability Specification, Interface Agreements, TO Construction Agreements, Outages Proposals, Transmission Investment Plans and Code Procedures and such Party Entry

Processes may be amended as required from time to time upon agreement by the Parties (such agreement not to be unreasonably withheld).

- 3.2.4 Each Party shall expeditiously undertake such actions as are required of it under and pursuant to the Party Entry Processes in order to give effect to the timely completion of the Party Entry Processes. Completion of the Party Entry Processes shall be deemed to take effect from the date of notification of such completion by the Committee Secretary to the Authority on behalf of the Parties following agreement by the Parties as to such notice. For the avoidance of doubt, to the extent that any obligations or rights did not take effect under sub-paragraph 3.2.1 prior to and for the duration of the Party Entry Processes, such obligations or rights shall, from the date of notification of completion of the Party Entry Processes under this sub-paragraph 3.2.4, take effect and thereby apply to the relevant Party, or Parties as relevant, in their entirety.
- 3.2.5 A Party may refer a failure to agree pursuant to sub-paragraphs 3.2.1 to 3.2.4 or any other dispute in relation to the scope, content or performance of the Party Entry Processes, to the Authority as a Dispute in accordance with Section H, paragraph 4.1.
- 3.2.6 Prior to a person becoming a Party, the Parties shall, if requested to do so by the Authority, take all reasonable steps to develop (in consultation with that person) the Party Entry Processes that could apply were that person to accede to the Framework Agreement, including, the identification of any proposals for the amendment of the Code in accordance with Section B, paragraph 7 that the Parties may consider to be necessary for the purpose of the Party Entry Processes that might apply were that person to accede.

4. PARTY DETAILS

- 4.1 For the purposes of this Code, the "**Party Details**" of a Party, which shall include for the purposes of this paragraph 4, a Party Applicant, are the following details and documentation of the Party:
 - 4.1.1 its full name and contact details;
 - 4.1.2 the name, address, and facsimile number of the person for whose attention notices issued in accordance with Section G, paragraph 12 should be marked;
 - 4.1.3 details for service of process;
 - 4.1.4 a copy of its current Transmission Licence; and
 - 4.1.5 the Party's VAT registration number.
- 4.2 Each Party shall:
 - 4.2.1 provide its Party Details to the Committee Secretary; and

4.2.2 ensure that its Party Details for the time being provided to the Committee Secretary remain accurate and complete in all material respects.

4.3 Without prejudice to the generality of paragraph 4.2, if at any time:

4.3.1 a Party wishes to change any of its contact details forming part of such Party Details; or

4.3.2 the Party Details of a Party otherwise cease for whatever reason to be accurate and complete in all material respects,

then such Party shall notify the Committee Secretary as soon as reasonably practicable (and, wherever possible, in advance of such change) and shall provide such further information and supporting documentation as the Committee Secretary may reasonably require to evidence such change.

4.4 The Committee Secretary shall:

4.4.1 maintain an up-to-date list of the contact details forming a part of the Party Details in respect of each of the Parties and ensure that such list is available on the Code Website;

4.4.2 upon receipt of Party Details from a Party pursuant to paragraph 4.2, make available such Party Details to each of the other Parties and the Authority; and

4.4.3 promptly update the Party Details pursuant to paragraph 4.3 and notify the Parties and the Authority of any such changes.

5. WITHDRAWAL

5.1 Procedure

5.1.1 Each Party (the "**Withdrawing Party**") shall be entitled to withdraw from the Framework Agreement (including pursuant to an assignment or transfer under Section G paragraph 6) and thereby cease to be a Party from the Withdrawal Date under sub-paragraph 5.1.4.

5.1.2 A Withdrawing Party shall give notice to the Committee Secretary, each of the other Parties and the Authority of its intention to withdraw from the Framework Agreement (a "**Withdrawal Notice**"), which Withdrawal Notice shall include a Proposed Withdrawal Date. In any case where a Party is notified that its Transmission Licence will be revoked, that Party shall be deemed to have issued a Withdrawal Notice on the date of such notice of revocation.

5.1.3 As soon as reasonably practicable following the date of issue of a Withdrawal Notice under sub-paragraph 5.1.2, each Party shall use its reasonable endeavours to agree the procedures, processes and steps required to be taken by each of the Parties (such agreement not to be unreasonably withheld) such that a remaining Party would not be caused to be in breach of its obligations under the Code as a consequence of the withdrawal of the Withdrawing Party

("Decommissioning Actions") after the Withdrawal Date (as defined at sub-paragraph 5.1.4) and such Decommissioning Actions may be amended as required from time to time upon agreement by the Parties (such agreement not to be unreasonably withheld).

- 5.1.4 Each Party shall expeditiously undertake such actions as are required of it under and pursuant to the Decommissioning Actions to give effect to their timely completion, following which, the Committee Secretary shall give notice to the Authority of the completion of such Decommissioning Actions on behalf of the Parties following agreement by the Parties of such notice. Such notification shall specify the date upon which the Withdrawing Party shall withdraw from the Framework Agreement which date (subject to sub-paragraph 5.1.5) shall be referred herein to as the "**Withdrawal Date**".
- 5.1.5 A Withdrawing Party cannot withdraw from the Framework Agreement and thereby cease to be a Party to the Code until the Withdrawal Date or, if at such Withdrawal Date, the Withdrawing Party is subject to a Transmission Licence Condition by virtue of which it is required to be a Party and/or to comply with the Code or which would otherwise be infringed if the Withdrawing Party withdrew from the Framework Agreement. In such event, the Withdrawal Date shall be postponed to such date as it no longer applies. The Withdrawing Party shall notify the Authority of the date from which the Transmission Licence Condition no longer applies and copy such notice to each of the other Parties.
- 5.1.6 A Party may refer a failure to agree the Decommissioning Actions pursuant to sub-paragraph 5.1.3 or other dispute in relation to the scope, content or performance of the Decommissioning Actions as a Dispute to the Authority in accordance with Section H, paragraph 4.1.
- 5.1.7 Prior to the issue of a Withdrawal Notice, the Parties shall, if requested to do so by the Authority, take all reasonable steps to develop the Decommissioning Actions that could apply upon issue of a Withdrawal Notice under sub-paragraph 5.1.2.

5.2 **Consequential Provisions**

- 5.2.1 Where a Withdrawing Party withdraws from the Framework Agreement and thereby ceases to be a Party pursuant to paragraph 5.1, the provisions of this paragraph 5.2 shall apply.
- 5.2.2 With effect from the Withdrawal Date (as amended under sub-paragraph 5.1.5 as appropriate):
 - 5.2.2.1 the Withdrawing Party shall, subject to the provisions of sub-paragraph 5.2.3, be automatically released and discharged from all of its obligations and liabilities under the Code (including, for the avoidance of doubt, relevant Code Procedures to which they are a party and the Framework Agreement); and

- 5.2.2.2 each other Party shall, subject to the provisions of sub-paragraph 5.2.3, be automatically released and discharged from all of its obligations and liabilities to the Withdrawing Party under the Code (including, for the avoidance of doubt, relevant Code Procedures to which they are a party and the Framework Agreement).
- 5.2.3 Any release and discharge referred to in sub-paragraph 5.2.2 shall not extend to the rights and liabilities (whether actual, contingent, accrued or otherwise) of a Party as at the Withdrawal Date (whether or not the other Parties are aware of such rights and liabilities at the Withdrawal Date).
- 5.2.4 Save as provided in sub-paragraph 5.2.2, the Framework Agreement and Code shall, upon withdrawal of any Party, remain in full force and effect and binding on each of the other Parties.
- 5.2.5 Withdrawal of a Withdrawing Party from the Framework Agreement shall not affect and shall be without prejudice to any accrued rights or liabilities that such Withdrawing Party may have under the Code, which rights or liabilities shall continue to be governed by the terms of this Code and the provisions of Section A, paragraph 3 and Section F, paragraph 2 and this paragraph 5.2 shall survive the withdrawal of the Withdrawing Party from the Framework Agreement.

6. THE COMMITTEE

6.1 Establishment and composition

- 6.1.1 The Parties shall establish a committee ("**Committee**") which shall be constituted in accordance with the further provisions of this paragraph 6.
- 6.1.2 Each Party shall be entitled to send two representatives to each meeting of the Committee ("**Committee Meeting**") or such other number of representatives as may be agreed between the Parties from time to time ("**Party Representatives**").
- 6.1.3 The Committee shall be assisted by a secretary ("**Committee Secretary**") who shall be a person appointed and provided by NGC. The Committee Secretary shall carry out such activities as are specified in this Code and as are otherwise agreed between the Parties from time to time but shall not have a right to vote at any Committee Meeting.
- 6.1.4 In addition to the Party Representatives and Committee Secretary, there shall be a chair of the Committee who shall be appointed annually (or as otherwise agreed by the Parties) by and with the agreement of all of the Parties and who shall, taking into account the functions set out in sub-paragraph 6.3.2, carry out such activities as may be agreed between the Parties from time to time but shall not have a right to vote at any Committee Meeting ("**Chair**").
- 6.1.5 The Authority shall be entitled to receive notice of, and to appoint one or more representatives to attend and speak at, any Committee Meeting but, for the

avoidance of doubt, such representatives shall not have a right to vote at any such Committee Meeting.

- 6.1.6 Any person designated by the Authority under sub-paragraph 7.2.2.1(b) below shall be entitled to receive notice of, and to appoint up to two representatives to attend and speak at, any Committee Meeting but, for the avoidance of doubt, such representative(s) shall not have a right to vote at any such Committee Meeting and shall not be deemed to be Party Representatives.

6.2 Functions of the Committee

- 6.2.1 The functions of the Committee shall be the:

- 6.2.1.1 evaluation and administration of amendments to the Code in accordance with the procedures set out in this Section B;

- 6.2.1.2 review of the consequences of amendments to the Code;

- 6.2.1.3 administration of the Code as specified in this Section B; and

- 6.2.1.4 establishment of joint working arrangements pursuant to sub-paragraph 7.2.9.1 below.

- 6.2.2 The Committee shall endeavour at all times to perform its functions:

- 6.2.2.1 in an efficient, economical and expeditious manner, taking account of the complexity, importance and urgency of particular Proposed Amendments; and

- 6.2.2.2 with a view to ensuring that the Code facilitates achievement of the Applicable STC Objectives.

6.3 Structure of Committee Meetings

- 6.3.1 Committee Meetings shall be held on a monthly basis unless otherwise requested by a Party and with the agreement of the other Parties, or as otherwise specifically provided for in this Section B, at such time, at such place in Great Britain and in such form including, without limitation, by way of teleconference as the Parties shall decide.

- 6.3.2 In the event that the Chair is not present within fifteen minutes of the scheduled start of any Committee Meeting and has not nominated another person to take the position of chair pursuant to sub-paragraph 6.4.2, those Party Representatives present shall appoint one of their number to act as Chair for that Committee Meeting. Subject to paragraph 6.4, the functions of the Chair include:

- 6.3.2.1 to ensure that Committee Meetings are conducted in a proper, impartial and efficient manner;

6.3.2.2 to ensure that each Party Representative, any person invited to speak pursuant to sub-paragraph 6.5.1, any representatives of any person designated by the Authority under sub-paragraph 6.1.6 and any representative of the Authority have been given a reasonable opportunity to speak on any matter raised in a notice issued to each Party pursuant to sub-paragraph 6.3.5; and

6.3.2.3 to ensure that any relevant matter is put to a vote pursuant to paragraph 6.4 during the Committee Meeting.

6.3.3 In the event that the Committee Secretary is not present within fifteen minutes of the scheduled start of any Committee Meeting, those Party Representatives present shall appoint one of their number to act as Committee Secretary for that Committee Meeting.

6.3.4 A Party or other person designated under sub-paragraph 7.2.2.1(b) may submit matters and any supporting papers for consideration at a Committee Meeting to be received by the Committee Secretary not less than five Business Days before the date of that Committee Meeting or such shorter period as the Parties may agree.

6.3.5 In accordance with this paragraph 6.3, a Committee Meeting shall be convened by the Committee Secretary, by notice to each Party:

6.3.5.1 setting out the date, time and place of the Committee Meeting and (unless the Parties decide otherwise) giving at least ten Business Days' notice before the date of the Committee Meeting;

6.3.5.2 accompanied by an agenda of the matters for consideration at the Committee Meeting and any supporting papers at the time the notice is given,

and subsequently send to the Parties any supporting papers received not less than five Business Days before the date of the Committee Meeting or such shorter period as the Parties may agree.

6.3.6 The Committee Secretary shall send a copy of the notice convening a Committee Meeting, and the agenda and papers accompanying the notice to the following persons at the same time as the notice under sub-paragraph 6.3.5 is given to the Parties:

6.3.6.1 the appointed representative(s) of the Authority; and

6.3.6.2 any other person designated by the Authority under sub-paragraph 7.2.2.1(b),

and subsequently send to such persons any supporting papers received not less than five Business Days or on such earlier date as the Parties receive such supporting papers under sub-paragraph 6.3.5.

6.3.7 With the consent of all Parties the requirements of this paragraph 6.3 as to the date of, manner in and notice on which a Committee Meeting is convened, may be waived or modified including, without limitation, pursuant to sub-paragraph 6.3.8 (save that the Parties may not exercise this right to waive or detrimentally modify the rights held by Authority representatives or persons designated by the Authority under sub-paragraph 7.2.2.1(b)).

6.3.8 Where:

6.3.8.1 any matter not contained in the agenda for a Committee Meeting is put before a Committee Meeting; and

6.3.8.2 in the opinion of the Party Representatives it is necessary (in view of the urgency of the matter) that the Committee should resolve upon such matter at the Committee Meeting,

(subject always to the provisions of paragraph 6.4), the Party Representatives may so resolve upon such matter at the Committee Meeting.

6.4 **Proceedings at Committee Meetings**

6.4.1 Subject as expressly provided in the Code, the Party Representatives may regulate the conduct of and adjourn and convene Committee Meetings as they deem fit.

6.4.2 The Chair shall preside as chairman of every Committee Meeting unless the Chair is unable to attend in which case such other person shall take the position of chair as the Chair shall nominate to act in his place.

6.4.3 Subject to sub-paragraph 6.4.6, no business shall be transacted at any Committee Meeting unless a Quorum (as defined in sub-paragraph 6.4.5) is present.

6.4.4 Each (and only each) Party shall be entitled to exercise one vote at a Committee Meeting through its Party Representative(s). A matter before the Committee must be agreed unanimously in order to be passed.

6.4.5 For the purposes of this paragraph 6, a "**Quorum**" shall be constituted where each Party is represented by at least one Party Representative, unless a Party notifies the Committee Secretary and the other Parties that the matters to be discussed at such Committee Meeting do not materially affect it, in which case such Party (with the consent of the other Parties) may waive its right to attend and vote.

6.4.6 Where a Quorum is not present, the Committee Secretary shall seek to adjourn such Committee Meeting to a later date unless it is the third consecutive Committee Meeting that has been required to be adjourned as a consequence of the failure to attend by a particular Party, in which case, such Committee Meeting shall nonetheless proceed and subsequent ratification of decisions taken at the

Committee Meeting by such non-attending Party shall not be required unless the lack of attendance by such Party (on any of the three occasions) was as a consequence of an omission to send such Party the details of the Committee Meeting required pursuant to sub-paragraph 6.3.5 (unless otherwise agreed pursuant to sub-paragraph 6.3.7), in which case such ratification must be obtained.

6.4.7 An omission to send Committee Meeting documents to a person entitled to receive them under sub-paragraph 6.3.6.2 shall not prevent a Committee Meeting from proceeding unless otherwise directed by the Authority.

6.4.8 As soon as is practicable after each Committee Meeting, the Committee Secretary shall prepare and send to the Parties and the Authority the minutes of such Committee Meeting, which shall be approved (or amended and approved) by the Committee at the next Committee Meeting after they were so sent and, when approved, the Committee Secretary shall publish the approved minutes (excluding any matter which it was agreed at such Committee Meeting was not appropriate for such publication) on the Code Website.

6.5 Attendance by other persons

6.5.1 A Party may, with the agreement of the other Parties, invite any person other than a person already entitled to attend under paragraph 6.1 to attend all of, or any part of, a Committee Meeting and to speak at such Committee Meeting or part thereof, where that person so attends. For the avoidance of doubt, a person invited under this paragraph 6.5 shall not have a right to vote at any such Committee Meeting or part thereof.

6.6 Agreement of the Parties

6.6.1 Where any provision of this Section B refers to or requires the agreement of the Parties, that agreement must be unanimous unless the contrary intention is shown.

7. AMENDMENT OF THE CODE AND CODE PROCEDURES

7.1 General

7.1.1 For the purposes of this paragraph 7 only, references to the "Code" shall be deemed not to include reference to the Code Procedures or to Schedule Two.

7.1.2 The process for amending Code Procedures and Schedule Two is set out in paragraph 7.3.

7.1.3 The Code and Code Procedures may (and may only) be amended from time to time pursuant to the Transmission Licence.

7.1.4 An amendment to the Code or to a Code Procedure may necessitate amendment to the contents of a relevant TO Construction Agreement (as opposed to the form

of the terms which are set out in a Schedule to the Code and therefore a part of the Code) and, in those circumstances, those agreements contain provisions for such alterations to be effected.

7.1.5 Each Party shall keep under review whether any possible change to this Code or any Code Procedure would better facilitate achievement of the Applicable STC Objectives and shall, in accordance with this paragraph 7 and, to the extent that such matter is not covered by a Proposed Amendment or a proposed amendment to a Code Procedure, propose such change which, in the Party's opinion, would do so.

7.1.6 The Parties shall endeavour at all times to act pursuant to this Section B, paragraph 7:

7.1.6.1 in an efficient, economical and expeditious manner taking account of the complexity, importance and urgency of a particular amendment; and

7.1.6.2 with a view to ensuring that the Code, Schedule Two and the Code Procedures facilitate achievement of the Applicable STC Objectives.

7.2 **Amendment of the Code**

7.2.1 The remainder of this paragraph 7.2 is subject to the Urgent Proposed Amendment procedures under sub-paragraph 7.2.6.

7.2.2 **Proposed Amendments**

7.2.2.1 A proposal to amend the Code may be made by any of the following:

- (a) a Party; or
- (b) such person or persons having a relevant interest as may be designated in writing for this purpose by the Authority from time to time,

(referred to in this Section B as the "**Proposer**").

7.2.2.2 A proposal made pursuant to sub-paragraph 7.2.2.1 shall be submitted in writing to the Committee Secretary and shall contain the following information in relation to such proposal:

- (a) the name of the Proposer;
- (b) a description (in reasonable but not excessive detail) of the issue or defect which the proposal seeks to address;
- (c) a description (in reasonable but not excessive detail) of the proposal and of its nature and purpose;

- (d) where possible, an indication of those parts of the Code and Code Procedures which, in the opinion of the Proposer, would be likely to require amendment in order to give effect to (or would otherwise be affected by) the proposal and an indication of the nature and contents of those amendments or effects (including, where relevant, any need for the establishment of new Code Procedures or removal of existing Code Procedures);
- (e) the reasons why the Proposer believes that the proposal would better facilitate achievement of the Applicable STC Objectives as compared with the then current version of the Code, together with background information in support thereof;
- (f) where possible, an indication of the potential impact of the proposal on the BSC, CUSC or any Core Industry Document;
- (g) where possible, an indication of the potential impact of the proposal on relevant computer systems and processes used by the Parties and on any Proposed Amendment; and
- (h) where a Proposer is a person falling under sub-paragraph 7.2.2.1(b), a statement to the effect that the Proposer acknowledges that, on acceptance of the proposal as a Proposed Amendment for consideration by the Committee (pursuant to sub-paragraph 7.2.2.3) and, notwithstanding that the Proposer is not a Party, the Proposer shall grant a licence and provide a warranty in the same terms as set out in sub-paragraph 7.2.2.5.

If a proposal fails to contain any information required under this sub-paragraph 7.2.2.2, the Committee Secretary shall notify the Proposer, who may submit a revised proposal in compliance with this sub-paragraph 7.2.2.

7.2.2.3 A proposal made pursuant to and in compliance with sub-paragraph 7.2.2.2 shall be processed as a “**Proposed Amendment**” as further provided in this paragraph 7.2.

7.2.2.4 Upon receipt of a Proposed Amendment, the Committee Secretary shall as soon as reasonably practicable:

- (a) send a copy of the Proposed Amendment (including the information set out in sub-paragraphs 7.2.2.2(a) to (h)) to the Parties, the Authority and any other person designated by the Authority under sub-paragraph 7.2.2.1(b);

- (b) subject to the provisions of paragraph 6.3, put the Proposed Amendment on the agenda for the next Committee Meeting; and
- (c) post the Proposed Amendment on the Code Website or, failing that, publish the Proposed Amendment in such other manner as the Parties deem appropriate to bring it to the attention of interested third parties.

7.2.2.5 It shall be a condition to the right to make a proposal to amend the Code under this paragraph 7.2 that the Proposer:

- (a) grants a non-exclusive royalty-free licence to all Parties who request the same covering all present and future rights, Intellectual Property Rights 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 Intellectual Property Rights or moral rights or rights of confidence in such proposal inconsistent with the Parties' rights to make, publish or use such proposal,

and, in making a proposal, a Party shall be deemed to have granted the licence and given the warranty contained in sub-paragraphs (a) and (b) above respectively.

7.2.2.6 The Proposer may withdraw its Proposed Amendment on notice to the Committee Secretary at any time, in which case, the Committee Secretary shall promptly notify the other Parties, the Authority and any other person designated by the Authority under sub-paragraph 7.2.2.1(b) and then, six Business Days after issue of such notice by the Committee Secretary, shall (unless a notice is received pursuant to sub-paragraph 7.2.2.7):

- (a) revise the Amendment Register;
- (b) remove the Proposed Amendment from the agenda of the next Committee Meeting (as relevant); and
- (c) remove the Proposed Amendment from the Code Website.

7.2.2.7 Each Party, or any other person designated by the Authority under sub-paragraph 7.2.2.1(b), may within five Business Days of the date of a notice from the Committee Secretary under sub-paragraph 7.2.2.6, notify the Committee Secretary that it is prepared to support the Proposed Amendment in place of the original Proposer. If such notice is received, the name of such Party or other person designated

by the Authority under sub-paragraph 7.2.2.1(b) shall replace that of the original Proposer and such Party or other person shall be treated as the Proposer of the Proposed Amendment and, subject to the provisions of paragraph 6.3 the Proposed Amendment shall otherwise continue in accordance with this paragraph 7.2. If more than one notice is received under this sub-paragraph 7.2.2.7, the first received notice shall have effect.

- 7.2.2.8 Each Party, or any other person designated by the Authority under sub-paragraph 7.2.2.1(b), may propose one alternative to a Proposed Amendment. Such alternative proposal may be so submitted to the Committee Secretary at any time up until the point at which a Proposed Amendment is referred to the Assessment and Report Phase under sub-paragraphs 7.2.3.3 or 7.2.4.4 and shall be submitted in the same form as a proposal pursuant to sub-paragraph 7.2.2.2 and, upon compliance with which, such proposal shall be referred to as an **"Alternative Amendment"**. An Alternative Amendment may be withdrawn and supported in the same manner as a Proposed Amendment pursuant to sub-paragraphs 7.2.2.6 and 7.2.2.7. The Proposer of an Alternative Amendment shall be deemed to be a Proposer for the purposes of this paragraph 7.2.

7.2.3 Committee Amendment Meetings

- 7.2.3.1 Pursuant to sub-paragraph 7.2.2.4, the Committee shall consider a Proposed Amendment or any Alternative Amendment (unless it or they have been withdrawn under sub-paragraph 7.2.2.6) at the next Committee Meeting, in accordance with and subject to the provisions of paragraph 6.3, and at such Committee Meeting shall use all reasonable endeavours to decide (as and where relevant) whether:
- (a) the Parties require additional information in order to assess whether the Proposed Amendment or any Alternative Amendment would better facilitate achievement of the Applicable STC Objectives;
 - (b) pursuant to a recommendation under sub-paragraph 7.2.6.1(a) to recommend to the Authority that the Proposed Amendment or any Alternative Amendment should be treated as an Urgent Proposed Amendment;
 - (c) pursuant to sub-paragraph 7.2.3.4, to amalgamate the Proposed Amendment with any other Proposed Amendment.
- 7.2.3.2 Where, pursuant to sub-paragraph 7.2.3.1(a) above, the Committee decides that any of the Parties requires additional information or the Committee cannot reach a decision on such matter, the Committee

shall refer the Proposed Amendment or any Alternative Amendment for evaluation under sub-paragraph 7.2.4.

7.2.3.3 Where, pursuant to sub-paragraph 7.2.3.1(a) above, the Committee decides that the Parties do not require additional information, the Committee shall refer the Proposed Amendment or any Alternative Amendment directly to the Assessment and Report Phase under sub-paragraph 7.2.5.

7.2.3.4 The Committee may decide to amalgamate a Proposed Amendment with one or more other Proposed Amendment(s) where the subject matter of such Proposed Amendment is sufficiently proximate to justify amalgamation on the grounds of efficiency and/or where such Proposed Amendment(s) are logically dependent on each other.

7.2.3.5 Where Proposed Amendments are amalgamated pursuant to sub-paragraph 7.2.3.4:

- (a) such Proposed Amendments shall be treated as a single Proposed Amendment;
- (b) references in this Section B to a Proposed Amendment shall include and apply to a group of two or more Proposed Amendments so amalgamated; and
- (c) the Proposers of each such amalgamated Proposed Amendment shall co-operate in deciding which of them shall constitute the Proposer of such amalgamated Proposed Amendment, failing which agreement, the Proposed Amendments shall continue separately as before.

7.2.4 Evaluation Phase

7.2.4.1 The Parties shall use their reasonable endeavours in order to ensure that the Evaluation Phase as set out in this sub-paragraph 7.2.4 shall take no longer than two months from its referral under sub-paragraph 7.2.3.2 up to the referral to the Assessment and Report Phase under sub-paragraph 7.2.4.4 unless otherwise agreed by the Authority.

7.2.4.2 Following referral of a Proposed Amendment or any Alternative Amendment pursuant to sub-paragraph 7.2.3.2, the Committee shall invite representations or commission such studies, working groups and other evaluation as it deems appropriate in order that each Party is provided with sufficient information such that it can assess whether the Proposed Amendment or any Alternative Amendment would better facilitate achievement of the Applicable STC Objectives.

7.2.4.3 Following receipt of any representations, study, working group report or other evaluation pursuant to sub-paragraph 7.2.4.2, the Committee

shall consider whether the information provided is sufficient for each Party to form a view as to whether the Proposed Amendment or any Alternative Amendment better facilitate achievement of the Applicable STC Objectives and may invite such further representations, studies, working groups and other evaluation as it deems appropriate until the Committee considers that the information provided is sufficient.

- 7.2.4.4 Following completion of this Evaluation Phase under this sub-paragraph 7.2.4, the Committee shall refer the Proposed Amendment or any Alternative Amendment directly to the Assessment and Report Phase under sub-paragraph 7.2.5.

7.2.5 **Assessment and Report Phase**

- 7.2.5.1 The Parties shall use their reasonable endeavours in order to ensure that the Assessment and Report Phase as set out in this sub-paragraph 7.2.5 shall take no longer than four months from its initiation by referral under sub-paragraphs 7.2.3.2 or 7.2.4.4 up to submission of the Amendment Report to the Authority under sub-paragraph 7.2.5.11(a) unless otherwise agreed by the Authority.
- 7.2.5.2 Following referral to the Assessment and Report Phase under sub-paragraphs 7.2.3.3 or 7.2.4.4, the Committee shall commission from each of the Parties an analysis and impact assessment (to the extent that such assessment has not already been provided as part of the Evaluation Phase) ("**Assessment**"). Such Assessment shall include an assessment by each Party of the likely effect of the Proposed Amendment and any Alternative Amendment on that Party's Transmission System and its other systems (and, to the extent reasonably practicable on the Transmission System and systems of the other Parties), including a description of any works necessary to implement the change and an estimate of the development, capital and operating costs associated with implementing the changes to the Code and Code Procedures in such manner as the Committee feels fit, provided that, so far as any such Assessment requires information which is not generally available concerning that Party's Transmission System, such Assessment shall be made on the basis of that Party's proper assessment (which that Party shall make available for these purposes) of the impact of the Proposed Amendment or any Alternative Amendment on that Party's Transmission System.
- 7.2.5.3 Following completion of the Assessment under sub-paragraph 7.2.5.2 the Committee shall prepare a report and recommendation as to whether the Proposed Amendment and any Alternative Amendment better facilitate achievement of the Applicable STC Objectives. In so doing, the Committee shall take into account each Party's Assessment and use all reasonable endeavours to decide whether the Proposed Amendment or any Alternative Amendment would better

facilitate achievement of the Applicable STC Objectives and therefore whether or not to recommend to the Authority that a Proposed Amendment or any Alternative Amendment should or should not be made.

- 7.2.5.4 Where the Committee cannot reach a decision pursuant to sub-paragraph 7.2.5.3, each Party shall prepare its own written opinion as to whether the Proposed Amendment or any Alternative Amendment would better meet the Applicable STC Objectives and whether or not it recommends to the Authority that a Proposed Amendment or any Alternative Amendment should or should not be made and such written opinions shall be incorporated into the report.
- 7.2.5.5 Where the Committee is proposing to recommend to the Authority that a Proposed Amendment or any Alternative Amendment should not be made, the Committee shall consult with the Authority as to whether the Authority would like the Amendment Report to include the proposed text to amend the Code. If the Authority does not wish the Amendment Report to include the proposed text to amend the Code, no text need be included. If the Authority does want the Amendment Report to include the proposed text to amend the Code and no detailed text has yet been prepared, unless otherwise agreed between the Parties or directed by the Authority, the Proposer shall prepare such text to amend the Code and shall seek the views of the other Parties and take such views into account in preparing such text.
- 7.2.5.6 Where the Committee or any Party is intending to recommend to the Authority that a Proposed Amendment or any Alternative Amendment should be made, such text to amend the Code shall be prepared by the Proposer, unless the Parties otherwise agree that such text should be prepared by another Party or person and the Proposer (or other such person, as appropriate) shall seek the views of the other Parties and take such views into account in preparing such text.
- 7.2.5.7 Where proposed text to amend the Code has been produced pursuant to sub-paragraphs 7.2.5.5 or 7.2.5.6 (or otherwise) the Committee (and any Proposer who is a person designated by the Authority under sub-paragraph 7.2.2.1(b) and whose Proposed Amendment or Alternative Amendment is the subject of the text) shall decide whether to approve (or amend and then approve) the proposed text, failing which decision, the text shall stand but each Party (and any Proposer of such Proposed Amendment or Alternative Amendment that is the subject of the text, where such Proposer is a person designated by the Authority under sub-paragraph 7.2.2.1(b)) shall prepare written representations giving its own opinion on such text.

7.2.5.8 Following completion of the steps set out in sub-paragraphs 7.2.5.2 to 7.2.5.7 above (where relevant), the Committee Secretary shall prepare a proposed version of the Amendment Report setting out:

- (a) the Proposed Amendment and any Alternative Amendments;
- (b) the recommendation of the Committee (or, where the Parties are not in agreement, the separate recommendations of each of the Parties prepared pursuant to sub-paragraph 7.2.5.4) as to whether or not such Proposed Amendment or any Alternative Amendment should be made, including the Parties' analysis of whether (and, if so, to what extent) the Proposed Amendment or any Alternative Amendment would better facilitate achievement of the Applicable STC Objectives and the views and rationale in respect thereof;
- (c) draft text prepared pursuant to sub-paragraph 7.2.5.7 and any representations on such text where relevant;
- (d) a summary of the Assessments provided pursuant to sub-paragraph 7.2.5.2;
- (e) the proposed Implementation Date of the Proposed Amendment or any Alternative Amendments as agreed by the Committee, failing which, as shall be proposed by the Proposer and, in the latter case, accompanied by the written representations of the other Parties any person designated by the Authority under sub-paragraph 7.2.2.1(b) giving their own opinion as to what the Implementation Date should be; and
- (f) (to the extent that such matters are not included pursuant to sub-paragraph (d)), an analysis of:
 - (i) the impact of the Proposed Amendment and any Alternative Amendment on the BSC, CUSC and Core Industry Documents, Code Procedures and contents of any Interface Agreement or TO Construction Agreement;
 - (ii) the changes which would be required to give effect to the Proposed Amendment and any Alternative Amendment in relation to the BSC, CUSC and Core Industry Documents, Code Procedures and contents of any Interface Agreement or TO Construction Agreement;
 - (iii) the mechanism and likely timescale for making the changes referred to in sub-paragraph (ii);

- (iv) the changes 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 BSC, CUSC and Core Industry Documents;
- (v) the mechanism and likely timescale for making the changes referred to in sub-paragraph (iv);
- (vi) an estimate of the costs associated with making and delivering the changes referred to in sub-paragraphs (ii) and (iv), such costs being expected to relate to: for (ii), the costs of implementing amendments to the BSC, CUSC and Core Industry Document(s), Code Procedures, Interface Agreement and TO Construction Agreement, and for (iv), the costs of changes to computer systems and possibly processes which are established for the operation of the BSC, CUSC and Core Industry Documents,

together with a summary of representations of the Parties in relation to such matters,

(here referred to as the "**Proposed Amendment Report**") which Proposed Amendment Report shall be approved and amended as appropriate by the Committee (save for the contents of those sections where representations are to be provided by each Party in its own capacity as specified above).

7.2.5.9 Pursuant to sub-paragraph 7.2.5.8, the Committee Secretary shall:

- (a) circulate the Proposed Amendment Report to each of the Parties, any persons designated by the Authority under sub-paragraph 7.2.2.1(b) and such persons or bodies as have responsibility for progressing changes to the BSC, CUSC and Core Industry Documents and publish it on the Code Website or otherwise in such manner as may be deemed appropriate by the Parties to bring it to the attention of other persons who may have a relevant interest in the Proposed Amendment or any Alternative Amendment;
- (b) invite representations in relation to the Proposed Amendment Report within such period as the Committee shall determine (and, in any event, not more than ten Business Days); and
- (c) on receipt of representations pursuant to sub-paragraph (b), prepare a summary of such representations.

- 7.2.5.10 Pursuant to sub-paragraph 7.2.5.9, the Committee shall consider the representations made in response to the Proposed Amendment Report and shall instruct the Committee Secretary to make such changes to the Proposed Amendment Report as may be agreed by the Committee (save for the contents of those sections where representations are to be provided by each Party or other person designated by the Authority under sub-paragraph 7.2.2.1(b) (where appropriate) in its own capacity, as specified above, in which case such Party may, after notifying the Committee, direct the Committee Secretary to make reasonable changes to its representations).
- 7.2.5.11 Following the process referred to in sub-paragraph 7.2.5.10, the Proposed Amendment Report shall be referred to as the **"Amendment Report"**. The Committee Secretary shall finalise the Amendment Report and attach the summary of representations prepared pursuant to sub-paragraph 7.2.5.9(c) (together with the actual representations received), to the Amendment Report and shall promptly:
- (a) submit such Amendment Report to the Authority; and
 - (b) copy such Amendment Report to each of the Parties, persons designated by the Authority under sub-paragraph 7.2.2.1(b) and each owner of the BSC, CUSC and Core Industry Documents and post it on the Code Website.
- 7.2.5.12 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.
- 7.2.5.13 NGC shall copy any notice received by it from the Authority following submission of the Amendment Report in relation to the approval (or otherwise) of a Proposed Amendment or any Alternative Amendment to each of the Parties and persons designated by the Authority under sub-paragraph 7.2.2.1(b) and the Committee Secretary shall publish such notice on the Code Website.

7.2.6 Urgent Proposed Amendments

- 7.2.6.1 Any Party may:
- (a) recommend to the Committee that a proposal to amend the Code be treated as an Urgent Proposed Amendment and provide a suggested timetable in relation to same; or
 - (b) request that the Committee Secretary convenes a Committee Meeting by such means as are reasonably practicable to obtain the agreement of the Committee (or otherwise) that the proposal be treated as an Urgent Proposed Amendment; or

- (c) where a Committee Meeting cannot be arranged pursuant to sub-paragraph (b) above due to lack of agreement on the part of the Parties, itself refer the proposal to the Authority for determination as to whether such proposal may be treated as an Urgent Proposed Amendment and, if so, as to the procedure and timetable which should apply in respect thereof and, in doing so, shall state that the Committee has not considered the matter.
- 7.2.6.2 If the Committee decides that such proposal should be treated as an Urgent Proposed Amendment pursuant to sub-paragraph 7.2.6.1, the Committee shall promptly consult with the Authority as to whether such proposal should be treated as an Urgent Proposed Amendment and, if so, as to the procedure and timetable which should apply in respect thereof.
- 7.2.6.3 If the Committee is not in agreement pursuant to sub-paragraph 7.2.6.1 that a proposal be treated as an Urgent Proposed Amendment, any Party may itself refer the matter to the Authority but, in doing so, shall state that the Committee do not recommend that the proposal be treated as an Urgent Proposed Amendment.
- 7.2.6.4 The Committee shall:
 - (a) not treat any proposal as an Urgent Proposed Amendment except with the prior consent of the Authority;
 - (b) comply with the procedure and timetable in respect of any Urgent Proposed Amendment approved by the Authority; and
 - (c) comply with any instruction of the Authority issued in respect of such Urgent Proposed Amendment.
- 7.2.6.5 For the purposes of this sub-paragraph 7.2.6, the procedure and timetable in respect of an Urgent Proposed Amendment may (with the approval of the Authority pursuant to sub-paragraphs 7.2.6.2 or 7.2.6.3) deviate from all or part of the Amendment Procedures (save for this sub-paragraph 7.2.6) or follow any other procedure or timetable approved by the Authority.
- 7.2.6.6 Any Amendment Report (unless the Authority states that this is not required pursuant to sub-paragraphs 7.2.6.2 or 7.2.6.3) in respect of an Urgent Proposed Amendment (as relevant pursuant to sub-paragraph 7.2.6.5) shall include a statement as to why the Committee or the Proposer (as relevant) believes that such proposal should be treated as an Urgent Proposed Amendment and the extent to which the procedure followed deviated from the other Amendment Procedures that would apply to a Proposed Amendment.

7.2.6.7 The Parties shall respectively take all reasonable steps to ensure that an Urgent Proposed Amendment 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 Proposed Amendment may (subject to the approval of the Authority) result in an amendment to the Code being made on the day on which such proposal is submitted.

7.2.7 **Amendment Register**

7.2.7.1 The Committee Secretary shall establish and maintain a register (the "**Amendment Register**") which shall record, in such form as the Committee may determine, the matters set out in sub-paragraph 7.2.7.3.

7.2.7.2 The purpose of the Amendment Register shall be to assist the Committee in the operation of the Amendment Procedures under this Code and to enable the Parties and other interested third parties (including any person designated by the Authority under sub-paragraph 7.2.2.1(b)) to be reasonably informed of the progress of Proposed Amendments including any Alternative Amendments, Urgent Proposed Amendments and Approved Amendments from time to time.

7.2.7.3 The Amendment Register shall record:

- (a) details of each Proposed Amendment and any Alternative Amendment or Urgent Proposed Amendment (including the name of the Proposer, the date of the Proposed Amendment or any Alternative Amendment or Urgent Proposed Amendment and a brief description of the Proposed Amendment or any Alternative Amendment) or Urgent Proposed Amendment;
- (b) the current status and progress of each Proposed Amendment or any Alternative Amendment or Urgent Proposed Amendment and the anticipated date for reporting to the Authority in respect thereof;
- (c) the current status and progress of each Approved Amendment; and
- (d) such other matters as the Committee may consider appropriate from time to time in order to achieve the purposes set out in sub-paragraph 7.2.7.2.

7.2.7.4 The Amendment Register shall, in addition to those matters set out in sub-paragraphs 7.2.7.3, also include details of:

- (a) each Proposed Amendment or any Alternative Amendment which has been withdrawn pursuant to sub-paragraph 7.2.2.6 or rejected by the Authority; and
- (b) each Approved Amendment which has been implemented pursuant to sub-paragraph 7.2.10,

for a period of six months after such withdrawal, rejection or implementation, or such longer period as the Committee may determine.

7.2.7.5 The Committee Secretary shall publish the Amendment Register (as updated from time to time and indicating the revisions since the previous issue) on the Code Website or (in the absence, for whatever reason, of the Code Website) in such other manner and with such frequency (being not less than once per month) as the Parties may agree, in order to bring it to the attention of interested third parties and send a copy of same to each of the Parties and any person designated by the Authority under sub-paragraph 7.2.2.1(b).

7.2.8 **Monthly Progress Report**

7.2.8.1 The Committee shall prepare and submit to the Authority each month (or such less frequent period as shall be agreed with the Authority if there is no material matter arising to report) a report (to be known as the "**Progress Report**") setting out the matters referred to in sub-paragraph 7.2.8.2 in respect of the preceding month (or such longer period, as applicable) and the Committee Secretary shall then send a copy of the Progress Report to each Party and persons designated by the Authority under sub-paragraph 7.2.2.1(b).

7.2.8.2 The Progress Report shall contain:

- (a) the current version of the Amendment Register;
- (b) details of the scheduling and timetable for consideration of each Proposed Amendment or any Alternative Amendment or Urgent Proposed Amendment and completion of the Amendment Report in respect thereof in the context of all other current Proposed Amendments or any Alternative Amendment or Urgent Proposed Amendment (including an indication of the priority that the Committee affords to and between such proposals);
- (c) details of any decision to amalgamate Proposed Amendments under sub-paragraph 7.2.3.4;

- (d) details of any circumstances which lead the Committee or any Party to believe that the Implementation Date for an Approved Amendment is unlikely to be met and, if so, why;
- (e) such other matters as the Authority may request to be included from time to time; and
- (f) the basis for each of the decisions referred to above.

7.2.8.3 In the event that the Authority at any time submits a written request to the Committee to provide to it any information with respect to consideration or progress of any Proposed Amendment, Alternative Amendment or Urgent Proposed Amendment, the Committee shall promptly comply with such request.

7.2.8.4 If, following discussion with the Committee, the Authority issues a notice to the Committee Secretary requesting the Committee:

- (a) not to amalgamate Proposed Amendments as set out in the Progress Report; or
- (b) to amend the timetable for a Proposed Amendment or any Alternative Amendment or Urgent Proposed Amendment (including the priority afforded to and between such proposals),

the Committee Secretary shall send a copy of the notice to each Party and any person designated by the Authority under sub-paragraph 7.2.2.1(b)). The Committee shall comply with such notice.

7.2.8.5 The Committee Secretary shall publish each Progress Report on the Code Website within seven Business Days after it is sent to the Authority, provided that the Committee Secretary shall exclude therefrom any notice issued by the Authority pursuant to this paragraph 7.

7.2.9 **Change Co-ordination**

7.2.9.1 The Committee shall establish (and, where appropriate, revise from time to time) joint working arrangements with each panel or other body responsible for proposing change to the BSC, CUSC or Core Industry Document, to facilitate the identification, co-ordination, making and implementation of change to the BSC, CUSC or Core Industry Document or such other designated documents consequent on an amendment to the Code, in a full and timely manner. Such working arrangements shall include, without limitation, inviting representatives from panels and bodies referred to in this sub-paragraph 7.2.9.1 to participate in any working groups established or discussions with the Committee or any Party pursuant to this

paragraph 7, when the Committee or a Party or Parties otherwise identify the likelihood of an impact of a Proposed Amendment and any Alternative Amendment, on the BSC, CUSC, Core Industry Document or such other designated document.

- 7.2.9.2 The working arrangements referred to in sub-paragraph 7.2.9.1 shall be such as enable the consideration, development and evaluation of Proposed Amendments and Alternative Amendments, and the implementation of Approved Amendments, to proceed in a full and timely manner and enable changes to the BSC, CUSC or Core Industry Document or other designated documents consequent on an Approved Amendment to be made and given effect wherever possible (subject to any necessary consent of the Authority) at the same time as such Approved Amendment is made and given effect.

7.2.10 Implementation

- 7.2.10.1 Upon service by NGC to the Parties and any person designated by the Authority under sub-paragraph 7.2.2.1(b), of a signed notice of amendment in accordance with a direction of the Authority issued pursuant to NGC's Transmission Licence, the Code shall be amended in accordance with the terms of such notice.
- 7.2.10.2 An amendment to the Code shall take effect from the date and time as specified in the notice referred to in sub-paragraph 7.2.10.1 or, in the absence of any such specified time and date, 00:00 hours on the day next following the date of service of such notice.
- 7.2.10.3 The Parties shall be responsible for implementing any Approved Amendment in accordance with this sub-paragraph 7.2.10.
- 7.2.10.4 The Relevant Parties to Code Procedures shall as soon as reasonably practicable make such amendments to Code Procedures or adopt such new Code Procedures as are necessary to give full and timely effect to an Approved Amendment by the Implementation Date.
- 7.2.10.5 In relation to Approved Amendments:
- (a) each Party shall use its reasonable endeavours to progress changes made to the BSC, CUSC and Core Industry Documents (to the extent that it is a party to them) in order to give full and timely effect to an amendment to the Code by the Implementation Date;
 - (b) each Party shall do what is required to those of its systems and processes which support the operation of the Code as may be necessary in order to give full and timely effect to an amendment to the Code by the Implementation Date; and

- (c) each Party must keep the Committee informed of any matter that may affect the ability for the Implementation Date to be met.

- 7.2.10.6 Without prejudice to the obligations of the Parties under this sub-paragraph 7.2.10, the Implementation Date may be extended or shortened with the prior approval of, or at the direction of, the Authority.
- 7.2.10.7 The Committee or any Party shall apply to the Authority for an extension of the Implementation Date if it becomes aware of any circumstances that are likely to cause a delay in the implementation of an Approved Amendment.
- 7.2.10.8 An amendment made pursuant to and in accordance with this paragraph 7.2 shall not be impaired or invalidated in any way by any inadvertent failure to comply with or give effect to this sub-paragraph 7.2.10.

7.3 Amendment and Creation of Code Procedures

- 7.3.1 The Relevant Parties may amend (whether by way of modification, deletion, addition, replacement or otherwise) existing Code Procedures or create additional Code Procedures subject to and in accordance with the procedures set out in this paragraph 7.3.
- 7.3.2 The Relevant Parties may only make amendments to existing Code Procedures or create additional Code Procedures if and to the extent that:
 - 7.3.2.1 the amendment or addition is consistent with, and does not impair, frustrate or invalidate the provisions of the Code;
 - 7.3.2.2 the amendment or addition does not impose new obligations or liabilities or restrictions of a material nature on Parties which are not subsidiary to the rights and obligations of the Parties under the Code; and
 - 7.3.2.3 the Relevant Parties deem that the amendment or addition is appropriate to support compliance with the Code.
- 7.3.3 All Relevant Parties shall use their best endeavours to agree between themselves any amendment to an existing Code Procedure or creation of a new Code Procedure that is proposed by a Relevant Party.
- 7.3.4 Where the Relevant Parties are unable to reach agreement pursuant to sub-paragraph 7.3.3, any such Relevant Party may promptly forward the matter as a Dispute to the Authority under Section H, paragraph 4.1 whereupon the Parties shall comply with such determination and direction as the Authority may make after taking such steps as the Authority may deem fit in order to make such direction (including, without limitation, seeking representations from the Parties

and any other person and consulting on any potential amendment to an existing Code Procedure or creation of a new Code Procedure). The Parties shall be bound by such direction as the Authority shall make in relation to an amendment to a Code Procedure or creation of a new Code Procedure until such time as the Relevant Parties can agree between themselves any changes pursuant to this paragraph 7.3.

- 7.3.5 For the avoidance of doubt, any direction made by the Authority pursuant to sub-paragraph 7.3.4 shall not constitute approval of any such amendment to a Code Procedure or creation of a new Code Procedure.
- 7.3.6 Where an amendment to a Code Procedure or the creation of a new Code Procedure is agreed pursuant to sub-paragraph 7.3.3 or directed pursuant to sub-paragraph 7.3.4 then the Relevant Parties shall co-ordinate the sending of the text of the amended Code Procedure or new Code Procedure (and including the proposed effective date for such amendment or new Code Procedure), signed and dated by all Relevant Parties, to the Committee Secretary (for and on behalf of all Relevant Parties).
- 7.3.7 Upon receipt of a signed amended Code Procedure or new Code Procedure pursuant to sub-paragraph 7.3.6, the Committee Secretary shall immediately (and in any event prior to the effective date specified by the Relevant Parties in such amended Code Procedure or new Code Procedure):
 - 7.3.7.1 send a copy of the amended Code Procedure or new Code Procedure to each of the Relevant Parties and to the Authority;
 - 7.3.7.2 update Schedule Two to include the relevant details of the amended Code Procedure or new Code Procedure;
 - 7.3.7.3 send a notice containing a copy of the amended Schedule Two to the Authority, each of the Parties and to such other person as the Authority may designate from time to time, upon the date of which notice, such amended Schedule shall be deemed to be an amendment to the Code for the purposes of this Section B;
 - 7.3.7.4 post a copy of the amended Schedule Two on the Code Website; and
 - 7.3.7.5 update the library of Code Procedures pursuant to Section A, paragraph 3.
- 7.3.8 An amendment to a Code Procedure or the addition of a new Code Procedure pursuant to this paragraph 7.3 shall take effect on the date specified in any notice issued pursuant to Section B, sub-paragraph 7.3.7.3.
- 7.3.9 Unless otherwise directed by the Authority, only the Committee Secretary shall be entitled to amend Schedule Two, and shall only be entitled to do so in accordance with and pursuant to sub-paragraph 7.3.7.

7.4 Publication

- 7.4.1 Subject to this Section B, any representations submitted by a Party or other person pursuant to the Amendment Procedures (including, without limitation, any Proposed Amendment, Alternative Amendment, Urgent Proposed Amendment, Assessment or representation or text in relation to any of these) may be made publicly available or disclosed to another Party or Parties or other persons pursuant to this Section B except as expressly requested by such Party or other person by notice in writing to the Committee Secretary (of which notice, the Committee Secretary shall then notify the other Parties and any persons designated under sub-paragraph 7.2.2.1(b)).
- 7.4.2 The Parties or, for the avoidance of doubt, the Committee Secretary, shall not be liable for any accidental publication of a representation made pursuant to sub-paragraph 7.2.5.
- 7.4.3 For the avoidance of doubt, all representations made pursuant to this paragraph 7 (whether or not marked confidential) may be sent to the Authority.
- 7.4.4 In addition to sub-paragraph 7.4.1, where any provision of this Section B provides for data, information or reports to be published or made available to Parties and/or other persons, the Committee shall exclude therefrom any matters in respect of which the Authority issues a notice to the Committee Secretary or Parties for the purposes of this paragraph 7.

SECTION C: TRANSMISSION SERVICES AND OPERATIONS

PART ONE: PROVISION OF TRANSMISSION SERVICES

1. INTRODUCTION

1.1 This Section C, Part One deals with the provision of Transmission Services by Transmission Owners to NGC and the obligations of NGC in relation to its operation of the GB Transmission System, and sets out:

- 1.1.1 the process for each Transmission Owner to specify the technical limits that normally apply to its Transmission Services in a Services Capability Specification;
- 1.1.2 the process for developing and implementing Services Restoration Proposals to restore Transmission Services in the event of any unplanned reduction in the technical limits actually applicable to the provision of Transmission Services from time to time; and
- 1.1.3 provisions dealing with the co-ordination and direction by NGC of the flow of electricity onto and over the GB Transmission System in accordance with technical limits and Licence Standards.

2. TRANSMISSION SERVICES

2.1 In accordance with the provisions of this Code, each Transmission Owner shall provide services to NGC consisting of:

- 2.1.1 making available those parts of its Transmission System which are intended for the purposes of conveying, or affecting the flow of, electricity, so that such parts are capable of doing so and are fit for those purposes;
- 2.1.2 a means of enabling NGC to direct the configuration of those parts of that Transmission Owner's Transmission System made available to it and, consistent with such means, giving effect to any such direction from time to time; and
- 2.1.3 a means of enabling NGC to obtain information in relation to that Transmission Owner's Transmission System which information is needed by NGC to enable it to co-ordinate and direct the flow of electricity onto and over the GB Transmission System and, consistent with such means, providing such information to NGC,

(together here referred to as "**Transmission Services**").

2.2. Each Transmission Owner agrees with NGC to provide Transmission Services and to plan, develop, operate and maintain its Transmission System in accordance with its

Transmission Licence and this Code, subject to any Transmission Derogations from time to time.

- 2.3 NGC shall have the right to make use of the Transmission Services provided to it under this Code in pursuance of its activities and the discharge of its obligations under its Transmission Licence and the Act and only in pursuance of such activities or discharge of such obligations.

3. SERVICES CAPABILITY SPECIFICATION

- 3.1 Each Transmission Owner shall separately have and maintain, at all times, a specification of its Transmission Services (here referred to as "**Services Capability Specification**") and shall:

3.1.1 maintain its Services Capability Specification (in accordance with Section D, Part One, sub-paragraph 2.8.2) by including, without limitation, information describing the parameters and levels within and to which its Transmission Services have been planned to be provided, or such higher levels up to which its Transmission Services are normally capable of being so provided, to NGC: such information to include and identify the technical limits that would normally apply to the provision of its Transmission Services (such technical limits here referred to as the "**Normal Capability Limits**" applicable to those Transmission Services); and

3.1.2 submit a copy of its Services Capability Specification to NGC and immediately submit to NGC copies of any amendments made to it under paragraphs 3.2 or 3.3.

- 3.2 Each Transmission Owner shall keep its Services Capability Specification under review at all times and may:

3.2.1 propose a change to the form of its Services Capability Specification at any time, any such change to be agreed between the Transmission Owner and NGC (any failure to agree shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1); and

3.2.2 amend the content of its Services Capability Specification, including amendments to any Normal Capability Limits, pursuant to Section D, Part One, sub-paragraph 2.8.2.

- 3.3 NGC may propose a change to the form of a Transmission Owner's Services Capability Specification at any time, any such change to be agreed between the Transmission Owner and NGC. Any failure to agree shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1.

- 3.4 In addition to the obligation to submit a copy of its Services Capability Specification and copies of any amendments to NGC under this paragraph 3, a Transmission Owner shall provide to NGC such other information as may reasonably be requested by NGC from time to time in order to support the full and effective enjoyment of the rights of NGC

pursuant to paragraph 2. Any dispute as to the reasonableness of such request shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1.

4. TRANSMISSION SERVICES LIMITS

4.1 Each Transmission Owner shall provide Transmission Services to NGC, pursuant to paragraph 2, in accordance with its Services Capability Specification (including to any Normal Capability Limits) except, and only to the extent that:

4.1.1 the provision of such Transmission Services is reduced due to an Outage in accordance with Section C, Part Two;

4.1.2 its Transmission Services are not, other than by reason of an Outage, physically capable of being provided or are not capable, for immediate safety reasons or pursuant to environmental obligations, of being provided in accordance with the Services Capability Specification (referred to as a "**Services Reduction**"); or

4.1.3 the Transmission Owner has notified NGC of technical limits applying in excess of Normal Capability Limits pursuant to paragraph 4.14.

4.2 Each Transmission Owner shall at all times act in accordance with Good Industry Practice in providing Transmission Services to NGC.

4.3 The technical limits to which NGC has been notified that Transmission Services are actually capable of being provided from time to time (being the Normal Capability Limits or such other technical limits as apply due to an Outage, a Services Reduction or any higher limits notified under paragraph 4.14) shall be referred to as the "**Operational Capability Limits**" applicable to those Transmission Services.

4.4 A Transmission Owner shall notify NGC immediately in the event that it becomes aware at any time that the relevant Operational Capability Limits have been exceeded by NGC.

4.5 Each Transmission Owner shall monitor, in accordance with Good Industry Practice, the provision of its Transmission Services and notify NGC (except in such circumstances as may from time to time be agreed between the Transmission Owner and NGC), as a matter of urgency, as soon as such Transmission Owner becomes aware:

4.5.1 of a Services Reduction (including notifying NGC of the revised technical limits that apply to such Transmission Services due to the Services Reduction); or

4.5.2 of a risk, materially beyond the normal level of risk, of an imminent Services Reduction (here referred to as a "**Services Reduction Risk**").

4.6 As a part of, or otherwise at the same time as, notice to NGC under paragraph 4.5, unless it is not reasonably practicable to do so (in which case a Transmission Owner shall do so as soon as reasonably practicable thereafter), a Transmission Owner shall notify NGC of:

4.6.1 in the case of a Services Reduction Risk, and where so requested by NGC, relevant data or information for the relevant Transmission Services including the

technical limits that would apply as a consequence of the relevant Services Reduction if it were to occur;

4.6.2 the reasons for any Services Reduction (or, where relevant, a Services Reduction Risk) including, without limitation, information in relation to any Event which caused or contributed to, or which may cause or contribute to, the Services Reduction or Services Reduction Risk;

4.6.3 additional relevant information including the likely duration of any Services Reduction (or, where relevant, Services Reduction Risk); and

4.6.4 unless otherwise agreed with NGC, such Transmission Owner's proposal, in reasonable but not excessive detail, (referred to here as a "**Services Restoration Proposal**") for, as appropriate:

4.6.4.1 any interim works or other actions which are able to be undertaken by such Transmission Owner to minimise the effect of the Services Reduction or Services Reduction Risk and including, where relevant, any revised Operational Capability Limits that would apply during the period of such Services Reduction or Services Reduction Risk.

4.6.4.2 restoring the Transmission Services such that they are provided in accordance with their Services Capability Specification (and to their Normal Capability Limits); and

4.6.4.3 otherwise removing, mitigating or dealing with a Services Reduction Risk,

including, in the case of sub-paragraphs 4.6.4.2 and 4.6.4.3, where necessary and appropriate, by proposing to amend the content of its Services Capability Specification (including any Normal Capability Limits) pursuant to Section D, Part One, paragraph 2.8.2.

4.7 Nothing in sub-paragraph 4.6.4 shall prevent the Parties from agreeing in advance Services Restoration Proposals to apply generally to particular types of Services Reductions or Services Reduction Risks. If such a Services Restoration Proposal is proposed in advance by a Party, any failure to agree shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1.

4.8 On or as soon as reasonably practicable after notification by the Transmission Owner of a Services Reduction (or, where relevant, a Services Reduction Risk) pursuant to paragraph 4.5, NGC and the relevant Transmission Owner shall discuss the Services Reduction (or, where relevant, Services Reduction Risk) and, in particular, agree any Services Restoration Proposal(s) notified under sub-paragraph 4.6.4 or agree that any Services Restoration Proposal(s) agreed in advance under paragraph 4.7 apply. Any failure to agree shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1.

- 4.9 A Party which has agreed a Services Restoration Proposal pursuant to paragraph 4.8 may at any time notify (either verbally or in writing) each other Party involved in such Services Restoration Proposal of any modification which it considers is required to be made to such Services Restoration Proposal in order to deal more appropriately with the Services Reduction or Services Reduction Risk. NGC and the relevant Transmission Owner shall discuss and agree any such modification. Any failure to agree a proposed modification shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1.
- 4.10 A Transmission Owner shall give effect to any Services Restoration Proposal agreed with NGC pursuant to paragraph 4.8 (as modified from time to time pursuant to paragraph 4.9).
- 4.11 If the Parties are unable to reach agreement on any Services Restoration Proposal or any proposed modification to such Services Restoration Proposal, a Transmission Owner shall nevertheless give effect to its Services Restoration Proposal (including any modification which such Transmission Owner, in its discretion, considers is required), subject to any subsequent determination of a relevant Dispute referred to the Authority pursuant to paragraphs 4.7, 4.8 or 4.9.
- 4.12 Each Transmission Owner shall take reasonable and appropriate preparatory steps, including, without limitation, having appropriate replacement Plant and Apparatus available, to minimise the duration or effect of Services Reductions and Services Reduction Risks and shall:
- 4.12.1 notify NGC of such steps from time to time or when otherwise reasonably requested by NGC; and
- 4.12.2 comply with any reasonable request from NGC to take or modify preparatory steps as specified in such request.
- 4.13 Any dispute in relation to the adequacy of the preparatory steps taken by a Transmission Owner pursuant to paragraph 4.12 or the reasonableness of a request by NGC shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1 (in the event of a dispute under this paragraph 4.13, a Transmission Owner may take such preparatory steps as it considers, in its discretion, are reasonable and appropriate, subject to the subsequent determination of any Dispute referred to the Authority pursuant to this paragraph 4.13).
- 4.14 For the avoidance of doubt, nothing in the Code shall prevent a Transmission Owner, in its discretion, from notifying NGC (including, without limitation, in response to a request from NGC) that technical limits temporarily apply in respect of specified Transmission Services in excess of their Normal Capability Limits. In any such event the Transmission Owner shall at the same time also notify NGC of any conditions that apply to the use of such Transmission Services at technical limits above their Normal Capability Limits.

5. CONFIGURATION ON NGC'S DIRECTIONS

- 5.1 A Transmission Owner may only configure such parts of its Transmission System as are made available pursuant to sub-paragraph 2.1.1 of this Section C, Part One, in accordance with directions given by NGC, except:
- 5.1.1 where otherwise agreed with NGC; or
- 5.1.2 for safety purposes or pursuant to environmental obligations in accordance with Section G, paragraph 2.
- 5.2 Notwithstanding sub-paragraph 5.1.1, but subject at all times to Section G, paragraph 2, each Transmission Owner shall comply with any reasonable direction by NGC to configure any part of its Transmission System.
- 5.3 Any direction from NGC to a Transmission Owner pursuant to paragraphs 5.1 and 5.2 shall be in the form agreed with such Transmission Owner from time to time.

6. NGC OBLIGATIONS

- 6.1 In co-ordinating and directing the flow of electricity onto and over the GB Transmission System, NGC shall:
- 6.1.1 take all reasonably practicable steps to determine, and shall ensure, that it does so in accordance with Licence Standards; and
- 6.1.2 in complying with Licence Standards, ensure that neither:
- 6.1.2.1 Operational Capability Limits; nor
- 6.1.2.2 such technical limits or other conditions as NGC becomes aware are necessary and safe in accordance with Good Industry Practice (including, without limitation, any conditions notified to it pursuant to paragraph 4.14),
- are exceeded or would be exceeded on the occurrence of a Secured Event.
- 6.2 NGC shall not be in breach of paragraph 6.1 where an Unsecured Event causes or would cause Operational Capability Limits or other relevant limits to be exceeded.
- 6.3 In the event that NGC shall at any time become aware that Operational Capability Limits or, where relevant, other conditions notified to it pursuant to paragraph 4.14 are being or have been exceeded, then NGC shall, in accordance with Licence Standards, immediately:
- 6.3.1 direct or configure the relevant Transmission System or take such other steps as are appropriate so that such Operational Capability Limits or other conditions are no longer being exceeded;
- 6.3.2 inform the relevant Transmission Owner including, without limitation, by providing (in reasonable but not excessive detail) details of and reasons for the Operational Capability Limits or other conditions being exceeded; and

- 6.3.3 without prejudice to any other rights and remedies arising under this Code, identify and carry out (in consultation with the Transmission Owner where appropriate) such actions as are reasonably necessary and appropriate to ensure that such event shall not re-occur.
- 6.4 NGC shall (except to the extent otherwise agreed with the relevant Transmission Owner) notify a Transmission Owner, as a matter of urgency, if NGC becomes aware (otherwise than from such Transmission Owner) of any Event or circumstance which is or is likely to materially affect such Transmission Owner's provision of Transmission Services in accordance with its Services Capability Specification, including of any current or likely Services Reduction or Services Reduction Risk.

PART TWO: TRANSMISSION OUTAGE PLANNING

1. INTRODUCTION

- 1.1 This Section C, Part Two deals with the placement and implementation of Outages on the GB Transmission System, and sets out the processes for:
- 1.1.1 the co-ordinated development of Outage Proposals by each Transmission Owner;
 - 1.1.2 NGC to prepare Outage Plans for the GB Transmission System taking into account each Transmission Owner's Outage Proposals;
 - 1.1.3 the real-time implementation of each Outage through a pre-agreed Outage Implementation Process; and
 - 1.1.4 provision for the reinstatement of Transmission Services which are the subject of an Outage, where so directed by NGC.

2. OUTAGE PLAN

- 2.1 In accordance with the provisions of this Section C, Part Two, NGC shall develop and maintain a separate Outage Plan of the Outages which are planned to occur on the GB Transmission System in respect of each current and each of the following six Financial Years.
- 2.2 NGC shall update each Outage Plan from time to time to reflect the best and most current information available to it and so that each contains, to the extent and in such detail as is reasonably practicable and appropriate at the time, a description of those Outages which are planned to occur on the GB Transmission System during the course of the relevant Financial Year. These may include Outages proposed by each Transmission Owner pursuant to this Section C, Part Two and any other Outages which NGC plans in respect of the GB Transmission System.
- 2.3 NGC shall ensure that, to the extent that it is reasonable and appropriate to do so, each Transmission Owner is provided with the most up-to-date version of those parts of each Outage Plan as contain or relate to Outages of, or any other Outages which are likely to

materially affect, that Transmission Owner's Transmission System. In each case, NGC shall identify those changes made to an Outage Plan since the last version provided to the relevant Transmission Owner.

- 2.4 In the course of developing its Outage Plans, NGC shall, to the extent that it is reasonable and practicable to do so:
 - 2.4.1 discuss and exchange relevant information with each other Party to the extent that such information is likely to have a material effect on the Outages proposed by such other Party and including, without limitation, the data in respect of User Outages set out in Schedule 3; and
 - 2.4.2 take into account each Outage Proposal in the preparation of its Outage Plan for the relevant Financial Year (any dispute in relation to the manner in which matters contained in an Outage Proposal are included or not included in an Outage Plan shall be referable to the Authority as a Dispute pursuant to Section H, paragraph 4.1).

3. OUTAGE PROPOSALS

- 3.1 Each Transmission Owner shall co-operate and assist NGC in developing NGC's Outage Plans, including by:
 - 3.1.1 developing and maintaining Outage Proposals, in accordance with paragraph 3.2, with the objective of providing NGC with a proposed placement of Outages for each Financial Year that facilitates as co-ordinated and economical placement of Outages on the GB Transmission System as is reasonably foreseeable and practicable, given the information available to such Transmission Owner; and
 - 3.1.2 providing NGC with the most up-to-date version of each of its Outage Proposals up until the date on which the final version of each such Outage Proposal is submitted to NGC pursuant to paragraph 3.7.
- 3.2 Each Transmission Owner shall develop and maintain, in consultation with NGC, a separate Outage Proposal of the Outages which are planned to occur on the Transmission Owner's Transmission System in respect of the current and each of the following six Financial Years.
- 3.3 Each Transmission Owner shall update each Outage Proposal from time to time, up until the final version of its Outage Proposal is submitted under paragraph 3.7, to reflect the best and most current information available to it and so that each contains, to the extent and in such detail as is reasonably practicable and appropriate at the time, a description of those Outages which are planned to occur on its Transmission System during the course of the relevant Financial Year.
- 3.4 Each Transmission Owner shall, in preparing its Outage Proposal in respect of each Financial Year, and NGC shall, in planning Outages on its Transmission System in respect of each Financial Year, discuss and exchange relevant information with each

other Party to the extent that such information is likely to have a material effect on the Outages of such other Party.

- 3.5 Each Transmission Owner shall develop its Outage Proposals taking into account, to the extent that it is reasonable and practicable to do so, the activities and reasonable requests of each other Party and the information provided to it under this Code.
- 3.6 Each Transmission Owner shall, at the request of NGC, take all reasonably practicable steps to assist NGC in co-ordinating and facilitating User Outages and Outages of each other Party.
- 3.7 On or before Week 28, each Transmission Owner shall submit to NGC the final version of such Transmission Owner's Outage Proposal for the following Financial Year, and shall ensure that such Outage Proposal is as full and complete as reasonably practicable and contains, without limitation:
 - 3.7.1 the proposed start and finish date(s) and times of each Outage;
 - 3.7.2 details of the technical limits which the Transmission Owner anticipates will apply to its Transmission Services whilst they are the subject of the Outage (where not otherwise specified, Transmission Services on Outage shall be deemed to be wholly withdrawn);
 - 3.7.3 if necessary, any information about the associated configuration of any parts of the GB Transmission System and associated arrangements that may be required in relation to the Outage;
 - 3.7.4 information to assist NGC with the efficient sequencing of Outages, including the relationship, if any, between each Outage and any other proposed Outages;
 - 3.7.5 an indication of the importance which the Transmission Owner affixes to each Outage;
 - 3.7.6 details of the Transmission Owner's flexibility margins in respect of each Outage (for example, alternative dates upon which they could be taken, or the potential for movement of other Outage dates or times);
 - 3.7.7 the Emergency Return to Service Time for those parts of the Transmission System associated with each Outage (including, where appropriate, a statement of the steps that would be taken to restore the provision of the relevant associated Transmission Services or such alternative steps as NGC and the relevant Transmission Owner may agree which are intended to give a similar or substitutive effect and, where such steps do not restore such Transmission Services to their Normal Capability Limits, the limits which would otherwise apply),

(the matters in sub-paragraphs 3.7.5, 3.7.6 and 3.7.7 being here referred to together as "**Flexibility Parameters**").

- 3.8 Following the submission of its final Outage Proposal pursuant to paragraph 3.7, a Transmission Owner shall not make or submit any further change(s) to its Outage Proposal for the following Financial Year and any further changes to the Outage Plan for such Financial Year shall be made in accordance with paragraph 5.

4. NGC ISSUE OF THE OUTAGE PLAN

- 4.1 On or before Week 34, NGC shall issue to each Transmission Owner such parts of the Outage Plan for the following Financial Year (being the same Outage Plan from which NGC will circulate relevant information to Users in accordance with Operating Code No.2) as cover Outages of, or any other Outages which are likely to materially affect, that Transmission Owner's Transmission System.
- 4.2 NGC may involve each Transmission Owner, and each Transmission Owner shall participate, as requested by NGC, in any discussions or correspondence with Users and other third parties from time to time relating to any proposed changes to the Outage Plan in respect of Outages of, or any other Outages which are likely to materially affect, such Transmission Owner's Transmission System.
- 4.3 On or before Week 49, NGC shall ensure that the Outage Plan for the following Financial Year takes into account any information or feedback received from Transmission Owners and from Users and otherwise, and shall revise and re-issue to each Transmission Owner such parts of the Outage Plan as cover Outages of, or any other Outages which are likely to materially affect, that Transmission Owner's Transmission System.
- 4.4 For the avoidance of doubt, any involvement or discussions of Transmission Owners with NGC or Users or other third parties under this paragraph 4 shall be in addition to each Transmission Owner's right to request change(s) to the Outage Plan for the following Financial Year under paragraph 5.

5. CHANGE PROCESS FOLLOWING ISSUE OF FINAL VERSION OF OUTAGE PROPOSAL

- 5.1 This paragraph 5 shall only apply to an Outage Plan from the date on which Transmission Owners are required to have submitted to NGC their final Outage Proposals for the following Financial Year pursuant to paragraph 3.7.
- 5.2 Each Party shall keep the Outage Plan under review at all times (including up to the end of an Outage) and as soon as a Party becomes aware that a change is required to such Outage Plan, including any requirement for a new Outage or changes to the scheduled dates or times for, or cancellation of, an existing Outage, that Party shall:
- 5.2.1 if it is a Transmission Owner, request a change to the Outage Plan to NGC including with such request a brief description of the reason(s) for the change; or
- 5.2.2 if it is NGC, notify each Transmission Owner that NGC itself requests or another Transmission Owner has requested (where it has received a request under subparagraph 5.2.1) a change to the Outage Plan to the extent that it considers that such change affects Outages of, or any other Outages which are likely to

materially affect, that Transmission Owner's Transmission System, with a brief description of the reason(s) for the change.

- 5.3 A request made or notice provided pursuant to paragraph 5.2 may be made or provided verbally where it is necessary and expedient to do so, provided that such request or notice is confirmed in writing as soon as reasonably practicable by the Party making it.
- 5.4 Any request for a new Outage made pursuant to paragraph 5.2 shall include, to the extent reasonably practicable, the matters set out in paragraph 3.7.
- 5.5 The obligation set out in paragraph 5.2 shall apply to the review by NGC of the Outage Plan as a whole and by each Transmission Owners only in respect of such parts of the Outage Plan as have been disclosed to it under paragraph 4.3.
- 5.6 The Parties shall at all times up to the end of an Outage also keep the information provided to each other in connection with each Outage in the Outage Plan under review and shall promptly notify each other Party of any changes in circumstances requiring changes to such information.
- 5.7 Following a request for a change to an Outage Plan made pursuant to paragraph 5.2, the Party requesting such change and any Transmission Owners which receive notification pursuant to sub-paragraph 5.2.2 shall agree how the change may be accommodated. Any failure to agree shall be referable by any of the relevant Parties to the Authority as a Dispute in accordance with Section H, paragraph 4.1.
- 5.8 NGC shall promptly update the Outage Plan to adopt any change agreed pursuant to paragraph 5.7 and in the event of a failure to agree NGC may, at its discretion, give effect to a change, including by updating the Outage Plan to adopt such change, subject to any subsequent determination of a Dispute referred to the Authority pursuant to paragraph 5.7.
- 5.9 On and from the date on which NGC re-issues the Outage Plan for the following Financial Year pursuant to paragraph 4.3, it shall maintain a register which records in relation to any change which is made to such Outage Plan after that date in accordance with this paragraph 5 (including any cancellation of an Outage):
 - 5.9.1 a description of the change, including (where appropriate) the date(s) and times specified for an Outage in the Outage Plan at the time of the change and as changed;
 - 5.9.2 the identity of the Party which proposed or requested the change; and
 - 5.9.3 a brief description of the reason for the change.
- 5.10 NGC shall make the register in paragraph 5.9 available to each Transmission Owner to the extent that it contains information in respect of Outages of, or any other Outages which are likely to materially affect, that Transmission Owner's Transmission System.

6. IMPLEMENTATION OF OUTAGES

- 6.1 NGC, and each Transmission Owner in relation to whose Transmission System an Outage contained in the Outage Plan is due to occur, shall jointly prepare for such Outage including by agreeing over a reasonably prudent period beforehand the process required (and the associated configuration of the GB Transmission System that will be required) to be undertaken by each Party in order to implement the Outage in accordance with the Outage Plan (the "**Outage Implementation Process**"). Any failure to agree shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1.
- 6.2 In the event that NGC and a Transmission Owner shall at any time be unable to agree the Outage Implementation Process to apply in respect of an Outage, the Outage Implementation Process shall be as directed by NGC subject to the subsequent determination of any Dispute referred to the Authority pursuant to paragraph 6.1.
- 6.3 The Transmission Owner on whose Transmission System an Outage is due to occur or is occurring shall notify NGC of the extent and duration of any change(s) in Operational Capability Limits that will apply to such Transmission Services as are affected by such Outage, in each case:
- 6.3.1 at the same time as the Transmission Owner makes any request to NGC pursuant to paragraph 5.2 which would have the effect of varying a notification already given under this paragraph 6.3; and
- 6.3.2 immediately following receipt of a direction from NGC for the discontinuance of such Outage pursuant to paragraph 7.
- 6.4 NGC, and the Transmission Owner in relation to whose Transmission System the Outage will occur or is occurring (as appropriate), shall each comply with and undertake such actions as are required of them under and in accordance with the Outage Implementation Process.
- 6.5 Where a Party becomes aware of any matter which may affect its ability to meet its obligations pursuant to an Outage Implementation Process, it shall promptly notify the other Party and both shall agree a change to such Outage Implementation Process. Any failure to agree shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1.
- 6.6 In the event that two Parties shall at any time be unable to agree a change to an Outage Implementation Process under paragraph 6.5, such Outage Implementation Process shall be remain unchanged, subject to the subsequent determination of any Dispute referred to the Authority pursuant to paragraph 6.5.

7. EMERGENCY RETURN TO SERVICE DURING AN OUTAGE

- 7.1 NGC may at any time direct that a Transmission Owner discontinue an Outage within the relevant Emergency Return to Service Time, whether or not expiry of the planned period of the Outage is otherwise imminent, by so notifying the relevant Transmission Owner, provided that:

- 7.1.1 NGC shall consult with such Transmission Owner before issuing any such direction (any dispute in relation to a direction made by NGC pursuant to this paragraph 7.1 shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1); and
 - 7.1.2 pending the subsequent resolution of any Dispute referred to the Authority under sub-paragraph 7.1.1, the relevant Transmission Owner shall, if NGC so requests, take the steps proposed in relation to such Outage pursuant to sub-paragraph 3.7.7 of this Section C, Part Two (or as otherwise agreed with NGC) to restore the provision of Transmission Services.
- 7.2 A direction notified pursuant to paragraph 7.1 may be notified verbally where it is necessary and expedient to do so, provided that NGC confirms such direction in writing as soon as reasonably practicable.

PART THREE: OTHER

1. INTRODUCTION

- 1.1 This Section C, Part Three deals with:
 - 1.1.1 the Testing of each Transmission Owner's Transmission System and arrangements between the Parties to facilitate the testing and commissioning of User Equipment;
 - 1.1.2 Transmission Owners entering into Interface Agreements with Users in relation to Connection Sites and New Connection Sites; and
 - 1.1.3 other operational matters including Event Reporting and Joint Investigations, Black Start, and the De-energisation of User Equipment.

2. TESTING TRANSMISSION OWNER'S TRANSMISSION SYSTEMS

2.1 Testing

- 2.1.1 Where reasonably requested by another Party, each Party shall to the extent that it is reasonably practicable for it to carry out Tests on its Transmission System (and in the case of NGC, the GB Transmission System) and shall co-operate with the carrying out of Tests by such other Party on that Party's Transmission System (and where such other Party is NGC, the GB Transmission System).
- 2.1.2 Where reasonably requested by NGC, a Transmission Owner shall provide access to its Test results and maintenance records in relation to any of its Plant or Apparatus located on Users' Sites.

2.2 Commissioning and on-load testing of User Equipment

- 2.2.1 A Transmission Owner shall, where requested by NGC, assist with the commissioning and on-load testing of a User Equipment or equipment for which a

User is responsible and NGC shall pay Reasonable Charges to the Transmission Owner in respect of any assistance so provided.

3. REQUIREMENT TO ENTER INTO INTERFACE AGREEMENT

- 3.1 In relation to Connection Sites and New Connection Sites in Scotland, each Transmission Owner to whose Transmission System such Connection Site or New Connection Site is or will be connected shall, and NGC shall procure that each relevant User shall, enter into an Interface Agreement in a form to be agreed between such Transmission Owner and User but based substantially on the form set out in Exhibit O, Part B to the CUSC where such Interface Agreement(s) is/are required.
- 3.2 A Transmission Owner shall notify NGC as soon as reasonably practicable after it has concluded a binding Interface Agreement with a User.

4. EVENT REPORTING AND JOINT INVESTIGATIONS

4.1. Notification of Events and Significant Incidents by Transmission Owners

- 4.1.1 Each Transmission Owner shall, as soon as it becomes aware of any Event on its Transmission System which has had or may have an Operational Effect on the GB Transmission System or a User System, notify NGC (either verbally or in writing), as a matter of urgency, to the extent that such information is not otherwise provided to NGC pursuant to Section C, Part One, paragraphs 4.4, 4.5 or 4.6.
- 4.1.2 NGC shall, as soon as it becomes aware of any Event on the GB Transmission System or a User System which has had or may have an Operational Effect on a Transmission Owner's Transmission System, notify such Transmission Owner (either verbally or in writing) as a matter of urgency.
- 4.1.3 Each Party may (irrespective of whether or not it has received a notification under sub-paragraph 4.1.1 or 4.1.2), in its discretion, determine that an Event is a Significant Incident and request that, where relevant, NGC or any Transmission Owner(s) whose Transmission System(s) has been or may be affected by the Significant Incident prepare and submit a report in accordance with sub-paragraph 4.1.4.
- 4.1.4 Each Party (the "**Responding Party**") shall, if requested to do so by another Party (the "**Requesting Party**") pursuant to sub-paragraph 4.1.3, prepare and submit a written report to the Requesting Party as soon as reasonably practicable in relation to a Significant Incident which shall include, without limitation, the following information:
- 4.1.4.1 a description of the Significant Incident (including, without limitation, any associated Services Reduction or Service Reduction Risk);
- 4.1.4.2 the time and date of the Significant Incident;

- 4.1.4.3 the location(s) of the Significant Incident;
 - 4.1.4.4 Plant and/or Apparatus directly involved (and not merely affected by the Event(s) giving rise to the Significant Incident);
 - 4.1.4.5 a response to any question(s) raised by the Requesting Party in relation to the Event or Significant Incident; and
 - 4.1.4.6 any other information reasonably requested by the Requesting Party in relation to the Event or Significant Incident.
- 4.1.5 Each Party shall, where reasonably requested to do so by another Party, assist in answering any questions from or otherwise providing information (in the case of NGC) to a User or in the case of any Party, to any other Party, in relation to an Event or Significant Incident on such Transmission Owner's Transmission System.

4.2. **Joint Investigations**

- 4.2.1 Where a Significant Incident has occurred and a written report has been submitted to a Requesting Party under sub-paragraph 4.1.3, such Requesting Party, or any Party which has submitted a written report in relation to such Significant Incident, may request in writing to the other, and to any other Party which has been or is likely to be affected by the Significant Incident, that a Joint Investigation be conducted (all Parties participating in a Joint Investigation are referred to collectively as the "**Investigation Parties**").
- 4.2.2 As soon as reasonably practicable following a request under sub-paragraph 4.2.1, the Investigation Parties shall endeavour to agree whether to undertake a Joint Investigation and any matters related to the conduct of such Joint Investigation and which may include, without limitation:
- 4.2.2.1 where requested by NGC, the involvement of any User(s) or other person(s);
 - 4.2.2.2 whether the Joint Investigation should also deal with any Related Significant Incidents;
 - 4.2.2.3 the form and rules of and procedure for conducting the Joint Investigation;
 - 4.2.2.4 provision for dealing with the costs of the Joint Investigation; and
 - 4.2.2.5 provision for the withdrawal of an Investigation Party or other person involved in the Joint Investigation.
- 4.2.3 For the avoidance of doubt:
- 4.2.3.1 a Joint Investigation shall not be conducted unless the Investigation Parties have reached agreement pursuant to sub-paragraph 4.2.2; and

4.2.3.2 a Joint Investigation shall not constitute, and shall remain separate from, any Dispute otherwise arising pursuant to Section H.

5. BLACK START

- 5.1 The Parties shall agree arrangements for the provision of information and assistance required to be provided by Transmission Owners so that NGC can implement a Black Start.
- 5.2 In the event of a Total Shutdown or Partial Shutdown, NGC will, as soon as reasonably practical, inform each Transmission Owner (or, in the case of a Partial Shutdown, each Transmission Owner which in NGC's reasonable opinion need to be informed) that a Total Shutdown, or, as the case may be, a Partial Shutdown, exists and that NGC intends to implement a Black Start, following which the Parties shall comply with the processes set out in the arrangements agreed pursuant to paragraph 5.1.

6. ENERGISATION AND DE-ENERGISATION

- 6.1 On notification from NGC, a Transmission Owner shall promptly comply with any instruction from NGC in relation to:
- 6.1.1 the Energisation of User Equipment specified in such notice; or
- 6.1.2 the De-energisation of User Equipment specified in such notice.

7. PROVISION OF TRAINING

- 7.1 NGC and each Transmission Owner, upon reasonable request from the other including, without limitation, as to numbers and duration, provide such nominated personnel as shall be agreed between NGC and such Transmission Owner and at the expense of the Party providing such training, with training on the processes that NGC or the Transmission Owner (as appropriate) is required to follow, or that it may otherwise develop, in the discharge of its obligations arising in relation to paragraph 5 of this Part Three.
- 7.2 Any training provided pursuant to paragraph 7.1 shall be in such form and on such terms as the Party providing such training shall, at its discretion, determine is reasonable and both relevant Parties shall co-operate in the performance of such training.
- 7.3 Any dispute arising in relation to the provision of, or failure to provide, training pursuant to this paragraph 7, shall be referable to the Authority as a Dispute in accordance with Section H, paragraph 4.1.

SECTION D: PLANNING CO-ORDINATION

PART ONE: TRANSMISSION PLANNING

1. INTRODUCTION

- 1.1 This Section D, Part One deals with the planning and development of Transmission Owners' Transmission Systems and relevant parts of the GB Transmission System on a co-ordinated basis, and sets out:
- 1.1.1 the process for Transmission Owners to develop and implement Transmission Investment Plans in respect of their Transmission Systems and NGC to develop and implement NGC Investment Plans;
 - 1.1.2 the general principles for identifying the Default Planning Boundary at Connection Sites for the purpose of planning and development; and
 - 1.1.3 provision for the Parties to co-operate in relation to the preparation by NGC of the Seven Year Statement.

2. TRANSMISSION PLANNING

2.1 Transmission Investment Plans and NGC Investment Plans

- 2.1.1 In accordance with the provisions of this Section D, Part One, each Transmission Owner shall develop and maintain a separate Transmission Investment Plan in respect of the current and each of the following six Financial Years.
- 2.1.2 Each Transmission Owner shall update each Transmission Investment Plan from time to time to reflect the best and most current information available to it and so that each contains, to the extent and in such detail as is reasonably practicable and appropriate at the time, for the relevant Financial Year:
 - 2.1.2.1 a description of any proposed Change(s) to its Transmission System;
 - 2.1.2.2 a description of any proposed variation(s) in the Transmission Services to be provided to NGC under Section C, Part One, paragraph 2.1 and including (where appropriate) any new or revised Normal Capability Levels that will apply;
 - 2.1.2.3 an indication of the works required to give effect to the proposed Changes under sub-paragraph 2.1.2.1 above (here referred to as the "**Planned Works**") and the likely material effect of such Planned Works on Users;
 - 2.1.2.4 an indication of any works which a User may have to carry out as a result of any proposed Change to a Connection Site;

- 2.1.2.5 an indication of any Outages (in reasonable but not excessive detail) likely to be required to give effect to the Planned Works;
 - 2.1.2.6 a description of any technical or operational assumptions which the Transmission Owner has, in planning and developing its Transmission System, assumed would apply to Plant or Apparatus of another Party or User Equipment at a Connection Site; and
 - 2.1.2.7 any other relevant information which the Transmission Owner considers may materially affect a Transmission Investment Plan of another Party or an NGC Investment Plan.
- 2.1.3 Each Transmission Owner shall ensure that, to the extent that it is reasonable and appropriate to do so:
 - 2.1.3.1 NGC is provided with the most up-to-date version of its Transmission Owner's Transmission Investment Plans; and
 - 2.1.3.2 such Transmission Owner provides such parts of the up-to-date versions of its Transmission Investment Plans to each other Transmission Owner as may have a material effect upon that other Transmission Owner's Transmission Investment Plans,and in each case shall clearly identify those changes made to each Transmission Investment Plan since the last version provided to the relevant Party.
- 2.1.4 In accordance with the provisions of this Section D, Part One, NGC shall develop and maintain a separate plan, in respect of the current and each of the following six Financial Years, for those proposed Changes to its Transmission System which are likely to have a material effect upon any Transmission Owner's Transmission Investment Plan (referred to as "**NGC Investment Plan**").
- 2.1.5 NGC shall update each NGC Investment Plan from time to time to reflect the best and most current information available to it and so that each contains, to the extent and in such detail as is reasonably practicable and appropriate at the time, for the relevant Financial Year, the same matters in relation to NGC as are required to be set out in relation to Transmission Owners in their Transmission Investment Plans under sub-paragraph 2.1.2.
- 2.1.6 NGC shall ensure that, to the extent that it is reasonable and appropriate to do so, each Transmission Owner is provided with such parts of its up-to-date NGC Investment Plans as may have a material effect upon that Transmission Owner's Transmission Investment Plans and shall clearly identify those changes made to each NGC Investment Plan since the last version provided to such Transmission Owner.

2.2 Transmission System Technical Criteria and Planning Assumptions

- 2.2.1 NGC shall prepare and update Planning Assumptions from time to time and shall promptly provide such new or updated Planning Assumptions to Transmission Owners to be used by them in planning and developing their Transmission Systems.
- 2.2.2 A Transmission Owner may at any time submit a request to NGC for a change to Planning Assumptions it has received pursuant to sub-paragraph 2.2.1, provided that such request shall contain a description (in reasonable but not excessive detail) of the reason(s) for the request.
- 2.2.3 If NGC receives a request for a change to Planning Assumptions pursuant to sub-paragraph 2.2.2 it shall, as soon as reasonably practicable:
 - 2.2.3.1 notify the Transmission Owner submitting the request and any other Transmission Owner, which is likely to be materially affected by the requested change, whether or not and, where relevant, how NGC intends to accommodate such request; and
 - 2.2.3.2 where relevant, change and re-issue such Planning Assumptions (and any related Planning Assumptions) accordingly.
- 2.2.4 A Transmission Owner may refer to the Authority as a Dispute in accordance with Section H, paragraph 4.1:
 - 2.2.4.1 any notice received from NGC under 2.2.3.1; or
 - 2.2.4.2 any failure by NGC to respond to a request submitted under sub-paragraph 2.2.2 within a reasonable period of time, taking into account the nature, complexity and urgency of the request.
- 2.2.5 Notwithstanding any request submitted by a Transmission Owner pursuant to sub-paragraph 2.2.2 above, each Transmission Owner shall continue to take into account the Planning Assumptions provided by NGC, for the purposes of sub-paragraph 2.2.7 of this Section D, Part One, subject to any subsequent changes made to such Planning Assumptions by NGC under sub-paragraph 2.2.3 or any determination of a Dispute referred to the Authority pursuant to sub-paragraph 2.2.4.
- 2.2.6 Without limitation to Section C, Part One, paragraph 2.2, in planning and developing its Transmission System, each Transmission Owner shall ensure that its Transmission System complies with:
 - 2.2.6.1 the minimum technical, design and operational criteria and performance requirements set out or referred to in Connection Conditions 6.1, 6.2, 6.3 and 6.4 and in Planning Code 6.2; or
 - 2.2.6.2 such other technical criteria or requirements as apply to any relevant part of its Transmission System by virtue of a current Transmission Derogation.

2.2.7 Each Transmission Owner shall plan and develop its Transmission System taking into account the Planning Assumptions provided to it by NGC and any other information provided to it under this Code and on the basis that User Plant and Apparatus complies with:

2.2.7.1 the minimum technical design and operational criteria and performance requirements set out in Connection Conditions 6.1, 6.2, 6.3 and 6.4; or

2.2.7.2 such other criteria or requirements as NGC may from time to time notify the Transmission Owner are applicable to specified User Plant and Apparatus pursuant to sub-paragraph 2.2.8; and

2.2.7.3 in relation to each Connection Site, such technical design and operational criteria as are set out in the Connection Site Specification,

and, unless otherwise advised by the relevant Party, that each other Party complies with the provisions of this Code and any applicable Licence Standards in planning or developing any other part of the GB Transmission System.

2.2.8 NGC shall notify each Transmission Owner whose Transmission System is likely to be materially affected by the design or operation of a User's Plant and Apparatus where NGC:

2.2.8.1 becomes aware that such User has or is likely to apply for a User Derogation;

2.2.8.2 is itself applying for a derogation under the GB Grid Code in relation to the Connection Site on which such User's Plant and Apparatus is located or to which it otherwise relates; or

2.2.8.3 is otherwise notified by such User that specified Plant or Apparatus is normally capable of operating at levels better than those set out in Connection Conditions 6.1, 6.2, 6.3 and 6.4.

2.2.9 Each Transmission Owner shall promptly notify NGC if such Transmission Owner becomes aware that a User's Plant or Apparatus has failed, or is likely to fail, otherwise than in accordance with a User Derogation, to comply with the technical design and operational criteria or performance requirements applying pursuant to sub-paragraph 2.2.7.

2.3 Co-ordination of Transmission Investment Planning

2.3.1 The Parties shall:

2.3.1.1 co-operate and assist each other in the development and implementation of co-ordinated Transmission Investment Plans and NGC Investment Plans;

2.3.1.2 meet from time to time (including by telephone if the Parties so agree) to agree arrangements to facilitate such development and implementation; and

2.3.1.3 plan and develop their Transmission Systems taking into account, to the extent that it is reasonable and practicable to do so, the activities and reasonable requests of each other Party relating to the planning and development of such other Party's Transmission System.

2.3.2. Without limitation to sub-paragraph 2.3.1, each Transmission Owner shall include in its Transmission Investment Plans and NGC shall include in its NGC Investment Plans such information directly related to the matters set out in sub-paragraphs 2.1.2.1 to 2.1.2.6 or the current or future characteristics of the Transmission Owner's Transmission System or, in the case of NGC, the GB Transmission System, as:

2.3.2.1 NGC reasonably requests; or

2.3.2.2 a Transmission Owner reasonably requests (to the extent that the information requested may have a material effect upon the requesting Transmission Owner's Transmission Investment Plan(s)).

2.4 **Changes to Transmission Investment Plans and NGC Investment Plans**

2.4.1 For the avoidance of doubt, a Transmission Owner may change any part of its Transmission Investment Plan(s) and NGC may change any part of its NGC Investment Plan(s) at any time, provided that the Party making such change provides an updated version of its Transmission Investment Plan or NGC Investment Plan (as appropriate) to other relevant Parties in accordance with sub-paragraphs 2.1.3 or 2.1.6.

2.4.2 A Party may at any time submit to another Party a request ("**Planning Request**") for a change to such parts as it has been provided with pursuant to sub-paragraphs 2.1.3 or 2.1.6 of, in the case where such other Party is a Transmission Owner, that other Party's Transmission Investment Plan(s) or, in the case where such other Party is NGC, the NGC Investment Plan(s), provided that each Planning Request shall:

2.4.2.1 contain a description of the requested change (in reasonable but not excessive detail) and the reason for the Planning Request; and

2.4.2.2 be submitted as soon as reasonably practicable after the Party submitting the Planning Request becomes aware of the need for such change.

2.4.3 A Party which receives a Planning Request under sub-paragraph 2.4.2 shall notify the Party which submitted such Planning Request whether or not and, where relevant, how it intends to accommodate the Planning Request and shall,

as soon as reasonably practicable, update its Transmission Investment Plan(s) or, in the case of NGC, its NGC Investment Plan(s), accordingly.

2.4.4 A Party may refer to the Authority as a Dispute in accordance with Section H, paragraph 4.1:

2.4.4.1 any notice issued under sub-paragraph 2.4.3 in response to a Planning Request; or

2.4.4.2 any failure by a Party to respond to a Planning Request within a reasonable period of time, taking into account the nature, complexity and urgency of the Planning Request.

2.4.5 Each Transmission Investment Plan or NGC Investment Plan shall be developed and implemented as proposed by the Party required to develop and maintain it under this Section D, Part One, subject to the subsequent determination of any Dispute referred to the Authority pursuant to sub-paragraph 2.4.4.

2.5 Arrangements with Users concerning Modifications (including Replacement of Assets)

2.5.1 NGC shall identify those Planned Works of each Transmission Owner which will require arrangements to be made between NGC and Users in relation to a Modification (including, for the avoidance of doubt, any Replacement of Assets) and, taking into account the point in time at which NGC was first made aware of Planned Works, shall:

2.5.1.1 take all reasonably practicable steps to make such arrangements within the time required to enable such Transmission Owner to undertake the Planned Works in accordance with its Transmission Investment Plan; and

2.5.1.2 promptly notify such Transmission Owner of any such Modification and keep it informed of NGC's progress in making such arrangements (including, without limitation, notifying it of any determination by the Authority in relation to a dispute between NGC and a User which is relevant to such Planned Works).

2.5.2 Subject to sub-paragraph 2.5.5, where NGC identifies that Planned Works proposed by a Transmission Owner constitute a Modification and require arrangements to be made with a User, such Transmission Owner shall not undertake such Modification otherwise than in accordance with the provisions of this Section D, Part Two and any relevant TO Construction Agreement.

2.5.3 Each Transmission Owner shall comply with any reasonable request from NGC for such assistance or further information as NGC requires in connection with identifying or making arrangements with Users pursuant to 2.5.1.

- 2.5.4 For the avoidance of doubt, and subject to sub-paragraph 2.5.5, a Transmission Owner shall not undertake any Modification unless and until NGC has notified such Transmission Owner that NGC has either agreed such Modification with the affected User or that any dispute between NGC and the User in relation to such Modification has been determined by the Authority pursuant to the CUSC.
- 2.5.5 Each Transmission Owner shall take all reasonable steps to avoid exercising its rights pursuant to this sub-paragraph 2.5.5 but, in the event that it has reasonable grounds to believe, given its Transmission Licence and statutory duties, that a Transmission Connection Asset should be replaced prior to notice being received pursuant to sub-paragraph 2.5.4, the Transmission Owner shall consult with NGC as far as reasonably practicable but shall be entitled to replace such Transmission Connection Asset.

2.6 **Connection Site Specification**

- 2.6.1 Each Transmission Owner shall have and maintain, at all times, a specification ("**Connection Site Specification**") which sets out the following information in relation to each Connection Site located on its Transmission System:
- 2.6.1.1 a description of the Transmission Connection Assets at the Connection Site and a clear identification of the boundary between Transmission Connection Assets and User Equipment;
 - 2.6.1.2 any information reasonably requested by NGC in order to enable NGC to settle or amend its bilateral agreement with such User in respect of the Connection Site;
 - 2.6.1.3 a description of the technical design and operational criteria which the Transmission Owner, in planning and developing its Transmission System, had assumed would apply to User Equipment at the Connection Site;
- 2.6.2 A dispute in relation to any change made to the Connection Site Specification by a Transmission Owner, or the reasonableness of a request for information made by NGC pursuant to sub-paragraph 2.6.1.2, may be referred as a Dispute to the Authority pursuant to Section H, paragraph 4.1.
- 2.6.3 Each Connection Site Specification shall be as proposed by the relevant Transmission Owner, subject to the subsequent determination of any Dispute referred to the Authority pursuant to sub-paragraph 2.6.2.

2.7 **Transmission Owner Derogated Plant**

- 2.7.1 A Transmission Owner shall, where requested by NGC, use all reasonable endeavours to carry out such Planned Works as are necessary to ensure that each item of Derogated Plant owned or operated by such Transmission Owner is brought up to the Required Standard applicable to it no later than the Back Stop Date applicable to it.

2.8 Implementation

- 2.8.1 Each Transmission Owner shall give effect to its Transmission Investment Plans and NGC shall give effect to its NGC Investment Plans.
- 2.8.2 Where a Transmission Owner develops its Transmission System as a consequence of giving effect to its Transmission Investment Plan pursuant to sub-paragraph 2.8.1, it shall promptly update its:
 - 2.8.2.1 Services Capability Specification to reflect each variation to the Transmission Services it provides under Section C, Part One (including by inserting or amending any applicable Normal Capability Limits); and
 - 2.8.2.2 Connection Site Specification to reflect any changes to the Transmission Connection Assets or User Equipment at a Connection Site located on such Transmission Owner's Transmission System.
- 2.8.3 Without limitation to sub-paragraph 2.3.1, the Parties shall give effect to their Transmission Investment Plans or, in the case of NGC, its NGC Investment Plans, in a co-ordinated manner and taking into account, to the extent that it is reasonable and practicable for each Party to do so, the activities and requirements of each of the other Parties including, where reasonably requested to do so by another Party, by:
 - 2.8.3.1 undertaking any incidental activities or works which that other Party reasonably identifies are required to facilitate the development of such other Party's Transmission System pursuant to sub-paragraph 2.8.1; and
 - 2.8.3.2 giving advice or assistance in order to enable that other Party to obtain such Consents as that Party may require.

3. DEFAULT PLANNING BOUNDARY

- 3.1 For the purposes of planning and developing Construction Projects in accordance with Section D, Part Two and subject to any contrary agreement between the relevant Transmission Owner and NGC (which agreement shall include, for these purposes, the Connection Site Specification and any TO Construction Agreements), the Default Planning Boundary shall be at the electrical boundary, such boundary to be determined in accordance with the following principles:
 - 3.1.1 in relation to Plant and Apparatus located between the 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;
 - 3.1.2 save as specified in sub-paragraph 3.1.3 below, in relation to Plant and Apparatus located between the 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 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;

3.1.3 in relation to Plant and Apparatus located between the Transmission System and a Distribution System and forming a part of the Transmission System 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;

3.1.4 in relation to Plant and Apparatus located between the 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

3.1.5 in the case of a metal clad switchgear bay the electrical boundary will be the equivalent of those specified in this paragraph 3.1 save that:

3.1.5.1 for rack out switchgear, the electrical boundary will be at the busbar shutters;

3.1.5.2 for SF6 switchgear, the electrical boundary will be at the gas zone separators on the busbar side of the busbar selection devices.

3.1.6 in relation to Plant and Apparatus located between the GB 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.

3.2 If, in accordance with a request received from a User, NGC wants to use, at a Connection Site, transformers of specialised design for unusual load characteristics at the electrical boundary, these shall form part of the relevant Transmission Owner's Transmission System but NGC shall pay the Transmission Owner for the proper and reasonable additional cost thereof as identified by the Transmission Owner in the TO Connection Offer covering such transformers. In this paragraph 3.2 "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).

3.3 For the avoidance of doubt nothing in this paragraph 3 shall effect any transfer of ownership in any Plant and Apparatus.

4. SEVEN YEAR STATEMENT

4.1 Preparation of Seven Year Statement

- 4.1.1 NGC shall, prior to seeking the approval of the Authority for a form of seven year statement pursuant to Standard Condition C11 of its Transmission Licence ("**Seven Year Statement**"), consult with each Transmission Owner and take into account any concerns that a Transmission Owner may have regarding changes to the costs it would incur by complying with its obligations under sub-paragraph 4.1.2 as a consequence of any proposed change in the form of Seven Year Statement.
- 4.1.2 NGC shall agree with each Transmission Owner a programme of activities required to be undertaken by that Transmission Owner in order to support NGC in NGC's preparation of each Seven Year Statement ("**SYS Programme**") and that Transmission Owner shall carry out such activities as are specified in the SYS Programme. Any failure to agree a SYS Programme may be referred as a Dispute to the Authority in accordance with Section H, paragraph 4.1.
- 4.1.3 In the event that NGC and a Transmission Owner fail to agree a SYS Programme, or any part thereof, then, subject to the determination of any Dispute referred to the Authority pursuant to sub-paragraph 4.1.2, the Transmission Owner shall carry out such SYS Programme as NGC may specify.
- 4.1.4 NGC shall provide to each Transmission Owner those parts of the initial draft text of each Seven Year Statement as are of relevance to it and shall liaise with each of them in order to agree any amendments to the initial draft text of the Seven Year Statement requested by a Transmission Owner. Any failure to agree such amendments may be referred as a Dispute to the Authority in accordance with Section H, paragraph 4.1.
- 4.1.5 In the event that NGC and a Transmission Owner fail to agree any amendments to the initial draft text of the Seven Year Statement then, subject to the determination of any Dispute referred to the Authority pursuant to sub-paragraph 4.1.4, NGC's proposals in respect of such amendments shall prevail.
- 4.1.6 For the avoidance of doubt, nothing in this paragraph 4.1 shall preclude the Parties from progressing activities pursuant to sub-paragraphs 4.1.1, 4.1.2 and 4.1.4 at the same time.

PART TWO: CONSTRUCTION

1. INTRODUCTION

- 1.1 This Section D, Part Two, deals with arrangements between NGC and Transmission Owners in relation to Construction Projects on or which otherwise materially affect such Transmission Owners' Transmission Systems and the disconnection of Users connected to Transmission Owners' Transmission Systems. This Part Two includes paragraphs relating to:
 - 1.1.1 the process by which NGC and each Transmission Owner enter into a bilateral TO Construction Agreement for the construction of a New Connection or Modification or System Construction;

- 1.1.2 Communications Plant requirements at Connection Sites; and
- 1.1.3 provision for the permanent disconnection of User Equipment connected to a Transmission Owner's Transmission Systems.

2. **NGC CONSTRUCTION APPLICATIONS**

2.1 In this Code:

2.1.1 "**Construction Project**" refers (as appropriate) to a New Connection, Modification or a System Construction; and

2.1.2 "**NGC Construction Application**" refers to an application submitted by NGC to a Transmission Owner in relation to a Construction Project, and which is (as appropriate) a:

2.1.2.1 NGC Connection Application;

2.1.2.2 NGC Modification Application; or

2.1.2.3 System Construction Application.

2.2 If, as a consequence of a User Application, NGC considers it may be necessary for a Construction Project to be undertaken in respect of such User Application, it shall submit a NGC Construction Application in accordance with paragraph 2.3 to:

2.2.1 the Transmission Owner, if any, whose Transmission System is located at the Relevant Connection Site;

2.2.2 any Transmission Owner in relation to whose Transmission System the Relevant Connection Site satisfies the criteria set out in Schedule Four; and

2.2.3 any Transmission Owner which does not receive a NGC Construction Application pursuant to sub-paragraphs 2.2.1 or 2.2.2, but which:

2.2.3.1 otherwise receives Construction Planning Assumptions pursuant to paragraph 3.2 in relation to the Relevant Connection Site; or

2.2.3.2 NGC otherwise identifies is likely to be required to enter into a TO Construction Agreement in respect of the Construction Project,

(NGC and each Transmission Owner which receives a NGC Construction Application shall be referred to in this Section as a "**Construction Party**").

2.3 NGC shall submit a NGC Construction Application:

2.3.1 pursuant to sub-paragraphs 2.2.1 and 2.2.2, as soon as reasonably practicable, and in any event within three Business Days of the User Application Date in relation to such Relevant Connection Site; and

- 2.3.2 pursuant to sub-paragraph 2.2.3, at the same time as Construction Planning Assumptions are submitted to a Transmission Owner under paragraph 3.2 or, where applicable, at the same time as NGC gives a Transmission Owner notice under paragraph 3.3.
- 2.4 For the purposes of this Section D, Part Two, a NGC Construction Application shall be deemed to be effective if it is complete and clear in all material respects.
- 2.5 If a Transmission Owner reasonably considers that a NGC Construction Application is not effective it shall, as soon as reasonably practicable and in any event within five Business Days of receipt of the NGC Construction Application, notify NGC of:
- 2.5.1 the detailed reasons why it considers the NGC Construction Application is incomplete or unclear in a material respect; and
- 2.5.2 the amendments (including clarifications, additional information, data or other material) it considers are required to make the NGC Construction Application effective,
- and shall otherwise use its best endeavours to liaise with and assist NGC (and, where reasonably requested by NGC, any relevant third parties) so that the NGC Construction Application is made effective as soon as reasonably practicable. Any dispute in relation to the effectiveness of a NGC Construction Application may be referred as a Dispute to the Authority in accordance with Section H, paragraph 4.1.
- 2.6 Each Transmission Owner shall charge NGC and NGC shall pay Engineering Charges in relation to a NGC Construction Application in accordance with Schedule Ten.
- 2.7 NGC shall immediately notify each other Construction Party following:
- 2.7.1 any change in the NGC Construction Application or associated information provided to such Construction Party; or
- 2.7.2 the withdrawal of the relevant User Application by a User, in which case such notice shall also constitute notice of withdrawal by NGC of any relevant NGC Construction Application.

3. PROVISION OF CONSTRUCTION PLANNING ASSUMPTIONS FOLLOWING A NGC CONSTRUCTION APPLICATION

- 3.1 In addition to Planning Assumptions used for general transmission planning pursuant to Section D, Part One, paragraph 2.2, NGC may, as a consequence of a User Application, also generate a separate set of Planning Assumptions which take into account the power flows which NGC expects are likely to result from the Construction Project for use by each Transmission Owner only in the preparation of TO Construction Offers ("**Construction Planning Assumptions**").

- 3.2 If NGC generates Construction Planning Assumptions, it shall do so as soon as reasonably practicable and, in any event, within five Business Days of the User Application Date and shall:
- 3.2.1 immediately provide to each Transmission Owner such parts of the set of Construction Planning Assumptions as NGC reasonably determines are likely to materially affect such Transmission Owner's Transmission System; and
 - 3.2.2 at the same time as Construction Planning Assumptions are provided to any Transmission Owner(s) pursuant to sub-paragraph 3.2.1, either:
 - 3.2.2.1 identify the NGC Construction Application already submitted to such Transmission Owner under sub-paragraphs 2.2.1 or 2.2.2 to which the Construction Planning Assumptions relate; or
 - 3.2.2.2 submit a new NGC Construction Application to such Transmission Owner pursuant to sub-paragraph 2.2.3.
- 3.3 NGC shall notify each Transmission Owner which receives an NGC Construction Application as soon as reasonably practicable and, in any event, within two Business Days of the User Application Date, if it does not intend to generate a set of Construction Planning Assumptions in respect of the relevant Construction Project. Following such notice the general Planning Assumptions provided to Transmission Owners pursuant to Section D, Part One, paragraph 2.2 shall be deemed to also be Construction Planning Assumptions for the purposes of such Construction Project.
- 3.4 NGC may, in its discretion, change a set of Construction Planning Assumptions (including any deemed Construction Planning Assumptions under paragraph 3.3) by giving notice to the relevant Transmission Owner(s), at any time up to the later of the time at which the TO Construction Offer to which such Construction Planning Assumptions apply:
- 3.4.1 is accepted by NGC pursuant to paragraph 5.3; or
 - 3.4.2 no longer remains open for acceptance pursuant to paragraph 5.1.
- 3.5 A Transmission Owner may submit a request to NGC for a change to Construction Planning Assumptions it has received pursuant to paragraphs 3.2 or 3.4 or which have been deemed pursuant to paragraph 3.3, provided that such request shall contain a description (in reasonable but not excessive detail) of the reason(s) for the request.
- 3.6 If NGC receives a request for a change to Construction Planning Assumptions pursuant to paragraph 3.5 it shall, as soon as reasonably practicable:
- 3.6.1 notify the Transmission Owner submitting the request and any other Transmission Owner, which is likely to be materially affected by the requested change, whether or not and, where relevant, how NGC intends to accommodate such request; and

- 3.6.2 where relevant, change and re-issue such Construction Planning Assumptions accordingly.
- 3.7 A Transmission Owner may refer to the Authority as a Dispute in accordance with Section H, paragraph 4.1:
- 3.7.1 any notice received from NGC under 3.6.1; or
- 3.7.2 any failure by NGC to respond to a request made by such Transmission Owner under paragraph 3.5 within a reasonable period of time, taking into account the nature, complexity and urgency of the request.
- 3.8 Notwithstanding any request submitted by a Transmission Owner pursuant to paragraph 3.5 above, each Transmission Owner shall continue to take into account the Construction Planning Assumptions provided by NGC pursuant to sub-paragraph 2.2.3 (or deemed pursuant to paragraph 3.3), for the purposes of paragraph 4.3 of this Section D, Part Two, subject to any subsequent changes made to such Construction Planning Assumptions by NGC under paragraphs 3.4 or 3.6 or any determination of a Dispute referred to the Authority pursuant to paragraph 3.7.
- 3.9 For the avoidance of doubt, any change made to Construction Planning Assumptions pursuant to paragraphs 3.4 or 3.6 shall change the existing set of Construction Planning Assumptions and shall not constitute a separate set of Construction Planning Assumptions.
- 3.10 NGC shall act in accordance with Good Industry Practice in deciding whether to generate any set of Construction Planning Assumptions and, where relevant, in generating or modifying such Construction Planning Assumptions pursuant to this paragraph 3.

4. TO CONSTRUCTION OFFERS

- 4.1 Each Transmission Owner which receives a NGC Construction Application shall notify NGC whether such Transmission Owner intends to submit a TO Construction Offer in respect of the relevant Construction Project including, without limitation, where the Transmission Owner is not submitting a TO Construction Offer because it is not obliged to do so under Standard Condition D4A of the Act. A Transmission Owner shall give such notice as soon as reasonably practicable but, in any event, on or before the later of:
- 4.1.1 twenty-five calendar days less one Business Day after the NGC Application Date; and
- 4.1.2 twenty-three calendar days less one Business Day after the Construction Assumptions Date.
- 4.2 Where a Transmission Owner does not require Transmission Construction Works to be undertaken in respect of a Construction Project or where it otherwise notifies NGC under paragraph 4.1 that it will not be submitting a TO Construction Offer, it shall

- 4.2.1 at the same time as it provides notice pursuant to paragraph 4.1, also notify NGC of any technical design or operational criteria which the Transmission Owner intends, in planning and developing its Transmission System, to assume will apply to User Equipment at the Relevant Connection Site; and
 - 4.2.2 otherwise not (subject to any contrary determination of a Dispute referred to the Authority under paragraph 4.3) submit a TO Construction Offer to NGC in relation to such Construction Project.
- 4.3 NGC may refer as a Dispute to the Authority in accordance with Section H, paragraph 4.1, any notice it receives:
 - 4.3.1 under paragraph 4.1 that a Transmission Owner does not intend to submit a TO Construction Offer in relation to a Construction Project; or
 - 4.3.2 under sub-paragraph 4.2.1 of any assumptions which a Transmission Owner intends to make in relation to User Equipment at a Relevant Connection Site.
- 4.4 A Transmission Owner shall prepare each TO Construction Offer so that, if the Construction Project to which it relates is constructed, such Transmission Owner would continue to comply with the obligations in respect of the planning and development of its Transmission System set out in Part One, paragraph 2.2 of this Section D by giving effect to such TO Construction Offer, except that:
 - 4.4.1 for the purpose of Part One, paragraph 2.2, such Transmission Owner shall take into account Construction Planning Assumptions provided to it under paragraph 3 (as modified or updated pursuant to paragraphs 3.4 or 3.6) in respect of the Construction Project in the place of any other Planning Assumptions; and
 - 4.4.2 the technical design and operational criteria for the Relevant Connection Site shall be as set out in the NGC Construction Application together with any site-specific information set out in the TO Construction Offer.
- 4.5 A TO Construction Offer may, where it is necessary for the relevant Transmission Owner to carry out additional extensive system studies to evaluate more fully the impact of a proposed Construction Project, indicate the areas that require more detailed analysis. Before such additional studies are required, NGC shall indicate whether it wishes the Transmission Owner to undertake the work necessary to proceed to make a revised TO Construction Offer within the period specified in paragraph 4 or, where relevant, any other timescale directed or consented to by the Authority.
- 4.6 NGC shall provide Detailed Planning Data to a Transmission Owner, where reasonably requested by such Transmission Owner, to enable it to carry out any detailed system studies referred to in paragraph 4.5, provided that such Transmission Owner can reasonably demonstrate that such provision is relevant and necessary.
- 4.7 Subject to paragraph 4.2, a Transmission Owner which receives an effective NGC Construction Application under paragraph 2.2 above shall, unless otherwise agreed with

NGC or determined or directed by the Authority, submit a TO Construction Offer to NGC as soon as reasonably practicable and, in any event, on or before the later of:

4.7.1 three months less thirteen Business Days after the NGC Application Date; and

4.7.2 where relevant, three months less fifteen Business Days after the Construction Assumptions Date.

4.8 NGC and a Transmission Owner may agree that the Transmission Owner may submit its TO Construction Offer otherwise than in accordance with the dates set out in paragraph 4.7 provided that:

4.8.1 a TO Construction Offer to which sub-paragraph 4.7.1 applies shall be submitted not later than three months less five Business Days after the NGC Application Date; and

4.8.2 a TO Connection Offer to which sub-paragraph 4.7.2 applies shall be submitted not later than three months less seven Business Days after the Construction Assumptions Date,

unless otherwise determined by the Authority in accordance with an application under Standard Condition C9 of NGC's Transmission Licence.

4.9 In the event that NGC modifies Construction Planning Assumptions after a Transmission Owner has submitted its TO Construction Offer for the Construction Project to which such Construction Planning Assumptions apply, the Transmission Owner shall revise and re-submit its TO Construction Offer to NGC, taking into account such modified Construction Planning Assumptions, as soon as reasonably practicable.

4.10 For the avoidance of doubt, the revision of a TO Construction Offer under paragraph 4.5 varies the existing TO Construction Offer and will not constitute a new TO Construction Offer nor affect the time for which such existing TO Construction Offer remains open for acceptance pursuant to paragraph 5.1.

5. ACCEPTANCE OF TO CONSTRUCTION OFFERS BY NGC

5.1 A TO Construction Offer shall remain open for acceptance from the date on which it is submitted to NGC pursuant to paragraph 4 to a date not less than six months from the NGC Application Date unless an application is made to the Authority under Standard Condition C9 of NGC's Transmission Licence. In which event, such period shall remain open for acceptance until the date 17 days after any determination by or other direction from the Authority pursuant to such application.

5.2 A Party may refer any dispute in connection with a TO Construction Offer as a Dispute to the Authority in accordance with Section H, paragraph 4.1.

5.3 If NGC wishes to accept a TO Construction Offer, it shall do so by promptly notifying the relevant Transmission Owner in the form specified in such TO Construction Offer and by providing such Transmission Owner with an executed copy of the relevant TO

Construction Agreement. Following notification of such acceptance, the Transmission Owner shall construct the relevant parts of the Construction Project in accordance with this Code and the executed TO Construction Agreement.

6. GENERAL PROVISIONS CONCERNING THE DEVELOPMENT OF TO CONSTRUCTION OFFERS

6.1 The Construction Parties shall, in respect of each Construction Project:

6.1.1 agree a joint timetable, subject to and in accordance with the dates set out in paragraph 4 of this Section D, Part Two, for the development of co-ordinated TO Construction Offers and, in the case of NGC, any other planning or analysis required in the course of preparing the NGC Offer;

6.1.2 co-operate and assist each other in order that TO Construction Offers, plans or analysis prepared by NGC and any application(s) for Consent(s) which are or are likely to be required in respect of the Construction Project, are co-ordinated; and

6.1.3 provide each other with information about, in the case of a Transmission Owner as provider, the contents of its TO Construction Offer and, in the case of NGC as provider, any information about its relevant planning or analysis, to the extent that such information may materially affect such other Construction Party's TO Construction Offer or, in the case where such other Construction Party is NGC, its relevant planning or analysis.

6.2 In addition to any Construction Planning Assumptions provided in accordance with paragraph 3 of this Section D, Part Two, NGC shall keep each other Construction Party reasonably informed of the likelihood of, and provide information in relation to, any potential circumstances which, if they occurred, might reasonably be expected to change the Construction Planning Assumptions or otherwise materially affect the preparation of relevant TO Construction Offers including, without limitation, information in relation to any other potential New Connections or Modifications.

6.3 If a Transmission Owner which receives additional information pursuant to paragraph 6.2 reasonably identifies that such information, if incorporated into any Construction Planning Assumptions, would be likely to affect its TO Construction Offer, such Transmission Owner shall promptly notify NGC that its TO Construction Offer would be likely to be so affected.

7. GENERAL PROVISIONS CONCERNING NEW CONNECTIONS AND MODIFICATIONS

7.1 Subject to the payment of its Reasonable Charges, if any, as provided for in this paragraph 7.1, each Party shall provide all advice and assistance reasonably requested by another Party to enable it adequately to assess the implications (including the feasibility):

7.1.1 of making a Modification to User Equipment or a User's System (whether such Modification is the result of Planned Works proposed by the Party requesting advice or assistance or at the request of a User); or

- 7.1.2 of constructing a New Connection Site (including adequately assessing the feasibility of making any NGC Connection Application or considering the terms of any TO Construction Offer).
- 7.2 If a proposed Modification referred to in paragraph 7.1 is the result of Planned Works proposed by the Party which has received a request for advice or assistance, that Party shall provide such advice and assistance free of charge. If a Modification referred to in paragraph 7.1 is or may be proposed by the Party requesting advice or assistance, or a User, or if the advice and assistance is in respect of a New Connection Site, the Party may charge NGC Reasonable Charges for such advice and assistance.
- 7.3 When giving advice and assistance pursuant to paragraph 7.1, each Party shall comply with Good Industry Practice.

8. COORDINATION OF CONSTRUCTION PROJECTS

- 8.1 Where a Construction Project involves Works being undertaken by more than one Party, each Transmission Owner which is party to a TO Construction Agreement in respect of the Construction Project and NGC (together referred to as "**Joint Project Parties**") shall throughout the construction and commissioning of the Construction Project:
 - 8.1.1 co-operate and assist each other in the development of co-ordinated TO Construction Programmes and, in the case of NGC, any other planning or analysis it undertakes in respect of the Construction Project;
 - 8.1.2 provide each other from time to time with relevant information to the extent that such information may materially affect the Works of such other Joint Project Parties;
 - 8.1.3 meet from time to time, if so requested by another Joint Project Party, to agree arrangements to facilitate such development; and
 - 8.1.4 otherwise develop their TO Construction Programmes or, in the case of NGC, any other relevant planning or analysis, taking into account, to the extent that it is reasonable and practicable to do so, the activities and requirements of each other Joint Project Party.
- 8.2 Without limitation to paragraph 8.1, the Joint Project Parties shall liaise throughout the construction and commissioning of a Construction Project and each shall provide to each other Joint Project Party all information relating to its own Works and, in the case of NGC, User Works, reasonably necessary to assist each other Joint Project Party in the performance of that other's part of the Works, and shall use all reasonable endeavours to co-ordinate and integrate their respective part of the Works. There may be meetings between representatives of the Joint Project Parties and/or the User at intervals to be agreed between the Joint Project Parties and/or the User (as appropriate). Each Joint Project Party shall deliver to each other Joint Project Party a written report of its progress during each Calendar Quarter within seven days of the end of that Calendar Quarter.

9. COMMUNICATIONS PLANT

- 9.1 NGC and a Transmission Owner which is constructing a New Connection Site shall agree the Communications Plant to be provided and installed by the Transmission Owner and this may include, without limitation, Communications Plant to facilitate communications between the relevant User and NGC. Any failure to agree may be referred as a Dispute to the Authority in accordance with Section H, paragraph 4.1.

10. CONNECTION SITE RULES

- 10.1 Prior to the Completion Date under a TO Construction Agreement, the following shall be submitted pursuant to the terms of the TO Construction Agreement:

10.1.1 copies of the Safety Rules applicable at the relevant Transmission Owner Sites or User Sites which will be used at the User/Transmission Owner interface, as followed and forwarded in accordance with the criteria set out in Section G, subparagraphs 2.2.7 to 2.2.10; and

10.1.2 notice in writing from a Transmission Owner submitted directly to the relevant User as directed by NGC, notifying NGC when it has done so, of its Safety Coordinators, which notice shall be updated and resubmitted by the Transmission Owner whenever there is a change to the identity of its Safety Coordinators or to the Connection Points; and

10.1.3 written confirmation from a Transmission Owner submitted directly to the relevant User as directed by NGC, notifying NGC when it has done so, that the Safety Coordinators acting on behalf of such Transmission Owner are authorised and competent pursuant to the requirements of OC8B; and

10.1.4 written notice from a Transmission Owner submitted directly to NGC notifying NGC of a list of the managers who have been duly authorised to sign Site Responsibility Schedules on behalf of the Transmission Owner; and

10.1.5 written notice from a User, as procured by NGC and submitted directly by the User to the relevant Transmission Owner of:

10.1.5.1 the User's Safety Co-ordinators, which notice shall be updated yearly and whenever there is a change to the identity of the User's Safety Coordinators or to the Connection Points;

10.1.5.2 a list of persons appointed by the User to undertake operational duties on the User's System and to issue and receive operational messages and instructions in relation to the User's System; and

10.1.5.3 an appointed person or persons responsible for the maintenance and testing of User's Plant and Apparatus;

10.1.6 a list of the User's managers who have been duly authorised to sign Site Responsibility Schedules on behalf of the User as procured by NGC and submitted by NGC to the relevant Transmission Owner; and

- 10.1.7 written confirmation from a User, as procured by NGC and submitted directly by the User to the relevant Transmission Owner, that the Safety Co-ordinators acting on behalf of such User are authorised and competent pursuant to the requirements of OC8B.

11. SITE RESPONSIBILITY SCHEDULES

- 11.1 In order to inform site operational staff of agreed responsibilities for Plant and/or Apparatus at an operational interface, a Site Responsibility Schedule shall be produced for a Connection Site by the Transmission Owner whose Transmission System is connected to such Connection Site and NGC shall provide such Transmission Owner with the information required to enable the Transmission Owner to prepare such Site Responsibility Schedule.
- 11.2 A Transmission Owner shall forward a Site Responsibility Schedule prepared by it pursuant to paragraph 11.1 to NGC and agree any changes that may be required to such Site Responsibility Schedule with NGC. Upon finalisation of the Site Responsibility Schedule pursuant to this paragraph 11.2, the Transmission Owner shall forward a duly signed Site Responsibility Schedule to NGC and NGC shall promptly sign and procure signatures from the relevant User as required and forward such signed copy of the Site Responsibility Schedule back to the Transmission Owner.
- 11.3 Each Site Responsibility Schedule must have recorded on it the Safety Rules which apply to each item of Plant and/or Apparatus in accordance with Section G, paragraph 2.2.
- 11.4 In carrying out their obligations under this paragraph 11, the Parties shall, and NGC shall procure that Users shall, comply with Appendix 1 of the Connection Conditions to the Grid Code (as amended from time to time).

12. ACCESS

- 12.1 The provisions relating to access to Transmission Owner's Sites by Users and to User's Sites by Transmission Owners, are set out in the Interface Agreement between such Transmission Owner and User.
- 12.2 In addition to the provisions relating to access referred to in paragraph 12.1, where a Transmission Owner Site contains exposed HV conductors, unaccompanied access will only be granted to individuals holding an Authority for Access issued by the Transmission Owner. The procedure for applying for authority for Access is contained in the Interface Agreement.

13. DISCONNECTION AND REMOVAL OF TRANSMISSION CONNECTION ASSETS

- 13.1 NGC shall provide six months notice to a Transmission Owner of the date that NGC intends to permanently disconnect User Equipment which is connected to such Transmission Owner's Transmission System.
- 13.2 NGC may provide a Transmission Owner with more than six months notice of an intended permanent disconnection of User Equipment connected to such Transmission

Owner's Transmission System only where NGC has obtained the prior consent of the relevant User to give such longer notice.

- 13.3 Where NGC permanently disconnects a User which was connected to a Transmission Owner's Transmission System:

13.3.1 NGC shall procure that such User removes any of the User Equipment on such Transmission Owner's land within six months of the date of disconnection under paragraph 13.1 or such longer period as may be agreed between the User and such Transmission Owner; and

13.3.2 such Transmission Owner shall remove any of the Transmission Owner Connection Assets on the land of the User concerned within six months of termination under paragraph 13.1 or such longer period as may be agreed between the User and such Transmission Owner.

- 13.4 Each Transmission Owner shall give, and NGC shall procure, that any relevant User gives, such rights to access land as are reasonably required in order to facilitate the removal of User Equipment and Transmission Owner Connection Assets pursuant to this paragraph 13.

- 13.5 NGC shall not be in breach of its obligation to provide notice pursuant to 13.1 to the extent that any failure or delay in giving notice to a Transmission Owner was caused by a failure or delay by the relevant User in providing notice to NGC under the CUSC.

SECTION E: BILLING AND PAYMENT

1. INTRODUCTION

1.1 This Section E sets out:

- 1.1.1 the constituent parts of TO Charges that are payable by NGC to Transmission Owners (the detailed description and method of calculation of which are set out in Schedule Ten and the Transmission Licences of the relevant Parties);
- 1.1.2 the invoicing and payment arrangements for TO Charges and other payments payable by Parties under the Code or a TO Construction Agreement, including the dates upon which such payments fall due;
- 1.1.3 arrangements for dealing with disputes regarding TO Charges and other amounts payable under the Code or a TO Construction Agreement; and
- 1.1.4 provisions in relation to the payment of interest on late payments and rights of dispute in relation to payments and otherwise pursuant under this Section E.

2. TO CHARGES

2.1 NGC shall pay to Transmission Owners TO Charges comprising the following:

- 2.1.1 charges specified in Part One of Schedule Ten (referred to as "**TO General System Charges**"); and
- 2.1.2 charges specified in Part Two of Schedule Ten (referred to as "**TO Site-Specific Charges**").

2.2 Each Transmission Owner shall determine its TO General System Charges in accordance with Part One of Schedule Ten.

2.3 Each Transmission Owner shall determine its TO Site-Specific Charges in accordance with Part Two of Schedule Ten.

3. INVOICING AND PAYMENT

3.1 Each Party entitled to receive payment under this Code or a TO Construction Agreement, including, for the avoidance of doubt, a Transmission Owner entitled to receive TO Charges ("**Receiving Party**"), shall invoice the Party required to make such payment to the Receiving Party ("**Paying Party**") in accordance with the provisions of this Section E, unless otherwise specified in this Code, or such TO Construction Agreement or agreed between the Receiving Party and the Paying Party.

3.2 Other than in respect of TO Charges, the arrangements in relation to which are set out in paragraph 3.3 below, a Receiving Party shall despatch an invoice to the relevant Paying Party:

- 3.2.1 not less than thirty days prior to the due date for payment where such due date is specified or otherwise agreed between the Receiving Party and Paying Party; or
- 3.2.2 not less than thirty days after the date on which such payment accrued, where such due date is not specified or otherwise agreed between the Receiving Party and Paying Party,

and the Paying Party shall make such payment:

- (i) by the specified or otherwise agreed due date in the case of invoices received under sub-paragraph 3.2.1; or
 - (ii) within thirty days of the date of the Receiving Party's invoice under sub-paragraph 3.2.2.
- 3.3 NGC shall pay TO Charges and all other payments due under a TO Construction Agreement to Transmission Owners, in the following manner:
 - 3.3.1 in the case of recurrent monthly TO Charges or other payments, on the later of:
 - 3.3.1.1 the 15th day following the day that the Transmission Owner's invoice therefor was despatched; and
 - 3.3.1.2 the 16th day of the month to which the invoiced TO Charges or other payments relate,unless, in any such case, such payment day is not a Business Day in which case payment shall be made on the next Business Day; or
 - 3.3.2 where TO Charges or other payments are payable other than monthly, within thirty days of the date of the Transmission Owner's invoice therefor.
- 3.4 The dates for payment as set out in paragraphs 3.2(i) and (ii), 3.3.1.1 and 3.3.1.2 and 3.3.2 above shall constitute, in each case, the "**Due Date**" for the purposes of this Section E.
- 3.5 All payments including, without limitation, TO Charges under this Section E shall be made in Pounds Sterling by the variable direct debit method, or such other form of bankers automated payment or other payment method or currency as shall be approved by the relevant Receiving Party, to the account number, bank and branch as the Receiving Party may from time to time notify to the relevant Paying Party.
- 3.6 Each Receiving Party shall provide such bank account information as a Paying Party reasonably requires from time to time in order to process payments to such Receiving Party in accordance with this Section E or otherwise under this Code or a TO Construction Agreement.
- 3.7 All payments payable under this Code and each TO Construction Agreement are (unless otherwise specified in this Code, such TO Construction Agreement or agreed between

the relevant Receiving Party and Paying Party) exclusive of VAT, which shall be added to such payments, if applicable at the rate applicable at such time. All invoices issued by Parties pursuant to this Section E shall be valid VAT invoices and shall set out the requisite details of the taxable supply to which the given invoice relates.

- 3.8 All payments under this Code shall (except to the extent otherwise required by law) be paid in full, free and clear of and without deduction set off or deferment, save as otherwise agreed by the Receiving Party and Paying Party or pursuant to a direction, other decision or award following a Dispute referred under paragraph 4.1 below.
- 3.9 Nothing in this Section E shall be construed as preventing a Receiving Party from withdrawing and replacing (without affecting the Due Date for payment) any invoice or associated statement before the Due Date for payment of such invoice, by agreement with the relevant Paying Party, where the Receiving Party is aware of any error in such invoice or associated statement.

4. DISPUTES

- 4.1 Any disputes arising out of or in relation to TO Charges or other payments under a TO Construction Agreement, this Code or otherwise pursuant to this Section E, may be referred to the Authority as a Dispute in accordance with Section H, paragraph 4.1 of this Code.
- 4.2 If a Paying Party disputes any amount shown in an invoice or statement as payable by it in respect of any TO Charges or other payments payable under a TO Construction Agreement or otherwise under this Section E, the Paying Party shall nevertheless pay the amount shown in full and may not withhold payment or any part thereof, but without prejudice to the Paying Party's right subsequently to refer such invoice or statement as a Dispute pursuant to paragraph 4.1 above.

5. INTEREST ON LATE PAYMENT

- 5.1 If any charges or payments payable under this Code or a TO Construction Agreement are not paid on or before the Due Date, unless otherwise specified in this Code, such TO Construction Agreement or otherwise agreed between the relevant Receiving Party and Paying Party, the Paying Party shall pay interest at the Default Interest Rate on the unpaid charge or payment from the Due Date until the day on which payment is made.

SECTION F: COMMUNICATIONS AND DATA

1. INTRODUCTION

1.1 This Section F sets out:

- 1.1.1 general obligations of confidentiality, including restrictions on the circumstances in which Confidential Information may be Disclosed by a Party to its Affiliates, Related Undertakings, employees or to any third parties; and
- 1.1.2 restrictions on the circumstances in which information may be provided by a Party to a Transmission Owner under this Code.

2. GENERAL CONFIDENTIALITY

2.1 Each Party undertakes that it shall at all times:

- 2.1.1 keep all Confidential Information confidential and, except as expressly permitted under sub-paragraph 2.1.3, not Disclose any Confidential Information to any of its Affiliates, Related Undertakings, employees or to any other person;
- 2.1.2 not copy or use in any manner any Confidential Information for any purposes other than the Permitted Activities;
- 2.1.3 provide copies of the Confidential Information only to those Business Personnel who properly require access to the Confidential Information and always on a strict need-to-know basis solely for or in relation to the Permitted Activities, and inform each of them of the restrictions contained in this Section F; and
- 2.1.4 procure that any Business Personnel or other person(s) to whom it discloses Confidential Information observe(s) the restrictions set out in this Section F, and be responsible for any failure by such person(s) to observe such restrictions.

2.2 Nothing in this paragraph 2 shall apply to:

- 2.2.1 any Confidential Information which has entered the public domain otherwise than as a direct or indirect result of any contravention of this Section F; or
- 2.2.2 any Confidential Information which, after it is furnished to Business Personnel:
 - 2.2.2.1 is acquired by a Party in circumstances in which this paragraph 2 does not apply; or

2.2.2.2 is acquired by a Party in circumstances in which this paragraph 2 does apply and thereafter ceases to be subject to the restrictions imposed by this paragraph 2,

otherwise than as a direct or indirect result of any contravention of this Section F or any other confidentiality obligation binding upon the person Disclosing such Confidential Information; or

2.2.3 any Confidential Information Disclosed to any person where the Disclosing Party, in making the Disclosure, is expressly permitted or required to make such Disclosure to such person:

2.2.3.1 in compliance with the duties of such Disclosing Party under any Relevant Instrument or any other Legal Requirement or requirement of a Competent Authority; or

2.2.3.2 in compliance with the conditions of the Disclosing Party's Transmission Licence; or

2.2.3.3 in response to a requirement of any stock exchange or regulatory authority or the Panel on Take-Overs and Mergers; or

2.2.3.4 pursuant to the arbitration rules of the Electricity Arbitration Association or pursuant to any judicial or other arbitral process or tribunal having jurisdiction in relation to the Disclosing Party or its Affiliates or Related Undertakings; or

2.2.4 any Confidential Information to the extent that a Disclosing Party is expressly permitted or required to Disclose that information under the terms of this Code; or

2.2.5 any Confidential Information in relation to the affairs of a User, to the extent that the Disclosing Party is expressly permitted or required to Disclose that information under any arrangement with such User; or

2.2.6 a Disclosure of any Confidential Information by the Disclosing Party to the Authority or any other Competent Authority.

2.3 For the avoidance of doubt, nothing in this paragraph 2 shall apply to any Disclosure of Confidential Information by NGC to the extent that it is expressly permitted or required to Disclose such Confidential Information under the terms of an Other Code.

2.4 Each Party undertakes that, having regard to the activities in which any Business Person of such Party is engaged and the nature and effective life of any Confidential Information divulged to him by virtue of such activities, such Party shall not

unreasonably continue (taking into account any industrial relations concerns reasonably held by it) to divulge Confidential Information to any such Business Person in relation to whom such Party has become aware of his intention to become engaged as an employee or agent of any other person who is:

2.4.1 authorised by Licence or Exemption to generate, participate in the transmission of, distribute or supply electricity; or

2.4.2 an electricity broker or who is known to be engaged in the writing of electricity sale and purchase contracts (which shall include the entering into or acquiring the benefit of a contract conferring 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

2.4.3 known to be retained as a consultant to any such person who is referred to in sub-paragraphs 2.4.1 and 2.4.2,

save where the Party could not, in all the circumstances, reasonably be expected to refrain from divulging to such Business Person Confidential Information which is required for the proper performance of his duties.

2.5 Without prejudice to the other provisions of this paragraph 2, each Party shall procure that any additional copies made of the Confidential Information, whether in hard copy or computerised form, will clearly identify the Confidential Information as confidential.

2.6 Notwithstanding any other provision of the Code, the provisions of this paragraph 2 shall continue to bind each Party after its cessation as a Party for whatever reason.

3. RESTRICTIONS ON THE PROVISION OF INFORMATION BETWEEN THE PARTIES

3.1 For the avoidance of doubt, any provision of this Code which provides for co-operation and assistance between the Parties or which otherwise permits or requires the provision of information between the Parties shall remain subject to the restrictions set out in this paragraph 3.

3.2 A Party shall not Disclose any information which it receives under or pursuant to this Code to a Transmission Owner other than in the course of performing its respective rights and obligations under this Code.

3.3 A Party shall not Disclose information to a Transmission Owner under this Code other than:

3.3.1 as, and to the extent, set out in Schedule Three; and

- 3.3.2 any incidental information which is reasonably required to support or clarify, or that is otherwise directly related to, information Disclosed under sub-paragraph 3.3.1.
- 3.4 Paragraphs 3.2 and 3.3 shall not apply to:
- 3.4.1 information that is in the public domain (otherwise than as a direct or indirect result of any contravention of this Section F); or
- 3.4.2 any information which the Disclosing Party is expressly permitted or required to Disclose to the Transmission Owner:
- 3.4.2.1 in compliance with the duties of such Disclosing Party under any Relevant Instrument or any other Legal Requirement or requirement of a Competent Authority; or
- 3.4.2.2 in compliance with the conditions of the Disclosing Party's Transmission Licence; or
- 3.4.2.3 in response to a requirement of any stock exchange or regulatory authority or the Panel on Take-Overs and Mergers; or
- 3.4.2.4 pursuant to the arbitration rules of the Electricity Arbitration Association or pursuant to any judicial or other arbitral process or tribunal having jurisdiction in relation to the Disclosing Party or its Affiliates or Related Undertakings.
- 3.5 For the avoidance of doubt, nothing in this paragraph 3 shall be taken to limit or restrict the information which may be Disclosed by a Party to NGC under this Code.
- 3.6 Information which a Party is permitted or obliged to Disclose to any other Party pursuant to this Code shall not be regarded as being in the public domain by reason only of being so Disclosed.
- 3.7 Notwithstanding any other provision of the Code, the provisions of this paragraph 3 shall continue to bind each Party after its cessation as a Party for whatever reason.

SECTION G: GENERAL PROVISIONS

1. INTRODUCTION

- 1.1 This Section G contains those provisions that are generic to this Code including, inter alia:
 - 1.1.1 provisions to be adhered to by the Parties in relation to safety and environmental issues and nuclear installations;
 - 1.1.2 the limitation of liability of Parties under the Code and the third party rights that apply;
 - 1.1.3 the restrictions on transfer and subcontracting of Parties' rights and obligations under the Code, Framework Agreement or any TO Construction Agreement and the arrangements to apply on disposal by a Party of the whole or a part of its business; and
 - 1.1.4 other provisions defining the legal and contractual relationship between the Parties under this Code.

2. SAFETY AND ENVIRONMENT

2.1 General

- 2.1.1 For the avoidance of any doubt, nothing in or pursuant to this Code shall:
 - 2.1.1.1 be taken to require a Party to do anything which could or would be unsafe or contrary to that Party's environmental obligations; nor
 - 2.1.1.2 prevent a Party from doing anything which could or would be unsafe or contrary to that Party's environmental obligations to omit to do.
- 2.1.2 A Transmission Owner shall notify NGC in the event that, and as soon as, such Transmission Owner:
 - 2.1.2.1 becomes aware that, for safety purposes or pursuant to environmental obligations of such Transmission Owner, the Transmission Owner is reasonably likely to configure, or has urgently had to configure, any part of its Transmission System or otherwise take any steps other than in accordance with a direction from NGC; or
 - 2.1.2.2 becomes aware that, for safety purposes or pursuant to environmental obligations of such Transmission Owner, it is reasonably likely to be, or has been, prevented, restricted or delayed from complying with a direction from NGC in relation to the configuration of any part of its Transmission System.
- 2.1.3 Each Party shall use its best endeavours to identify and remove or lessen the likelihood of any circumstances arising in which such Party might seek to place

reliance upon the provisions of paragraph 2.1.1 including, without limitation, by discussing such issues with the other Parties where appropriate.

2.2 User and Transmission Owner Safety Requirements

2.2.1 Notwithstanding that a Transmission Owner is not a party to the CUSC and is not thereby required to comply with the Grid Code, a Transmission Owner shall comply with:

2.2.1.1 Operating Code No 8, Appendix 2 of the Grid Code ("**OC8B**"); and

2.2.1.2 (in carrying out its obligations under Section D, Part Two, paragraph 11), Appendix 1 of the Connection Conditions of the Grid Code,

(each as amended from time to time).

2.2.2 NGC shall comply with, and shall procure that a User shall comply with, OC8B and Appendix 1 of the Connection Conditions of the Grid Code where and to the extent that such section applies to NGC and the User.

2.2.3 Each Transmission Owner shall provide to NGC a copy of and any updates to its Safety Rules as applicable from time to time.

2.2.4 NGC shall ensure that no busbar Protection, mesh corner Protection, circuit-breaker fail Protection relays, AC or DC wiring (other than power supplies of DC tripping associated with a Generating Unit itself) may be worked upon or altered by Generator personnel in the absence of a representative of the Transmission Owner or written authority from the Transmission Owner to whose Transmission System the Connection Site at which such works are to be undertaken is connected.

2.2.5 Where a Transmission Owner owns the busbar Protection at the Connection Point Site, NGC shall ensure that no busbar Protection, circuit-breaker failure Protection relays, AC or DC wiring (other than power supplies of DC tripping associated with the Network Operator or Non-Embedded Customer's Apparatus itself) may be worked upon or altered by the Network Operator or Non-Network Operator or Non-Embedded Customer's personnel in the absence of a representative of the Transmission Owner or written authority from the Transmission Owner.

2.2.6 A Transmission Owner shall use its best endeavours to provide a representative or to submit a written authority to NGC on request from NGC for the purposes of paragraphs 2.2.4 and 2.2.5.

2.2.7 Unless otherwise agreed pursuant to paragraph 2.2.9, a Transmission Owner entering and working on its Plant and/or Apparatus on a User Site will work to such User's Safety Rules as advised by and forwarded to the Transmission Owner by NGC.

- 2.2.8 Unless otherwise agreed pursuant to paragraph 2.2.10, NGC shall procure that a User entering and working on that User's Plant and/or Apparatus on a Transmission Owner Site will work to the Transmission Owner's Safety Rules, which Safety Rules, the Transmission Owner shall forward to the User directly as directed by NGC and notify NGC that it has done so.
- 2.2.9 A Transmission Owner may, with a minimum of six weeks notice, apply to NGC for permission to work according to its own Safety Rules when working on its own Plant and/or Apparatus at a User Site rather than the User's Safety Rules. NGC shall consult with the relevant User and, subject to NGC and the User's agreement that the Transmission Owner's Safety Rules provide for a level of safety commensurate with those set out in paragraph 2.2.7, NGC will notify the Transmission Owner in writing that, with effect from the date requested by the Transmission Owner, the Transmission Owner may use its own Safety Rules when working on the Transmission Owner's Plant and/or Apparatus on that User Site, which Safety Rules, the Transmission Owner shall forward to the User directly as directed by NGC and notify NGC that it has done so. Until such written approval from NGC, the Transmission Owner will continue to use the Safety Rules in accordance with paragraph 2.2.7.
- 2.2.10 NGC may (on behalf of a User), with a minimum of six weeks notice, apply to a Transmission Owner and consult with that Transmission Owner regarding permission for work to be carried out to the User's Safety Rules when work is carried out by such User on the User's Plant and/or Apparatus at the Transmission Owner's Site rather than the Transmission Owner's Safety Rules. If the Transmission Owner and NGC agree that the User's Safety Rules provide for a level of safety commensurate with those set out in paragraph 2.2.8, NGC will notify the User in writing, copied to the Transmission Owner, that, with effect from the date requested by the User, the User may use its own Safety Rules when working on such User's Plant and/or Apparatus on that Transmission Owner's Site, which Safety Rules, NGC shall procure that the User shall forward to the Transmission Owner directly. Until such written approval from NGC, NGC shall procure that the User shall continue to use the Transmission Owner's Safety Rules in accordance with paragraph 2.2.8.
- 2.2.11 If, pursuant to paragraph 2.2.9, NGC notifies a Transmission Owner that the Transmission Owner's own Safety Rules shall apply, this shall not imply that the Transmission Owner's Safety Rules will apply to entering the User's Site and access to the Transmission Owner's Plant and/or Apparatus on that User's Site. A User has responsibility for the whole of its User Site and entry and access will always be in accordance with such User's Site access procedures.
- 2.2.12 If, pursuant to paragraph 2.2.10, NGC notifies a User that the User's own Safety Rules shall apply, this shall not imply that, for such Transmission Owner's Site, the User's Safety Rules will apply to entering the Transmission Owner's Site, and access to the User's Plant and/or Apparatus on that Transmission Owner's Site. A Transmission Owner has responsibility for the whole of its Transmission Owner

Site and entry and access will always be in accordance with such Transmission Owner's Site access procedures.

3. NUCLEAR INSTALLATIONS

- 3.1 Where required by NGC upon reasonable notice, a Transmission Owner shall 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 3.2.
- 3.2 The matters referred to in paragraph 3.1 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 1995 (or legislation amending, replacing or modifying the same), or any consent, or approval issues, 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, conditions or notices.
- 3.3 NGC shall indemnify and keep indemnified any Transmission Owner for any loss, damage, costs and expenses incurred by that Transmission Owner as a consequence of any action of that Transmission Owner pursuant to paragraph 3.1 (to the extent that the action was not required by any licence or agreement binding on that Transmission Owner).
- 3.4 Notwithstanding the fact that any action or inaction allowed by paragraph 3.1 above does not constitute a breach of the Code, NGC shall be liable to Transmission Owners 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 Code) would not have been limited or excluded under the provisions of paragraph 4 below.

4. LIMITATION OF LIABILITY

- 4.1 This paragraph 4, insofar as it excludes or limits liability, shall override any other provision in the Code provided that nothing in this paragraph 4 shall exclude or restrict or otherwise prejudice or affect any of:
 - 4.1.1 the rights, powers, duties and obligations of any Party which are conferred or created by the Act, that Party's Transmission Licence, or the Regulations; or
 - 4.1.2 the rights, powers, duties and obligations of the Authority or the Secretary of State under the Act, any Transmission Licence or otherwise howsoever.
- 4.2 Subject to any liquidated damages provisions of any TO Construction Agreement and to the indemnities provided for under paragraphs 3.3 and 4.3 of this Section G, each Party agrees and acknowledges that no Party (the "**Party Liable**") nor any of its officers, employees or agents shall be liable to any other Party, for loss arising from any breach of the Code, 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:

- 4.2.1 physical damage to the property of the other Party or its respective officers, employees or agents; or
 - 4.2.2 the liability of the other Party, its officers, employees or agents to any other person for loss in respect of physical damage to the property of that or any other person, subject, for the avoidance of doubt, to the requirement that the amount of such liability claimed by such other Party should be mitigated in accordance with general law.
- 4.3 Nothing in this Code shall exclude or limit the liability of the Party Liable or restrict the ability of any Party to claim in respect of fraudulent misrepresentation or death or personal injury resulting from the negligence of the Party Liable and the Party Liable shall indemnify and keep indemnified each other Party from and against all such and any loss or liability which any such other Party may suffer or incur by reason of any claim on account of fraudulent misrepresentation or death or personal injury resulting from the negligence of the Party Liable.
- 4.4 In consideration of the rights conferred upon each Transmission Owner under the Code, the right of any of the Transmission Owners to claim in negligence, other tort, or otherwise howsoever against a CUSC Party (other than NGC) in respect of any act or omission of such CUSC Party (other than NGC) in relation to the subject matter of the CUSC is hereby excluded and each Transmission Owner agrees not to pursue any such claim save that nothing in this paragraph 4.4 shall restrict the ability of a Transmission Owner to claim in respect of fraudulent misrepresentation or death or personal injury resulting from the negligence of the CUSC Party (other than NGC).
- 4.5 Subject to any liquidated damages provisions of any TO Construction Agreement, and to the indemnities provided for under paragraphs 3.3 and 4.3 of this Section G, the Party Liable nor any of its officers, employees or agents, shall not in any circumstances whatsoever be liable in relation to the Code or its obligations under the Code, to another Party for:
- 4.5.1 any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill; or
 - 4.5.2 any indirect or consequential loss; or
 - 4.5.3 loss resulting from the liability of another Party to any other person howsoever and whensoever arising, save as provided in sub-paragraph 4.2.1 and 4.2.2.
- 4.6 The rights and remedies provided by the Code to the Parties are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies express or implied and provided by common law or statute in respect of the subject matter of the Code, including, without limitation, any rights any Party may possess in tort which shall include actions brought in negligence and/or nuisance. Accordingly, each of the Parties hereby waives to the fullest extent possible all such

rights and remedies provided by common law or statute, and releases a Party which is liable to another Party or other Parties, its or their 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 Code and undertakes not to enforce any of the same except as expressly provided herein.

4.7 Each of the paragraphs of this paragraph 4 shall:

4.7.1 be construed as a separate and several 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 Parties; and

4.7.2 survive termination of the Code and/or the Framework Agreement.

4.8 Each Party acknowledges and agrees that each of the other Parties holds the benefit of paragraphs 4.2 to 4.6 above for itself and as trustee and agent for its officers, employees and agents.

4.9 Each Party acknowledges and agrees that the provisions of this paragraph 4 have been the subject of discussion and negotiation and are fair and reasonable having regard to the circumstances as at the Code Effective Date.

4.10 For the avoidance of doubt, nothing in this paragraph 4 shall prevent or restrict any Party enforcing any obligation (including suing for a debt) owed to it under or pursuant to the Code.

5. THIRD PARTY RIGHTS

5.1 Subject to the remainder of this paragraph 5, a CUSC Party (other than NGC) may rely upon and enforce the terms of paragraph 4.4, against a Transmission Owner.

5.2 The third party rights referred to in paragraph 5.1 may only be enforced by the relevant third party subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999 and all other relevant terms of this Code.

5.3 Notwithstanding any other provision of the Code, the Parties may (pursuant to Section B), amend the Code without the consent of a third party and accordingly, section 2(1) of the Contracts (Rights of Third Parties) Act 1999 shall not apply, save that, where and to the extent that any amendment to the Code would have an impact on the rights of third parties conferred under paragraph 5.1, then NGC shall bring such impact to the attention of Parties and third persons to the extent that such impact is not already brought to their attention in a Proposed Amendment by the Proposer.

5.4 Except as provided in paragraph 5.1, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of the Code but this does not affect any right or remedy of a third party which exists or is available other than pursuant to that Act.

6. TRANSFER AND SUB-CONTRACTING

6.1 The rights, powers, duties and obligations of a Party under the Framework Agreement, the Code or any TO Construction Agreement are personal to that Party and that Party may not assign or transfer the benefit or burden of those documents save in the following circumstances:

6.1.1 upon the disposal by that Party of the whole of its business or undertaking it shall have the right to transfer its rights and obligations under the Framework Agreement, the Code or any TO Construction Agreement to the purchaser thereof on condition that the purchaser (if not already a Party) enters into an Accession Agreement pursuant to Section B and confirms to the relevant Parties in writing either that all of the technical or related conditions, data, information, operational issues or other matters notified and/or agreed pursuant to Part One, Section C, paragraphs 3 and 4 or any other matters specified in or pursuant to a relevant TO Construction Agreement, by the purchaser will remain unchanged or, if any such matters are to be changed, the purchaser first notifies the relevant Parties in writing of such changes which the relevant Parties will consider and, until such consideration is complete, the transfer shall not be effective. If, having considered such changes, the relevant Parties in their reasonable opinion do not consider the proposed changes reasonably satisfactory to relevant Parties, they shall consult with the purchaser and, pending the outcome thereof to the relevant Parties' reasonable satisfaction, the transfer shall not be effective, provided always, that any failure to reach an agreement under this sub-paragraph 6.1.1 may be referred by a Party as a Dispute to the Authority under Section H, paragraph 4.1. Such transfer shall become effective once the changes are reasonably satisfactory to the relevant Parties or have been determined to be so following resolution of such Dispute;

6.1.2 upon the disposal by a Party of part of its business or undertaking comprising a part of its Transmission System that Party shall have the right to transfer its rights and obligations under this Code or any TO Construction Agreement to the purchaser thereof on condition that the purchaser (if not already a Party) enters into an Accession Agreement pursuant to Section B and confirms to the relevant Parties in writing either that all of the technical or related conditions, data, information, operational issues or other matters notified and/or agreed pursuant to Part One, Section C, paragraphs 3 and 4 by the purchaser will remain unchanged or if any such matters are to be changed, the purchaser first notifies the relevant Parties in writing of such changes which the relevant Parties 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 the relevant Parties in their reasonable opinion do not consider the proposed changes reasonably satisfactory to the relevant Parties, they shall consult with the purchaser and pending the outcome thereof to the relevant Parties' reasonable satisfaction the transfer shall not be effective, provided always, that any failure to reach an agreement under this sub-paragraph 6.1.2 may be referred by a Party as a Dispute to the Authority under Section H, paragraph

4.1. Such transfer shall become effective once the changes are reasonably satisfactory to the Parties or have been determined to be so under Section H; and

6.1.3 a Party may assign or charge its rights or benefits under the Framework Agreement, the Code or any TO Construction Agreement in whole or in part by way of security.

6.2 Each Party shall have the right to sub-contract or delegate the performance of any of its obligations or duties arising under the Code without the prior consent of any other Party. The subcontracting by a Party of the performance of any obligations or duties under the Framework Agreement, the Code or any TO Construction Agreement shall not relieve that Party from liability for performance of such obligation or duty.

7. INTELLECTUAL PROPERTY

7.1 All Intellectual Property Rights relating to the subject matter of the Code or any TO Construction Agreement conceived, originated, devised, developed or created by a Party, its officers, employees, agents or consultants during the currency of the Code or any TO Construction Agreement shall vest in such Party as sole beneficial owner thereof save where the Parties agree in writing or the provisions of this Code expressly state otherwise.

8. FORCE MAJEURE

8.1 If any Party (the "**Non-Performing Party**") shall be unable to carry out any of its obligations under the Code or any TO Construction Agreement due to a circumstance of Force Majeure, the Code or any TO Construction Agreement shall remain in effect, but:

8.1.1 the Non-Performing Party's relevant obligations;

8.1.2 the obligations of each of the other Parties owed to the Non-Performing Party under the Code or TO Construction Agreement as the case may be; and

8.1.3 any other obligations of the other Parties under the Code or TO Construction Agreement owed between themselves which the relevant 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) such circumstances do not constitute a Secured Event;

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

(c) no obligations of any Party that arose before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure;

- (d) the Non-Performing Party gives the other 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 to the other Parties with respect thereto during the period of Force Majeure;
- (e) the Non-Performing Party uses all reasonable efforts to remedy its inability to perform; and
- (f) as soon as practicable after the event which constitutes Force Majeure, the Parties shall discuss how best to continue their operations so far as possible in accordance with the Code or TO Construction Agreement.

9. PRIVILEGE

- 9.1 No Party shall be required to produce documents pursuant to any provision of the Code which such Party could not be compelled to produce in civil proceedings in any court in England and Wales or Scotland or to supply information which such Party could not be compelled to give in evidence in any such proceedings.

10. WAIVER

- 10.1 No delay by or omission of any Party or the Committee (including the Committee Secretary) in exercising any right, power, privilege or remedy under the Code, the Framework Agreement or any TO Construction Agreement shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof.
- 10.2 Any single or partial exercise of any such right, privilege or remedy shall not preclude any other or future exercise thereof or the exercise of any other right, power, privilege or remedy.
- 10.3 For the avoidance of doubt, the Parties acknowledge and agree that nothing in the Code, Framework Agreement or any TO Construction Agreement shall exclude or restrict or otherwise prejudice or affect any of the rights, powers, privileges, remedies, duties and obligations of the Secretary of State or the Authority under the Act or any Transmission Licence or otherwise under any applicable law.

11. NOMINATED REPRESENTATIVE

- 11.1 Each Party undertakes to the other Parties that where, under any provision of the Code, action is taken by a representative of that Party, it shall ensure that its representative is duly authorised to take such action.

12. COMMUNICATIONS

- 12.1. Save to the extent otherwise set out in the Code or any TO Construction Agreement or otherwise agreed by the Parties, any notice, direction, request or other communication to be given by one Party to another under or in connection with the matters contemplated by the Code, the Framework Agreement or any TO Construction Agreement shall be

addressed to the recipient and sent to the address or facsimile number of such other Party provided under Section B.

- 12.2 Such notice or other communication, shall be in writing and shall be given by letter delivered by hand or sent by first class prepaid post (airmail if overseas) or facsimile unless otherwise specified in this Code or otherwise agreed between the Parties, and shall be deemed to have been received:

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

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

12.2.3 in the case of facsimile, on acknowledgement of the addressee's facsimile receiving equipment (where such acknowledgement occurs before 1700 hours on the day of acknowledgement and in any other case on the day following the day of acknowledgement).

- 12.3 Each Party shall use all reasonable endeavours to ensure that all information provided from that Party to another is accurate and complete and submitted in good faith.

- 12.4 The provisions of this paragraph 12 extend to any notice or other communication to be given by or to the Committee Secretary.

13. COUNTERPARTS

- 13.1 The Accession Agreement, Framework Agreement and any TO Construction Agreement or Code Procedures 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.

14. SEVERANCE OF TERMS

- 14.1 If any provision of the Code or any TO Construction 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 Code or TO Construction Agreement which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.

15. LANGUAGE

- 15.1 Every notice or other communication to be given by one Party to another under the Code shall be in the English language.

16. DATA PROTECTION ACT

- 16.1 Each Party warrants that it has effected, and undertakes that it will during the term of the Code effect and maintain all such notifications and registrations as it is required to effect and maintain under the Data Protection Act 1998 to enable it to lawfully perform the obligations imposed on it by the Code.
- 16.2 Each Party undertakes to comply with the Data Protection Act 1998 in the performance of its obligations under the Code.
- 16.3 Each Party undertakes that, in any case where information to be disclosed by it under the Code may lawfully be disclosed only with the prior consent of the person to whom the information relates, it will use its reasonable endeavours to obtain such prior consents so as to enable it promptly to perform its obligations under as envisaged by the Code.

17. JURISDICTION

- 17.1 Subject to Section H, the Parties irrevocably agree that only the courts of England and Wales and the courts of Scotland are to have jurisdiction to settle any disputes which may arise out of or in connection with this Code or any TO Construction Agreement and that accordingly any claim or action ("**Proceedings**") arising out of or in connection with this Code or any TO Construction Agreement may be brought in such courts.
- 17.2 Each 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 17 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 courts of England and Wales or the courts of Scotland shall be conclusive and binding upon such Party and may be enforced in the courts of any jurisdiction.
- 17.3 For the avoidance of doubt, nothing contained in paragraphs 17.1 and 17.2 above shall be taken as permitting a Party to commence Proceedings in the courts where the Code otherwise provides for Proceedings to be referred to arbitration or to the Authority.

18. GOVERNING LAW

- 18.1 This Code and any TO Construction Agreement shall be governed by and construed in accordance with English law save that, for the avoidance of doubt, the principle of *lex situs* shall apply in respect of immovable property to the effect that the law governing the place in which such immovable property is located shall apply for the purposes of this paragraph 18.

19. NO PARTNERSHIP

- 19.1 Nothing in this Code is intended to or shall operate to create a partnership or joint venture of any kind between the Parties.

SECTION H: DISPUTES

1. INTRODUCTION

1.1 This Section H sets out:

- 1.1.1 the obligations on the Parties to escalate and seek to resolve Disputes;
- 1.1.2 the types of Dispute that are referable to the Authority under this Code and the arrangements and obligations in relation to such referrals; and
- 1.1.3 the types of Dispute that are referable to arbitration under this Code and the arrangements and obligations in relation to such referrals.

2. GENERAL

2.1 Subject to any contrary provision of the Act, any Transmission Licence and the Regulations, and the rights, powers, duties and obligations of the Authority or the Secretary of State under the Act or Transmission Licences or otherwise howsoever, any Dispute between the Parties shall be resolved as provided in the applicable Section of this Code and this Section H.

3. ESCALATION

- 3.1 Notwithstanding the remaining provisions of this Section H, Parties shall identify and progress Disputes without undue delay and consistently with the objective of resolving such Disputes as early and as efficiently as reasonably practicable.
- 3.2 A Party may raise a Dispute by issuing a Dispute Notice to the Authority and each of the other Dispute Parties.
- 3.3 As soon as reasonably practicable, and in any event within 10 Business Days (or such longer period as the Dispute Parties may agree) of the date of issue of a Dispute Notice, representatives of each of the Dispute Parties who have authority to resolve the Dispute shall use their best endeavours to seek to resolve such Dispute.
- 3.4 If the Dispute Parties are unable to resolve a Dispute pursuant to paragraph 3.3, then the Dispute Parties' obligations under that paragraph shall no longer apply to that Dispute and a Dispute Party may refer the matter to the Authority or to arbitration as appropriate in accordance with paragraphs 4 and 5 below.

4. REFERRALS TO THE AUTHORITY

4.1 Subject to paragraph 3, a Party may refer a Dispute falling under sub-paragraphs 4.3 or 4.4 or an Implementation Dispute under paragraph 4.6 to the Authority for determination by issuing a Reference Notice to the Authority copied to each of the other Dispute Parties.

- 4.2 Subject to paragraph 4.5 below, any Dispute falling under this paragraph 4 shall not be capable of being referred to arbitration pursuant to the rules of the Electricity Arbitration Association or otherwise, or to any court.
- 4.3 In addition to those matters falling under paragraph 4.4, the following matters shall constitute a Dispute referable to the Authority under the Code:
- 4.3.1 a failure to agree pursuant to Section A, paragraph 4.4;
 - 4.3.2 a failure to agree pursuant to Section B, sub-paragraph 3.2.5 or any other dispute in relation to the scope, content or performance of the Party Entry Processes;
 - 4.3.3 a failure to agree pursuant to Section B, sub-paragraph 5.1.6 or any other dispute in relation to the scope, content or performance of the Decommissioning Actions;
 - 4.3.4 a failure to agree pursuant to Section B, sub-paragraph 7.3.4;
 - 4.3.5 a failure to agree an amendment to the form of the Services Capability Specification pursuant to Section C, Part One, paragraphs 3.2 or 3.3;
 - 4.3.6 a dispute in relation to the reasonableness of a request for further information by NGC pursuant to Section C, Part One, paragraph 3.4;
 - 4.3.7 a dispute in relation to the provision of, or failure to provide, training pursuant to Section C, Part Three, paragraph 7.3;
 - 4.3.8 a failure to agree a SYS Programme or any part thereof pursuant to Section D, Part One, sub-paragraph 4.1.2;
 - 4.3.9 a failure to agree amendments to draft text of a Seven Year Statement pursuant to Section D, Part One, sub-paragraph 4.1.4;
 - 4.3.10 a dispute pursuant to Section E, paragraph 4.1;
 - 4.3.11 a failure to agree under Section G, sub-paragraphs 6.1.1 or 6.1.2; and
 - 4.3.12 a dispute as to whether a matter falling under paragraph 4.4 materially and adversely affects a Dispute Party's ability to develop and maintain an efficient, co-ordinated and economical system of electricity in Great Britain for the purpose of determining such Dispute Party's entitlement to refer a matter to the Authority under paragraph 4.4.
- 4.4 In addition to those matters falling under paragraph 4.3, the following matters shall constitute a Dispute referable to the Authority by a Dispute Party under the Code only where such matter(s) materially adversely affect(s) that Dispute Party's ability to develop and maintain an efficient, co-ordinated and economical system of electricity transmission in Great Britain:

- 4.4.1 a failure to agree a Services Restoration Proposal or any modification to a Services Restoration Proposal under Section C, Part One, paragraphs 4.7 and 4.8 or 4.9;
- 4.4.2 a dispute in relation to either a request by NGC or the adequacy of preparatory steps taken by a Transmission Owner pursuant to Section C, Part One, paragraph 4.13;
- 4.4.3 a dispute in relation to the manner in which matters contained in an Outage Proposal are included, or are not included, in an Outage Plan pursuant to Section C, Part Two, paragraph 2.4;
- 4.4.4 a failure to agree in relation to any Outage Plan or Outages Implementation Process pursuant to Section C, Part Two, paragraphs 5.7, 6.1 or 6.5;
- 4.4.5 a dispute in relation to a direction issued by NGC regarding discontinuation of an Outage or Outages pursuant to Section C, Part Two, paragraph 7.1;
- 4.4.6 a dispute in relation to a request for a change to Planning Assumptions pursuant to Section D, Part One, paragraph 2.2;
- 4.4.7 a dispute in relation to a Planning Request pursuant to Section D, Part One, sub-paragraph 2.4.4;
- 4.4.8 a dispute in relation to the reasonableness of a request by NGC for information pursuant to Section D, Part One, sub-paragraph 2.6.2;
- 4.4.9 a dispute in relation to a the effectiveness of a NGC Construction Application pursuant to Section D, Part Two, paragraph 2.5;
- 4.4.10 a dispute in relation to a request for a change to Construction Planning Assumptions pursuant to Section D, Part Two, paragraph 3.7;
- 4.4.11 a dispute in relation to a notice by the Transmission Owner that it does not intend to submit a TO Construction Offer or a notice of any assumptions which a Transmission Owner intends to make in relation to User Equipment at a Relevant Connection Site pursuant to Section D, Part Two, paragraph 4.3;
- 4.4.12 a dispute in connection with a TO Construction Offer pursuant to Section D, Part Two, paragraph 5.2; and
- 4.4.13 a failure to agree Communications Plant under Section D, Part Two, paragraph 9.1.
- 4.5 The Authority's determination of a Dispute pursuant to this paragraph 4 shall, without prejudice to any ability to apply for judicial review of any determination, be final and binding on the Dispute Parties.
- 4.6 It is expected that, in most cases, the Authority's determination of a Dispute pursuant to this paragraph 4 will set out the effect of the determination in terms of any actions or

other steps that the Dispute Parties should take. To the extent that there is a Dispute between the Dispute Parties over the implementation of any such determination by the Authority (an "**Implementation Dispute**"), then any such Dispute Party may, subject again to the obligation to hold initial discussions in the same terms as under paragraph 3.3, refer the Implementation Dispute back to the Authority for determination.

- 4.7 Following a determination under this paragraph 4, each Dispute Party shall take such steps as are required to give full and timely effect to that determination including, without limitation, issuing, withdrawing or modifying any document, notice, plan or process or taking any other steps required pursuant to this Code.

5. REFERRALS TO ARBITRATION

- 5.1 Subject to paragraph 3, a Dispute Party may, unless otherwise specified in this Code, refer:

5.1.1 a Dispute that is specifically designated for referral to arbitration under this Code;
or

5.1.2 any other Dispute not referable to the Authority under paragraph 4.1,

to arbitration pursuant to the applicable rules of the Electricity Arbitration Association in force from time to time by issuing a Reference Notice to the Electricity Arbitration Association and to each of the other Dispute Parties and the Authority.

- 5.2 Whatever the nationality, residence or domicile of any Dispute Party and wherever the Dispute arose, the law of England shall be the proper law of reference to arbitration under this paragraph 5 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 save as prescribed below.

- 5.3 Subject to paragraph 5.4 the Parties hereby consent to the President of the Electricity Arbitration Association deciding at his discretion and ensuring, so far as practicable, that the proceedings relating to such a decision are managed effectively, fairly and expeditiously:

5.3.1 following the same process as set out in Article 13 of the Electricity Arbitration Association rules in respect of pending arbitrations, that two or more disputes referred to it for arbitration (whether pending or underway), be consolidated or otherwise heard together (whether or not such disputes are all Disputes or a Dispute and any dispute(s) referred under an Other Code), where a Party (or Other Code Party to a dispute under an Other Code) so requests in writing to the Electricity Arbitration Association copied to each of the other Parties and relevant Other Code Parties setting out the reasons for such consolidation; or

5.3.2 that a dispute referred to it (whether pending or underway and whether a Dispute or a dispute referred to it under an Other Code) be stayed for a period not exceeding three months after the referral of such dispute to the Electricity Arbitration Association, pending resolution of another dispute referred to it

(whether pending or underway and whether a Dispute or a dispute referred under an Other Code).

- 5.4 The consent of the Parties under paragraph 5.3.1 shall be deemed not to have been given where a request for consolidation thereunder is received by the Electricity Arbitration Association more than three months (or such other period as the Electricity Arbitration Association may at its discretion determine) after the referral of any Dispute or Other Code dispute to the Electricity Arbitration Association which is the subject of such request.
- 5.5 Any arbitrator or panel of arbitrators appointed by the Electricity Arbitration Association rules under this paragraph 5 shall determine such issues as are referred to him or them consistently with any determination by the Authority of a Dispute under paragraph 4, whether or not relating to the same or different facts.
- 5.6 The arbitrator of a Dispute under this paragraph 5 may order that the arbitration be stayed pending approval of a proposal to amend the Code under the Code Amendment Procedures by the Authority.
- 5.7 Subject to any order of the arbitrator, the Dispute Parties shall keep confidential and not use for any collateral or ulterior purpose the subject matter of the arbitration and all information, documents and materials produced for, or arising in relation to the arbitration including any relief granted save insofar as is necessary to enforce any such relief.
- 5.8 The arbitrator may make any award concerning the costs of the parties or the costs of the arbitration as he considers appropriate.
- 5.9 The determination of an arbitrator under this paragraph 5 shall be final and binding on the Dispute Parties.
- 5.10 Following a determination under this paragraph 5, each Dispute Party shall take such steps as are required to give effect to that determination including, without limitation, under this Code.

SECTION I: TRANSITION

1. INTRODUCTION

- 1.1 This Section I sets out various steps and processes which shall be undertaken by the Parties during the Transition Period to develop and otherwise prepare for those matters under the Code which will take effect on and from the Go Live Date, including:
- 1.1.1 development of a Transitional Services Capability Specification, Transitional Outage Plans, Transitional Outage Proposals, Transitional Investment Plans, Transitional NGC Investment Plans and the Transitional Connection Site Specification; and
 - 1.1.2 provision for the co-ordinated development of Current User Offers and New Transitional Offers by Transmission Owners in accordance with an Agreed Transitional Timetable.

2. PROVISIONS OF THE CODE NOT IN EFFECT DURING THE TRANSITION PERIOD

- 2.1 The provisions of the Code set out in paragraph 2.2 of this Section I shall not have effect until the Go Live Date. For the avoidance of doubt, all other provisions of the Code shall have effect on and from the Code Effective Date.
- 2.2 The provisions of the Code that shall not take effect pursuant to paragraph 2.1 are:
- 2.2.1 Section C;
 - 2.2.2 Section D;
 - 2.2.3 Section G, paragraphs 2.2 and 3; and
 - 2.2.4 Section H.

3. GENERAL PROVISIONS

- 3.1 Subject to any express provision of this Section I, each Party shall discharge its obligations:
- 3.1.1 under paragraphs 8 and 9 of this Section I consistently with its obligations under, in the case of NGC, Standard Condition C18 of its Transmission Licence and, in the case of each Transmission Owner, Standard Condition D15 of its Transmission Licence;
 - 3.1.2 under each other paragraph of this Section I taking into account and consistent with those obligations which it is, at the relevant time, known (or reasonably anticipated) are to be imposed on the licensee on and from the Go Live Date under such Party's Licence.

3.2 In addition to any other obligation to provide or exchange information under this Section I, each Party shall Disclose such information or data to other Parties during the Transition Period as the Authority may from time to time direct.

3.3 A Party may agree with any other Party that information or data which would otherwise be required to be provided under this Section I is not required to be so provided (for example, because such information or data has already been provided or is already held by such other Party).

4. TRANSITIONAL PROVISIONS IN RELATION TO SECTION C, PART ONE

4.1 Each Transmission Owner shall separately agree the form of specification with NGC for the purposes of this paragraph 4 by 31 October 2004 (referred to as a “**Transitional Services Capability Specification**”).

4.2 Each Transmission Owner shall have by 30 November 2004 and shall maintain from that date throughout the Transition Period its Transitional Services Capability Specification so that it is as full and complete as reasonably practicable and describes such Transmission Owner's best estimate of the parameters and levels (which parameters and levels shall reflect its transmission planning) within and to which it will be capable of providing Transmission Services to NGC at the Go Live Date: such information to include and identify, without limitation, those technical limits that will apply as Normal Capability Limits pursuant to paragraph Section C, Part One, sub-paragraph 3.1.1 on and from the Go Live Date.

4.3 Each Transmission Owner shall submit a copy of its Transitional Services Capability Specification to NGC by 30 November 2004 and shall, from that date throughout the Transition Period, immediately submit to NGC copies of any amendments made to it under paragraph 4.4.

4.4 NGC and a Transmission Owner may agree that the Transmission Owner shall amend its Transitional Services Capability Schedule from time to time during the Transition Period to include such other information as may be reasonably requested by NGC.

4.5 NGC and a Transmission Owner may, at any time during the Transition Period, agree a change to the form or content of such Transmission Owner's Transitional Services Capability Schedule.

4.6 At the Go Live Date, the Transitional Services Capability Specification that each Transmission Owner has maintained pursuant to this paragraph 4 shall be deemed to be the Services Capability Specification of such Transmission Owner for the purposes of Section C, Part One, paragraph 3.

5. TRANSITIONAL PROVISIONS IN RELATION TO SECTION C, PART TWO

5.1 Transitional Outage Plan

5.1.1 NGC shall develop by 30 November 2004 and maintain from that date throughout the Transition Period a separate plan for each of the 7 Financial Years

immediately following the Financial Year ending 31 March 2005 (each plan being referred to as a “**Transitional Outage Plan**”) for the placement of Outages on the GB Transmission System and shall:

- 5.1.1.1 keep up-to-date and refine its Transitional Outage Plans during the Transition Period to reflect the best and most current information available to it; and
- 5.1.1.2 provide each Transmission Owner with the most up-to-date version of those parts of each Transitional Outage Plan as contain or relate to Outages of, or any other Outages which are likely to materially affect such Transmission Owner's Transmission System.
- 5.1.2 Each of the Transitional Outage Plans developed by NGC pursuant to subparagraph 5.1.1 shall contain those matters set out in Section C, Part Two, paragraph 2.2.
- 5.1.3 In the course of developing its Transitional Outage Plans, NGC shall, to the extent that it is reasonable and practicable to do so:
 - 5.1.3.1 consult with the Transmission Owners and keep them informed of any current or proposed matters which may give rise to or affect Outages of each Transmission Owner's Transmission System; and
 - 5.1.3.2 take into account each Transitional Outage Proposal in the preparation of its Transitional Outage Plan for the relevant Financial Year.
- 5.1.4 Each Transmission Owner shall co-operate and assist NGC in developing NGC's Transitional Outage Plans, including by:
 - 5.1.4.1 developing and maintaining, in accordance with paragraph 5.2, that Transmission Owner's Transitional Outage Proposals with the objective of providing NGC with a proposed placement of Outages for each Financial Year that facilitates the most efficient, co-ordinated and economical placement of Outages on the GB Transmission System as is reasonably foreseeable and practicable, given the information available to such Transmission Owner; and
 - 5.1.4.2 providing NGC with the most up-to-date version of each of its Transitional Outage Proposals.

5.2 **Transitional Outages Proposals**

- 5.2.1 Each Transmission Owner shall develop by 31 October 2004 a separate Outage Proposal in respect of each of the seven Financial Years immediately following the current Financial Year ending 31 March 2005 (each a “**Transitional Outage Proposal**”) and shall maintain from that date throughout the Transition Period the Transitional Outage Proposals for each of the six Financial Years immediately following the Financial Year ending March 2006.

5.2.2 The Transitional Outage Proposals of each Transmission Owner shall contain those matters set out in Section C, Part Two, paragraph 3.2.

5.2.3 The Transitional Outage Proposal provided by each Transmission Owner pursuant to sub-paragraph 5.1.4.2 in respect of the Financial Year ending 31 March 2006 shall be the final version of such Transitional Outage Proposal and each Transmission Owner shall ensure that it is as full and complete as reasonably practicable.

5.3 Changes to the Transitional Outage Plan for the Financial Year ending 31 March 2006

5.3.1 As soon as a Party becomes aware, during the Transition Period, that a change is required to the Transitional Outage Plan for the Financial Year ending 31 March 2006, including any requirement for a further Outage or changes to the scheduled dates or times for, or cancellation of, an existing Outage, that Party:

5.3.1.1 if it is a Transmission Owner, shall request a change to such Transitional Outage Plan to NGC, including with such request a brief description of the reason(s) for the change; or

5.3.1.2 if it is NGC, notify each Transmission Owner that NGC itself requests or another Transmission Owner has requested (where it has received a request under sub-paragraph 5.3.1.1) a change to the Transitional Outage Plan to the extent that it considers that such change affects Outages of, or any other Outages which are likely to materially affect, that Transmission Owner's Transmission System, with a brief description of the reason(s) for the change.

5.3.2 Following a request to change a Transitional Outage Plan made pursuant to 5.3.1, the Party requesting such change, NGC and any Transmission Owners which receive notification pursuant to sub-paragraph 5.3.1.2 shall agree how the change may be accommodated.

5.3.3 During the Transition Period, each Party shall discuss and exchange relevant information with each other Party to the extent that such information is likely to have a material effect on the Outages of such other Party.

5.3.4 Each Transmission Owner shall develop its Transitional Outage Proposals taking into account, to the extent that it is reasonable and practical to do so, the activities and reasonable requests of each other Party and the information provided to it under this Code.

5.3.5 Where it is reasonably prudent to do so, the Parties shall jointly prepare during the Transition Period for the implementation of any Outages which are planned to occur during the Financial Year ending 31 March 2006.

5.3.6 At the Go Live Date:

5.3.6.1 the Transitional Outage Plans developed by NGC pursuant to paragraph 5.1 shall be deemed to be the initial Outage Plans for the purposes of Section C, Part Two, paragraph 2.1;

5.3.6.2 the Transitional Outage Proposals developed by each Transmission Owner pursuant to paragraph 5.2 shall be deemed to be the initial Outage Proposals of that Transmission Owner for the purposes of Section C, Part Two, paragraph 3.1; and

5.3.6.3 any process or associated configuration of the GB Transmission System required for the implementation of an Outage and developed pursuant to sub-paragraph 5.3.5 shall be deemed to be the Outage Implementation Process for such Outage for the purposes of Section C, Part Two, paragraph 6.1.

6. TRANSITIONAL PROVISIONS IN RELATION TO SECTION C, PART THREE

6.1 Interface Agreements

6.1.1 Each Transmission Owner shall advise NGC as soon as reasonably practicable and in any event by 1 December 2004 whether an Interface Agreement is required in relation to each Connection Site and New Connection Site located on their Transmission System.

6.1.2 Where a Transmission Owner identifies that an Interface Agreement is required pursuant to sub-paragraph 6.1.1, it shall promptly enter into an Interface Agreement with the relevant User in a form to be agreed between them, but based substantially in the form set out in Exhibit O, Part B to the CUSC.

6.2 Black Start

6.2.1 On or before 31 March 2005, the Parties shall have in place a Code Procedure setting out the information and assistance required by Transmission Owners so that NGC can implement a Black Start.

7. TRANSITIONAL PROVISIONS IN RELATION TO SECTION D, PART ONE

7.1 Transmission Owner's Transitional Investment Plans

7.1.1 Each Transmission Owner shall develop by 31 October 2004 and then maintain from that date throughout the Transition Period a separate plan in respect of each of the seven Financial Years immediately following the Financial Year ending on 31 March 2005 (each plan referred to as a “**Transitional Investment Plan**”) and shall keep up-to-date and refine its Transitional Investment Plans during this period to reflect the best and most current information available to it.

7.1.2 Each Transitional Investment Plan shall contain, to the extent and in such detail as is reasonably practicable and appropriate at the time, for the relevant

Financial Year, those matters set out in Section D, Part One, sub-paragraph 2.1.2.

7.1.3 Each Transmission Owner shall ensure, to the extent that it is reasonable and appropriate to do so, that from 31 October 2004 throughout the Transition Period:

7.1.3.1 NGC is provided with the most up-to-date versions of its Transitional Investment Plans; and

7.1.3.2 each other Transmission Owner is provided with such parts of the up-to-date versions of its Transitional Investment Plans as may have a material effect upon that other Transmission Owner's Transitional Investment Plans.

7.2 **NGC's Transitional NGC Investment Plans**

7.2.1 NGC shall develop by 31 October 2004 and then maintain from that date throughout the Transition Period separate plans in respect of each of the seven Financial Years immediately following the Financial Year ending on 31 March 2005 (each plan referred to as a "**Transitional NGC Investment Plan**") for those proposed Changes to its Transmission System which are likely to have a material effect upon any of the Transmission Owners' Transitional Investment Plans and NGC shall keep up-to-date and refine its Transitional NGC Investment Plans during this period to reflect the best and most current information available to it.

7.2.2 Each Transitional NGC Investment Plan shall contain, to the extent and in such detail as is reasonably practicable and appropriate at the time, for the relevant Financial Year, the same matters in relation to NGC as are required to be set out in relation to Transmission Owners in their Transitional Investment Plans under sub-paragraph 7.1.2.

7.2.3 NGC shall ensure, to the extent that it is reasonable and appropriate to do so, that from 31 October 2004 throughout the Transition Period each Transmission Owner is provided with such parts of its up-to-date Transitional NGC Investment Plans as may have a material effect upon that Transmission Owner's Transitional Investment Plans.

7.3 **Transitional Planning Assumptions**

7.3.1 NGC shall prepare Planning Assumptions on a GB-wide basis during the Transition Period ("**Transitional Planning Assumptions**") and shall as soon as reasonably practicable and, in any event, on or before 30 September 2004, provide such Transitional Planning Assumptions to Transmission Owners (and then as updated or modified from time to time) to be used by them in planning and developing their Transmission Systems in accordance with this Section I.

7.3.2 A Transmission Owner may at any time submit a request to NGC for a change to Transitional Planning Assumptions it has received pursuant to sub-paragraph

7.3.1, provided that such request shall contain a description (in reasonable but not excessive detail) of the reason(s) for the request.

7.3.3 If NGC receives a request for a change to Transitional Planning Assumptions pursuant to sub-paragraph 7.3.2 it shall, as soon as reasonably practicable:

7.3.3.1 notify the Transmission Owner submitting the request and any other Transmission Owner which is likely to be materially affected by the requested change whether or not and, where relevant, how NGC intends to accommodate such request; and

7.3.3.2 where relevant, change and re-issue such Transitional Planning Assumptions accordingly.

7.3.4 In planning its Transmission System during the Transition Period, each Transmission Owner shall do so in accordance with the obligations which will apply to planning and development on and from the Go Live Date under Section D, Part One, paragraph 2.2, except that references to:

7.3.4.1 "Planning Assumptions" shall be taken to be references to Transitional Planning Assumptions provided to it by NGC pursuant to sub-paragraph 7.3.1;

7.3.4.2 "Connection Site Specification" shall be taken to be references to the Transitional Connection Site Specification; and

7.3.4.3 "Licence Standards" shall be taken to be references to those obligations which are imposed on the Transmission Owner during the Transition Period by Standard Condition D3 of such Transmission Owner's Transmission Licence or which it is, at the relevant time, known (or reasonably anticipated) are to be imposed on the Transmission Owner on and from the Go Live Date.

7.4 Co-ordination of and Changes to Transitional Investment Planning

7.4.1 During the Transition Period, the Parties shall:

7.4.1.1 co-operate and assist each other in the development of co-ordinated Transitional Investment Plans and Transitional NGC Investment Plans; and

7.4.1.2 plan, for the purposes of this paragraph 7, their Transmission Systems taking into account, to the extent that it is reasonable and practicable to do so, the activities and reasonable requests of each other Party relating to the planning and development of such other Parties' Transmission Systems.

7.4.2 A Party may, at any time during the Transition Period, request a change to such parts as it has been provided with pursuant to sub-paragraphs 7.1.3 or 7.2.3 of,

in the case where such other Party is a Transmission Owner, that other Party's Transitional Investment Plan(s) or, in the case where such other Party is NGC, any Transitional NGC Investment Plan(s).

7.4.3 At the Go Live Date:

7.4.3.1 the Transitional Investment Plans developed by each Transmission Owner pursuant to paragraph 7.1 shall be deemed to be the initial Transmission Investment Plans of that Transmission Owner for the purposes of Section D, Part One, sub-paragraph 2.1.1;

7.4.3.2 the Transitional NGC Investment Plans developed by NGC pursuant to paragraph 7.2 shall be deemed to be the initial NGC Investment Plans of NGC for the purposes of Section D, Part One, sub-paragraph 2.1.4; and

7.4.3.3 the Transitional Planning Assumptions prepared by NGC pursuant to sub-paragraph 7.3.1 (as changed during the Transition Period) shall be deemed to be the initial Planning Assumptions for the purposes of Section D, Part One, paragraph 2.2.

7.4.4 Each Transmission Owner shall co-operate and assist NGC during the Transition Period in the development by NGC of the Interim Seven Year Statement and Seven Year Statement including, without limitation, by promptly complying with any reasonable request from NGC for information or such co-operation or assistance.

8. TRANSITIONAL PROVISIONS IN RELATION TO CURRENT USERS

8.1 Transitional Connection Site Specification

8.1.1 Each Transmission Owner shall submit to NGC by 5 September 2004, or such other date as the Transmission Owner and NGC shall agree, a specification setting out the Transmission Owner Connection Assets forming part of such Transmission Owner's Transmission System and any User Equipment connected to or associated with such Transmission Owner Connection Assets as at 1 September 2004 ("**Transitional Connection Site Specification**").

8.1.2 Each Transmission Owner shall keep under review and update its Transitional Connection Site Specification during the Transition Period so that it contains, without limitation, information of the same kind and in substantially the same detail as set out in relation to Transmission Connection Assets and User Equipment in any bilateral agreements entered into between such Transmission Owner and Users at any time up to the Go Live Date.

8.1.3 At the same time as it submits its Transitional Connection Site Specification, or any update made pursuant to sub-paragraph 8.1.2, to NGC, each Transmission Owner shall also provide the following information in respect of each Connection

Site (to the extent such information does not already form part of the Transitional Connection Site Specification):

8.1.3.1 the date on which the User entered into a bilateral agreement with the Transmission Owner in respect of such Connection Site (where applicable); and

8.1.3.2 any other information reasonably requested by NGC in relation to such User or Connection Site including, without limitation, information required to enable NGC to determine the Transmission Entry Capacity and Connection Entry Capacity of such Connection Site.

8.1.4 At the Go Live Date the Transitional Connection Site Specification developed by each Transmission Owner pursuant to sub-paragraph 8.1.1 (as modified or updated during the Transition Period pursuant to sub-paragraphs 8.1.2 or 8.1.3) shall be deemed to be the initial Connection Site Specification.

8.2. **Current User Applications**

8.2.1 For the purposes of this Section I, a "**Current User**" is a User which, as at 1 January 2005:

8.2.1.1 is a party to an agreement (including, without limitation, any party that has accepted an offer prior to 1 January 2005) with NGC or a Transmission Owner for connection or use of system; or

8.2.1.2 has otherwise submitted an application for connection or use of system to NGC or a Transmission Owner (including without limitation any application in relation to which NGC or a Transmission Owner has submitted an offer prior to 1 January 2005).

8.2.2 In accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1) and, except to the extent otherwise agreed between NGC and the relevant Transmission Owner, prior to 5 January 2005, each Transmission Owner shall notify NGC of:

8.2.2.1 each Current User who has an agreement for connection to or use of such Transmission Owner's Transmission System;

8.2.2.2 any applications made by a Current User to the Transmission Owner at any time prior to 1 January 2005 in relation to a Connection Site (including any application for use of system) and in respect of which the Transmission Owner has not provided a relevant offer to such Current User and shall provide NGC with a complete copy of any such application; and

8.2.2.3 any offers which have been provided to a Current User by the Transmission Owner at any time before 1 January 2005 in relation to a

Connection Site (including any offer for use of system) and which have not been accepted by such Current User.

- 8.2.3 At any time prior to 7 January 2005, NGC may submit an application (a "**Current User Application**") to a Transmission Owner, in accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1), in respect of:

8.2.3.1 any current Connection Site of a Current User, or any proposed Connection Site in respect of which an application has been submitted to a Party by a User prior to 1 January 2005, which is located on such Transmission Owner's Transmission System; and

8.2.3.2 any other Connection Site of a Current User in respect of which an application has been submitted to a Party by a User prior to 1 January 2005 and which NGC reasonably considers is likely to materially affect the first Transmission Owner's Transmission System, taking into account the criteria referred to in paragraph 11.

- 8.2.4 NGC may, if it reasonably considers that it is appropriate or expedient to do so, submit a Current User Application pursuant to sub-paragraph 8.2.3 to a Transmission Owner in respect of more than one Connection Site.

- 8.2.5 A Current User Application submitted pursuant to sub-paragraph 8.2.3 shall contain the information reasonably necessary in order to enable each Transmission Owner, following receipt of Transitional Construction Planning Assumptions pursuant to paragraph 8.3, to:

8.2.5.1 identify whether construction works would be required in respect of each Connection Site identified in such Current User Application; and

8.2.5.2 where relevant, prepare a Current User Offer pursuant to sub-paragraph 8.4 in respect of such Connection Site(s).

- 8.2.6 A Current User Application submitted pursuant to sub-paragraph 8.2.3 shall be deemed to be effective from the date on which it is received by the relevant Transmission Owner.

8.3 **Transitional Construction Planning Assumptions**

- 8.3.1 In addition to the Transitional Planning Assumptions used for general transmission planning during the Transition Period, NGC may generate a set of Planning Assumptions which takes into account the power flows which NGC anticipates might be associated with a Current User Application for use only in the preparation by the relevant Transmission Owner(s) of the corresponding Current User Offer(s) ("**Transitional Construction Planning Assumptions**").

- 8.3.2 NGC shall notify each Transmission Owner as soon as reasonably practicable if it does not intend to generate a set of Transitional Construction Planning Assumptions in respect of a Current User Application, following which the general

Transitional Planning Assumptions provided to Transmission Owners pursuant to sub-paragraph 7.3.1 of this Section I shall be deemed to be Transitional Construction Planning Assumptions for the purposes of this paragraph 8.

- 8.3.3 A Transmission Owner may at any time submit a request to NGC for a change to Transitional Construction Planning Assumptions it has received pursuant to sub-paragraph 8.3.1 or which have been deemed pursuant to sub-paragraph 8.3.2, provided that such request shall contain a description (in reasonable but not excessive detail) of the reason(s) for the request.
- 8.3.4 If NGC receives a request for a change to Transitional Construction Planning Assumptions pursuant to sub-paragraph 8.3.3 it shall, as soon as reasonably practicable notify the Transmission Owner submitting the request and any other Transmission Owner which is likely to be materially affected by the requested change whether or not and, where relevant, how NGC intends to accommodate such request.
- 8.3.5 NGC may, in its discretion, change a set of Transitional Construction Planning Assumptions (including any deemed Transitional Construction Planning Assumptions under sub-paragraph 8.3.2), at any time up to the earlier of:
 - 8.3.5.1 the time at which it accepts the Current User Offer to which such Construction Planning Assumptions apply; or
 - 8.3.5.2 the Go Live Date,by giving notice to the relevant Transmission Owner(s).
- 8.3.6 If NGC generates, modifies or updates Transitional Construction Planning Assumptions, it shall do so, and shall provide any relevant parts of such Transitional Construction Planning Assumptions to Transmission Owners, in accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1).

8.4. **Current User Offers**

- 8.4.1 Each Transmission Owner shall notify NGC as soon as reasonably practicable following receipt of a Current User Application and, in any event, in accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1), whether or not such Transmission Owner intends to submit an offer in respect of such Current User Application ("**Current User Offer**") to NGC pursuant to this paragraph 8.4 in respect of any Connection Site(s) identified in such Current User Application including, without limitation, where the Transmission Owner is not submitting a Current User Offer because it is not obliged to do so pursuant to Standard Condition D15 of its Transmission Licence or the Act.
- 8.4.2 A Transmission Owner may, where it has agreed to do so with NGC, submit a Current User Offer in accordance with this paragraph 8.4 in respect of one or

more Connection Sites notwithstanding that NGC has not submitted a Current User Application in respect of such Connection Site(s).

8.4.3 Where a Transmission Owner does not require Transmission Owner Construction Works to be undertaken in respect of a Current User Application or where it otherwise notifies NGC under paragraph 8.4.1 that it will not be submitting a Current User Offer, it shall not (subject to any contrary determination of the Authority) submit a Current User Offer to NGC in relation to such Current User Application.

8.4.4 Subject to Standard Condition D15 of its Transmission Licence, a Transmission Owner shall prepare Current User Offer(s) during the Transition Period in accordance with the obligations which will apply to the preparation of TO Construction Offers on and from the Go Live Date under Section D, Part Two, paragraph 4, except that references to:

8.4.4.1 "TO Construction Offer" shall be taken to be references to Current User Offer;

8.4.4.2 "Part One, paragraph 2.2 of this Section D" shall be taken to be a reference to paragraph 7.3 of this Section I;

8.4.4.3 "NGC Construction Application" shall be taken to be a reference to Current User Application.

8.4.5 If a Transmission Owner is submitting a Current User Offer to NGC, it shall do so as soon as reasonably practicable and, in any event, in accordance with the Agreed Transitional Timetable.

8.4.6 For the avoidance of doubt, where a Current User Application is submitted by NGC in respect of more than one Connection Site pursuant to sub-paragraph 8.2.3, the applicable Current User Offer may, at the discretion of the relevant Transmission Owner, also apply to one or more of such Connection Site(s).

8.4.7 A Current User Offer submitted by a Transmission Owner to NGC pursuant to sub-paragraph 8.4.4 shall include, without limitation, those matters set out in Schedule Eight, paragraph 1.1 except that:

8.4.7.1 references to "Transmission Services" and "Normal Capability Limits" shall be to those Transmission Services and Normal Capability Limits which reflect the Transmission Owner's transmission planning and which the relevant Transmission Owner reasonably anticipates it will provide or which will apply on and from the Go Live Date; and

8.4.7.2 references to "Construction Project" shall be to those construction works required in relation to the Connection Site(s) as set out in the Current User Offer.

8.4.8 Where a Current User Offer relates to more than one Connection Site, it may also contain one or more TO Construction Agreement(s), provided that:

8.4.8.1 all of the TO Construction Works identified in such Current User Offer are covered by TO Construction Agreement(s); and

8.4.8.2 all of the Works undertaken at an individual Connection Site are covered by only one TO Construction Agreement.

8.5 Acceptance of Current User Offer by NGC

8.5.1 A Current User Offer shall remain open for acceptance in accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1) unless an application is made to the Authority under Standard Condition C18 of NGC's Transmission Licence, in which event such period shall remain subject to any determination by or other direction from the Authority.

8.5.2 In the event that NGC modifies Transitional Construction Planning Assumptions after a Transmission Owner has submitted its Current User Offer for the Construction Project to which such Transitional Construction Planning Assumptions apply, the Transmission Owner shall, as soon as reasonably practicable or otherwise within such timescales as shall be agreed between NGC and the Transmission Owner, revise and re-submit its Current User Offer to NGC, taking into account such modified Transitional Construction Planning Assumptions.

8.5.3 If NGC wishes to accept a Current User Offer, it shall do so by promptly notifying the relevant Transmission Owner in the form specified in such Current User Offer and by providing it with an executed copy or executed copies of the relevant TO Construction Agreement(s).

8.5.4 Following acceptance of a Current User Offer by NGC pursuant to sub-paragraph 8.5.3 the Transmission Owner shall, on and from the Go Live Date, construct the relevant TO Construction Works in accordance with the terms of this Code and the executed TO Construction Agreement(s).

9. TRANSITIONAL PROVISIONS IN RELATION TO NEW TRANSITIONAL APPLICATIONS DURING THE PERIOD FROM 1 JANUARY 2005 TO THE GO LIVE DATE

9.1 New Transitional Applications

9.1.2 Each Transmission Owner shall immediately forward to NGC a complete copy of any application received from a User in respect of a Connection Site (including any application for use of system) during the period commencing on 1 January 2005 and ending on the Go Live Date.

- 9.1.3 NGC may submit an application (a "**New Transitional Application**"), in accordance with this paragraph 9 and the Agreed Transitional Timetable (referred to in paragraph 10.1), to:
- 9.1.3.1 the Transmission Owner, if any, whose Transmission System is located at the Connection Site which is the subject of the relevant application or offer (the "**Transitional Connection Site**");
 - 9.1.3.2 any Transmission Owner in relation to whose Transmission System the Transitional Connection Site satisfies the criteria referred to in paragraph 11; and
 - 9.1.3.3 any Transmission Owner which does not receive a New Transitional Application pursuant to sub-paragraphs 9.1.3.1 or 9.1.3.2 above, but who otherwise receives New Construction Planning Assumptions pursuant to paragraph 9.2 in relation to the New Connection Site.
- 9.1.4 A New Transitional Application submitted pursuant to sub-paragraph 9.1.3 shall contain the information reasonably necessary in order to enable each Transmission Owner to:
- 9.1.4.1 identify whether construction works would be required in respect of the Connection Site which is the subject of such New Transitional Application; and
 - 9.1.4.2 where relevant, prepare a New Transitional Offer.
- 9.1.5 A New Transitional Application submitted pursuant to sub-paragraph 9.1.3 shall be deemed to be effective from the date on which it is received by the relevant Transmission Owner.
- 9.1.6 If a Transmission Owner reasonably considers that a New Transitional Application is not effective by reason of it not containing sufficient information, pursuant to sub-paragraph 9.1.4, to enable it to identify construction works or prepare a New Transitional Offer, it shall:
- 9.1.6.1 as soon as reasonably practicable and in any event in accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1), notify NGC of the further information or clarifications required; and
 - 9.1.6.2 otherwise use its best endeavours to liaise with and assist NGC (and, where requested by NGC, relevant third parties) so that the New Transitional Application is made effective as soon as reasonably practicable.
- 9.1.7 Each Transmission Owner shall charge NGC and NGC shall pay Engineering Charges in relation to a New Transitional Application in accordance with Schedule Ten.

- 9.1.8 NGC and each Transmission Owner shall keep each other informed of any changes in an application or any associated information provided by a User to either NGC or the relevant Transmission Owner and notice of any withdrawal by a User of an application which is the subject of a New Transitional Application shall also constitute notice of withdrawal by NGC of the relevant New Transitional Application from the time at which both NGC and the relevant Transmission Owner received notice of the User's withdrawal.

9.2 **Provision of New Construction Planning Assumptions**

- 9.2.1 In addition to the Transitional Planning Assumptions used for general transmission planning during the Transition Period, NGC may, as a consequence of a New Transitional Application, generate a set of Planning Assumptions which take into account the power flows which NGC expects may result from the Construction Project for use only in the preparation of Transitional New User Offers ("**New Construction Planning Assumptions**").
- 9.2.2 NGC shall notify each Transmission Owner as soon as reasonably practicable if it does not intend to generate a set of New Construction Planning Assumptions in respect of a New Transitional Application, following which the general Transitional Planning Assumptions provided to Transmission Owners pursuant to sub-paragraph 7.3.1 of this Section I shall be deemed to be New Construction Planning Assumptions for the purposes of this Section I, paragraph 9.
- 9.2.3 A Transmission Owner may at any time submit a request to NGC for a change to New Construction Planning Assumptions it has received pursuant to sub-paragraph 9.2.1 or which have been deemed pursuant to sub-paragraph 9.2.2, provided that such request shall contain a description (in reasonable but not excessive detail) of the reason(s) for the request.
- 9.2.4 If NGC receives a request for a change to New Construction Planning Assumptions pursuant to sub-paragraph 9.2.3 it shall, as soon as reasonably practicable notify the Transmission Owner submitting the request and any other Transmission Owner which is likely to be materially affected by the requested change whether or not and, where relevant, how NGC intends to accommodate such request.
- 9.2.5 NGC may, in its discretion, change a set of New Construction Planning Assumptions (including any deemed New Construction Planning Assumptions under sub-paragraph 9.2.2), at any time up to the earlier of:
- 9.2.5.1 the time at which it accepts the New Transitional Offer to which such New Construction Planning Assumptions apply; or
- 9.2.5.2 the Go Live Date,
- by giving notice to the relevant Transmission Owner(s).

- 9.2.6 If NGC generates, modifies or updates New Construction Planning Assumptions, it shall do so, and shall submit any relevant parts of such New Construction Planning Assumptions to Transmission Owners, in accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1).

9.3 New Transitional Offers

- 9.3.1 Each Transmission Owner shall notify NGC as soon as reasonably practicable and, in any event, in accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1) following receipt of a New Transitional Application whether or not such Transmission Owner intends to submit a New Transitional Offer to NGC pursuant to this paragraph 9.3 in respect of any Connection Site identified in such New Transitional Application including, without limitation, where the Transmission Owner is not submitting a New Transitional Offer because it is not obliged to do so pursuant to Standard Condition D15 of its Transmission Licence or the Act.

- 9.3.2 Subject to Standard Condition D15 of its Transmission Licence, a Transmission Owner shall prepare New Transitional Offer(s) during the Transition Period in accordance with the obligations which will apply to the preparation of TO Construction Offers on and from the Go Live Date under Section D, Part Two, paragraph 4, except that references to:

9.3.2.1 "TO Construction Offer" shall be taken to be references to New Transitional Offer;

9.3.2.2 "Part One, paragraph 2.2 of this Section D" shall be taken to be a reference to sub-paragraph 7.3.4 of this Section I; and

9.3.2.3 "NGC Construction Application" shall be taken to be a reference to New Transitional Application.

- 9.3.3 If a Transmission Owner is submitting a New Transitional Offer to NGC, it shall do so as soon as reasonably practicable and, in any event, in accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1).

- 9.3.4 A New Transitional Offer submitted by a Transmission Owner to NGC pursuant to sub-paragraph 9.3.3 shall include, without limitation, those matters set out in Schedule Eight, paragraph 1.1 except that:

9.3.4.1 references to "Transmission Services" and "Normal Capability Limits" shall be to those Transmission Services and Normal Capability Limits which reflect the Transmission Owner's transmission planning and which the relevant Transmission Owner reasonably anticipates it will provide or which will apply on and from the Go Live Date; and

9.3.4.2 references to "Construction Project" shall be to those construction works required in relation to the Connection Site(s) to facilitate the use of the

GB Transmission System by the relevant User(s) on and from the Go Live Date as set out in the New Transitional Offer.

9.4 Acceptance of New Transitional Offer by NGC

- 9.4.1 A New Transitional Offer shall remain open for acceptance in accordance with the Agreed Transitional Timetable (referred to in paragraph 10.1) unless an application is made to the Authority under Standard Condition C18 of NGC's Transmission Licence, in which event such period shall remain subject to any determination by or other direction from the Authority.
- 9.4.2 In the event that NGC modifies New Construction Planning Assumptions after a Transmission Owner has submitted its New Transitional Offer for the Construction Project to which such New Construction Planning Assumptions apply, the Transmission Owner shall, as soon as reasonably practicable, revise and re-submit its New Transitional Offer to NGC, taking into account such modified New Construction Planning Assumptions.
- 9.4.3 If NGC wishes to accept a New Transitional Offer, it shall do so by promptly notifying the relevant Transmission Owner in the form specified and by providing it with an executed copy or executed copies of the relevant TO Construction Agreement(s).
- 9.4.4 Following acceptance of a New Transitional Offer by NGC pursuant to sub-paragraph 9.4.3 the Transmission Owner shall, on and from the Go Live Date, construct the relevant TO Construction Works in accordance with the terms of this Code and the executed TO Construction Agreement.

10. GENERAL PROVISIONS CONCERNING THE DEVELOPMENT OF CURRENT USER OFFERS AND NEW TRANSITIONAL OFFERS

10.1 Agreed Transitional Timetable

- 10.1.1 The Parties shall agree a timetable (the "**Agreed Transitional Timetable**"), on or before 5 September 2004, which sets out those timeframes which are to apply between the Parties for the purposes of paragraphs 8 and 9 of this Section I, to the extent that such timeframes are not otherwise specified, and which includes, without limitation, provision for the submission or acceptance of:

- 10.1.1.1 Current User Applications pursuant to sub-paragraph 8.2.3;
- 10.1.1.2 Current User Offers pursuant to sub-paragraphs 8.4.1 or 8.5.1;
- 10.1.1.3 New Transitional Applications pursuant to sub-paragraphs 9.1.3, 9.1.6;
- 10.1.1.4 New Transitional Offers pursuant to sub-paragraph 9.3.2;
- 10.1.1.5 Transitional Construction Planning Assumptions pursuant to sub-paragraph 8.3.1 and

10.1.1.6 New Construction Planning Assumptions pursuant to subparagraph 9.2.1.

10.1.2 The Parties may agree to update or otherwise modify the Agreed Transitional Timetable at any time during the Transition Period.

10.2 Operation of Current User Offers and Applications and New Transitional Offers and Applications as at the Go Live Date

10.2.1 At the Go Live Date, each Current User Offer or New Transitional Offer submitted to NGC but not accepted during the Transition Period shall be deemed to be a TO Construction Offer for the purposes of Section D, Part Two.

10.2.2 For the avoidance of doubt, the period of time for which a Current User Offer or New Transitional Offer has remained open up to the Go Live Date shall constitute time which the deemed TO Construction Offer has remained open for the purposes of Section D, Part Two, paragraph 5.1.

10.2.3 At the Go Live Date, each outstanding Current User Application or New Transitional Application submitted by NGC during the Transition Period shall be deemed to be a NGC Application for the purposes of Section D, Part Two.

10.3 General Co-ordination of Construction Projects

10.3.1 The Parties shall, to the extent reasonably practicable, co-operate and assist each other in the preparation of Current User Offers and New Transitional Offers in the same manner and complying with the same requirements as shall apply in respect of TO Construction Offers on and from the Go Live Date pursuant to Section D, Part Two, paragraph 6.

11. CRITERIA FOR ASSESSING THOSE TRANSMISSION SYSTEMS AFFECTED BY APPLICATIONS DURING THE TRANSITION PERIOD

11.1 On or before 1 October 2004, the Parties shall agree and submit to the Authority for approval the proposed criteria for assessing those Transmission Systems affected by a Current User Application or New Transitional Application for the purposes of subparagraphs 8.2.3 and 9.1.3.

11.2 The criteria that apply for the purpose of assessing those Transmission Systems affected by a Current User Application or New Transitional Application shall be the criteria proposed by the Parties pursuant to paragraph 11.1 as amended or otherwise approved by the Authority.

12. SITE RESPONSIBILITY SCHEDULES

12.1 On or before 28 February 2005, each Transmission Owner shall complete, or procure from a User, a Site Responsibility Schedule in respect of each Connection Site located on its Transmission System and provide all such Site Responsibility Schedules to NGC.

12.2 Each Transmission Owner shall promptly provide to NGC a copy of any new or updated Site Responsibility Schedules completed or updated by itself or a User at any time after 28 February 2005 up to the Go Live Date.

12.3 NGC shall provide to each Transmission Owner any assistance which it reasonably requests from NGC in relation to the preparation of a Site Responsibility Schedule pursuant to this paragraph 12.

13. DISPUTES

13.1 Any matter arising between two or more Parties during the Transition Period, under the Code, shall be referable to the Authority as a Dispute in accordance with this paragraph 13.

13.2 A Party may raise a Dispute by issuing a Transitional Dispute Notice to the Authority and each of the other Dispute Parties.

13.3 Unless otherwise specified in this Code or directed by the Authority, any specification, plan, proposal or other document developed or changed under this Section I which is the subject of a Dispute shall be developed and, if relevant, implemented as proposed by the Party responsible for the initial development of such specification, plan, proposal or other document, subject to any subsequent determination of the Dispute by the Authority.

13.4 The Authority's determination of a Dispute under this paragraph 13 shall, without prejudice to any right to apply for judicial review of any determination, be final and binding on the Dispute Parties.

13.5 It is expected that, in most cases, the Authority's determination of a Dispute under this paragraph 13 will set out the effect of the determination in terms of any actions or other steps that the Dispute Parties should take. To the extent that there is a Dispute between the Dispute Parties over the implementation of any such determination by the Authority (a "**Transitional Implementation Dispute**"), then any such Dispute Party may refer the Transitional Implementation Dispute back to the Authority for determination.

13.6 Following a determination under this paragraph 13, each Dispute Party shall take such steps as are required to give full and timely effect to that determination including, without limitation, issuing, withdrawing or modifying any application, offer (including the terms of such application or offer), notice, plan or any other information or process or taking any other steps required pursuant to this Section I.

SECTION J: INTERPRETATION AND DEFINITIONS

1. INTRODUCTION

- 1.1 This Section I sets out the general rules to be applied in interpreting this Code and any TO Construction Agreement and the defined terms used in this Code (other than those defined elsewhere in this Code).

2. INTERPRETATION AND CONSTRUCTION

- 2.1 In this Code and in each TO Construction Agreement:

2.1.1 the interpretation rules in this paragraph 2; and

2.1.2 the words and expressions defined in paragraph 3,

shall, unless the subject matter or context otherwise requires or is inconsistent therewith, apply.

- 2.2 If in order to comply with any obligation in the Code or any TO Construction Agreement any Party is under a duty to obtain, or in the case of NGC (where appropriate) procure that a User so obtain, the consent or approval (including any statutory licence or permission) ("**the Consent**") of a third party (or the Consent of another Party) such obligation shall be deemed to be subject to the obtaining of such Consent which the Party requiring the Consent shall use its reasonable endeavours to obtain or, in the case of NGC (where appropriate) procure that a User obtain, including (if there are reasonable grounds therefor) pursuing any appeal in order to obtain such Consent.

- 2.3 If such Consent is required from any Party then such 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 Party may be made subject to such reasonable conditions as such Party shall reasonably determine.

- 2.4 For the avoidance of doubt if the Party who is under a duty to obtain, or in the case of NGC (where appropriate) to procure that a User so obtain, such Consent fails to obtain such Consent having complied with this paragraph 2, the obligation on that Party (in relation to which such Consent is required) shall cease.

- 2.5 Without limitation to paragraphs 2.2, 2.3 or 2.4, each Party shall, to the extent reasonably practicable, comply with any request from a Party for advice or assistance in connection with seeking, obtaining or maintaining Consents.

- 2.6 In this Code and in each TO Construction Agreement:

2.6.1 unless the context otherwise requires, all references to a particular paragraph, Part, Section, Schedule or Annex shall be a reference to that paragraph, Part, Section, Schedule or Annex in or to the Code;

- 2.6.2 a table of contents, headings and introductions are inserted for convenience only and shall be ignored in construing the Code or a TO Construction Agreement as the case may be;
- 2.6.3 references to the word "include" or "including" are to be construed without limitation to the generality of the preceding words;
- 2.6.4 a reference to an Act of Parliament or any part or section or other provision or schedule to an Act of Parliament is a reference to that Act of Parliament and to all orders, regulations, instruments or other subordinate legislation made under or deriving validity from the relevant Act of Parliament;
- 2.6.5 unless the context otherwise requires, any reference to an Act of Parliament, statutory provision, subordinate legislation or code ("**Legislation**") is a reference to such Legislation as amended and in force from time to time and to any Legislation which re-enacts or consolidates (with or without modification) any such Legislation; and
- 2.6.6 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.

3. DEFINITIONS

The following terms shall have the following meanings:

"Accession Agreement"	an agreement in the form set out in Schedule One whereby a Party Applicant accedes to the Framework Agreement;
"Act"	the Electricity Act 1989;
"Affiliate"	as defined in Standard Condition A1;
"Agreed Transitional Timetable"	as defined in sub-paragraph 10.1.1 of Section I;
"Alternative Amendment"	an alternative to a Proposed Amendment proposed in accordance with Section B, sub-paragraph 7.2.2.8;
"Amendment Procedures"	the procedures to be followed in respect of amendments to the Code as set out in Section B, paragraph 7;
"Amendment Register"	the register established and maintained by the Committee Secretary in accordance with Section B, sub-paragraph 7.2.7.1;
"Amendment Report"	the report in respect of a Proposed Amendment or any Alternative Amendment as defined in Section B, sub-paragraph

7.2.5.11;

"Apparatus"	all equipment in which electrical conductors are used, supported or of which they may form a part;
"Applicable STC Objectives"	as defined in Standard Condition B12;
"Approved Amendments"	Proposed Amendments including Urgent Amendment Proposals or Alternative Amendments to the Code approved by the Authority in accordance with Section B;
"Assessment"	the analysis and impact assessment commissioned in accordance with and as defined in Section B, sub-paragraph 7.2.5.2;
"Assessment and Report Phase"	the process for assessing Proposed Amendments and any Alternative Amendments and formulating an Amendment Report as set out in Section B, sub-paragraph 7.2.5;
"Authority"	the Gas and Electricity Markets Authority established under section 1 of the Utilities Act 2000;
"Back-Stop Date"	the date by which an item of Derogated Plant is to attain its Required Standard, as specified in or pursuant to a Transmission Derogation;
"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"	the estimate of payments required to be provided by NGC to a Transmission Owner in respect of a Construction Project and defined in respect of each Transmission Owner in its TO Construction Agreement with NGC for such Construction Project;
"Black Start"	the process necessary for a recovery from a Total Shutdown or Partial Shutdown;
"BSC"	as defined in Standard Condition C1 of NGC's Transmission Licence;
"BSC Framework Agreement"	as defined in Standard Condition C1 of NGC's Transmission Licence;
"Business Day"	any week day other than a Saturday on which banks are open for domestic business in the City of London;

"Business Personnel"	<p>any person who:</p> <ul style="list-style-type: none"> (a) is an officer of the Party; or (b) is an employee of the Party, carrying out any administrative, finance or other corporate services of any kind which, wholly or in part, relate in the case of NGC, to the Main Business and in the case of a Transmission Owner, the Transmission Business; or (c) is engaged by or on behalf of the Party as an agent, sub-contractor or adviser to or otherwise to perform work in relation to services for in the case of NGC the Main Business and in the case of a Transmission Owner, the Transmission Business, <p>and "Business Personnel" shall be construed accordingly;</p>
"Calendar Quarter"	each of the three calendar month periods commencing on, respectively, January 1, April 1, July 1 and September 1 each calendar year;
"Chair"	the person appointed in accordance with and as defined in Section B, sub-paragraph 6.1.4;
"Change"	any addition, replacement, refurbishment, renovation, modification, alteration, construction or withdrawal;
"Code"	this System Operator – Transmission Owner Code, as required by Standard Condition B12, as amended or modified from time to time and references to the Code include the Code as given contractual force and effect by the Framework Agreement;
"Code Effective Date"	the date of execution of the Framework Agreement;
"Code Procedures"	the procedures forming a part of this Code as more particularly defined in Section A, paragraph 2.4;
"Code Website"	the website for the Code established and maintained by NGC;
"Commissioned"	Plant and Apparatus certified by the Independent Engineer as having been commissioned in accordance with the relevant Commissioning Programme;
"Commissioning Programme"	in relation to a particular Construction Project, as defined in the TO Construction Agreement between NGC and the Transmission Owner to whose Transmission System the Relevant Connection Site is or will be Connected;
"Commissioning"	as defined for a Commissioning Programme in the TO

Programme Commencement Date	Construction Agreement between NGC and the Transmission Owner to whose Transmission System the Relevant Connection Site is or will be Connected;
"Committee"	the committee established and defined under Section B, sub-paragraph 6.1.1;
"Committee Meeting"	a meeting of the Committee as defined in Section B, sub-paragraph 6.1.2;
"Committee Secretary"	the secretary appointed from time to time in accordance with Section B, sub-paragraph 6.1.3;
"Communications Plant"	electronic communications network infrastructure, including control telephony, used to facilitate real-time communications;
"Competent Authority"	the Secretary of State, the Authority and any local or national agency, authority, department, inspectorate, minister (including Scottish ministers), 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 Construction Project, as defined in respect of each Transmission Owner in its TO Construction Agreement with NGC;
"Confidential Information"	means: <ul style="list-style-type: none"> (a) in the case of NGC, any information relating to the affairs of a Transmission Owner which is furnished to NGC or its Business Personnel under this Code or any TO Construction Agreement or pursuant to a direction under section 34 of the Act or pursuant to the provisions of the Fuel Security Code; and (b) in the case of a Transmission Owner, all data and information relating to the affairs of a Party or User supplied to it or its Business under the provisions of this Code or any TO Construction Agreement or pursuant to a direction under section 34 of the Act or pursuant to the provisions of the Fuel Security Code;
"Connection"	a direct connection to the GB Transmission System by a User (and "Connected" shall be construed accordingly);
"Connection Conditions"	that part of the Grid Code which is identified as the Connection Conditions;
"Connection Entry"	the figure specified as such for a Connection Site and each

"Capacity"	Generating Unit as set out in the relevant NGC Construction Application;
"Connection Point"	as defined in the Grid Code as at the Code Effective Date;
"Connection Site"	each location at which User Equipment and Transmission Connection Assets required to connect that User to the 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 Specification"	as defined in Section D, Part One, sub-paragraph 2.6.1;
"Consents"	in relation to a particular Construction Project, as defined in the relevant TO Construction Agreement, and otherwise as defined in this Section J, paragraph 2.2;
"Construction Assumptions Date"	<p>in respect of each Transmission Owner, the date on which such Transmission Owner:</p> <ul style="list-style-type: none"> (a) receives Construction Planning Assumptions from NGC pursuant to Section D, Part Two, paragraph 3.2; or (b) receives notice that NGC does not intend to generate a set of Construction Planning Assumptions under Section D, Part Two, paragraph 3.3, <p>in relation to the Construction Project to which such Construction Planning Assumptions apply;</p>
"Construction Party"	as defined in Section D, Part Two, paragraph 2.2;
"Construction Planning Assumptions"	as defined in Section D, Part Two, paragraph 3.1;
"Construction Project"	as defined in Section D, Part Two, paragraph 2.1;
"Core Industry Document"	as defined in Standard Condition A1;
"Current User"	as defined in sub-paragraph 8.2.1 of Section I;
"Current User Application"	as defined in sub-paragraph 8.2.3 of Section I;
"CUSC"	as defined in Standard Condition C1 of NGC's Transmission Licence;
"CUSC Framework"	as defined in Standard Condition C1 of NGC's Transmission

"Agreement"	Licence;
"CUSC Party"	as defined in Standard Condition A1;
"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;
"Decommissioning Actions"	the procedures, processes and steps required to be taken by Parties as defined in Section B, sub-paragraph 5.1.3;
"De-energisation"	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 User Equipment;
"Default Interest Rate"	the Base Rate at the due date for payment of an amount under the Code plus two per cent per annum;
"Default Planning Boundary"	the boundary between a Transmission Owner's Transmission System and a User System that is considered as the default by the Transmission Owner for the purpose of planning and developing the GB Transmission System in relation to Construction Projects at a Relevant Connection Site and determined in accordance with Section D, Part One, paragraph 3;
"Derogated Plant "	Plant or Apparatus which is the subject of a Transmission Derogation;
"Directive"	includes any present or future directive, requirement, instruction, direction or rule of any Competent Authority, (but only, if not having force in 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;
"Disclose"	disclose, reveal, report, publish or transfer by any means and "Disclosure" and "Disclosing" shall be construed accordingly;
"Dispute"	a failure to agree or other dispute between the Parties under or otherwise arising in relation to the subject matter of the Code or a TO Construction Agreement including, without limitation, a dispute involving a breach or alleged breach of this Code or a TO Construction Agreement;
"Dispute Notice"	a notice sent to the Authority and each of the other Dispute Parties in order to raise a Dispute under Section H, paragraph 3.2 setting out the details of the Dispute;

"Dispute Parties"	a Party initiating a Dispute and each other Party which is, or is likely to be, materially affected by such Dispute;
"Distribution Code(s)"	the distribution code(s) drawn up pursuant to Distribution Licences as from time to time revised in accordance with such licences;
"Distribution Licence"	a licence issued under section 6(1)(c) of the Act;
"Distribution System"	as defined in the CUSC as at the Code Effective Date;
"Earthing"	as defined in the Grid Code as at the Code Effective Date;
"Effective Date"	In relation to each TO Construction Agreement, unless otherwise agreed between the relevant Parties, the date of execution of such TO Construction Agreement;
"Electricity Arbitration Association"	the unincorporated members' club of that title formed inter alia to promote the efficient and economic operation of the procedure for the resolution of disputes within the electricity supply industry by means of arbitration or otherwise in accordance with its arbitration rules;
"Embedded User"	any User whose User Equipment is not Connected;
"Emergency Return to Service Time"	the period of time required for a Transmission Owner to restore the part(s) of a Transmission System affected by an Outage so that such part(s) or any other relevant parts of the Transmission System can again be made available, to the extent identified in the Outage Plan, for the purpose of conveying and affecting the flow of electricity pursuant to Section C, Part Two, sub-paragraph 3.7.7;
"Energisation"	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 Equipment (and "Energised" shall be construed accordingly);
"Energy"	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. 1000 Wh = 1kWh 1000 kWh = 1 MWh 1000MWh = 1 GWh

1000 GWh = 1 TWh

"Engineering Charges"	the charges levied, by each Transmission Owner, in relation to a NGC Construction Application;
"Evaluation Phase"	the phase for evaluation of Proposed Amendments and any Alternative Amendments under Section B, sub-paragraph 7.2.4;
"Event"	an unscheduled or unplanned occurrence on, or relating to, a Transmission System including, without limitation, faults, incidents, breakdowns and adverse weather conditions;
"Exemption"	an exemption granted under section 5 of the Act;
"External Interconnections"	as defined in the Grid Code;
"Financial Year"	the period of 12 months ending on 31 March in each calendar year;
"Flexibility Parameters"	as defined in Section C, Part Two, paragraph 3.7;
"Force Majeure"	in relation to any Party, any event or circumstance which is beyond the reasonable control of such Party and which results in or causes the failure of that Party to perform any of its obligations under the Code 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 sections 32, 33, 34 and 35 of the Act) provided that lack of funds or performance or non-performance by an Other Code Party shall not be interpreted as a cause beyond the reasonable control of that Party;
"Framework Agreement"	the agreement of that title, in the form approved by the Secretary of State, by which this Code is made contractually binding between the parties to that agreement, as amended from time to time with the approval of the Secretary of State;
"Fuel Security Code"	the Code of that name designated by the Secretary of State, as from time to time modified in accordance with the Transmission Licences ;

"GB Transmission System"	as defined in Standard Condition A1;
"Generating Unit"	unless otherwise provided in the Grid Code as at the Code Effective Date any Apparatus which produces electricity;
"Generator"	a person who generates electricity under licence or exemption under the Act;
"Go Live Date"	the date which the Secretary of State indicates in a direction shall be the BETTA go-live date;
"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;
"Great Britain" or "GB"	England and Wales and Scotland;
"Grid Code"	the code of that name drawn up pursuant to NGC's Transmission Licence, as from time to time modified in accordance with NGC's Transmission Licences;
"High Voltage" or "HV"	as defined in the Grid Code as at the Code Effective Date;
"Implementation Date"	the date proposed as the date for the implementation of a Proposed Amendment or any Alternative Amendment in accordance with and as defined in Section B, sub-paragraph 7.2.5.8(e);
"Implementation Dispute"	as defined in Section H, paragraph 4.6;
"Independent Engineer"	<p>the engineer specified as such in a TO Construction Agreement. Provided that:</p> <ul style="list-style-type: none"> (a) where the Parties to the TO Construction Agreement fail to agree on a suitable engineer within 120 days of the date of the TO Construction Agreement; or (b) where any Independent Engineer appointed from time to time shall fail, refuse or cease to act in a capacity set out in the TO Construction Agreement and no substitute engineer of suitable standing and qualification can be agreed by the Parties to the TO Construction Agreement within 30 calendar days; <p>then such engineer as the President of the Institution of Electrical Engineers shall, on the application of either Party, nominate shall be the Independent Engineer.</p>
"Intellectual Property"	patents, trade marks, service marks, rights in designs, trade

"Rights"	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;
"Interim SYS"	the interim GB SYS referred to in Standard Condition C11 of NGC's Transmission Licence;
"Interconnector"	as defined in the BSC as at the Code Effective Date;
"Interface Agreement"	an agreement entered into by a Transmission Owner with a User pursuant to Section C, Part Three, paragraph 3.1;
"Investigation Party"	as defined in Section C, Part Three, sub-paragraph 4.2.1;
"Isolation"	as defined in the Grid Code as at the Code Effective Date;
"Joint Investigation"	an investigation conducted jointly by Investigation Parties and, where relevant, other persons into a Significant Incident or Related Significant Incidents under Section C, Part Three, paragraph 4.2;
"Joint Project Party"	as defined in Section D, Part Two, paragraph 8.1;
"Legal Requirement"	any Act of Parliament, regulation, licence or Directive;
"Legislation"	as defined in paragraph 2.6.5 of this Section J;
"Licence Standards"	<p>the standards and requirements, in respect of each Party, referred to in its Transmission Licence and in accordance with which:</p> <p>(a) such Party is required to plan and develop its Transmission System; and</p> <p>(b) NGC is required to co-ordinate and direct the flow of electricity onto and over the GB Transmission System,</p> <p>as varied from time to time in respect of a Transmission Owner by a Transmission Derogation or, in the case of NGC, by any relevant direction issued by the Authority;</p>
"Liquidated Damages"	as defined separately between NGC and each Transmission Owner undertaking Works as part of a Construction Project in an applicable TO Construction Agreement;

"Local Safety Instructions"	as defined in the Grid Code as at the Code Effective Date;
"Low Voltage" or "LV"	as defined in the Grid Code as at the Code Effective Date;
"Main Business"	any business of NGC as at the Code Effective Date and any business which NGC must carry out under its Transmission Licence;
"Material Effect"	<p>where used in relation to the identification of a Modification only, shall mean an effect causing:</p> <ul style="list-style-type: none"> (a) NGC or a Transmission Owner to effect any works or to alter the manner of operation of Transmission Plant or Transmission Apparatus at a Connection Site; or (b) a User to effect any works or to alter the manner of operation or Plant or Apparatus at the Connection Site or the site of connection, <p>which, in either case, involves NGC or the relevant Transmission Owner or User in expenditure of more than £10,000;</p> <p>The phrase "material effect" where otherwise used in the Code shall not be construed as being so limited.</p>
"Medium Voltage" or "MV"	as defined in the Grid Code as at the Code Effective Date;
"Modification"	<p>any:</p> <ul style="list-style-type: none"> (a) actual or proposed replacement, renovation, modification, alteration, or construction by or on behalf of a User or a Transmission Owner to either the User's Plant or Apparatus or the manner of its operation or the Transmission Owner's Transmission Plant or Transmission Apparatus or the manner of its operation which in either case has or may have a Material Effect on a User at a particular Connection Site; (b) Replacement of Assets (irrespective of whether such Replacement of Assets has a Material Effect on a User at a particular Connection Site); or (c) increase in Transmission Entry Capacity, not otherwise associated with the construction or modification of User Equipment, requested by a User under the CUSC;
"Network Operator"	as defined in the Grid Code as at the Code Effective Date;

"New Connection"	a new or proposed Connection for which NGC has received a User Application but in respect of which a New Connection Site has not yet become Connected and Energised;
"New Connection Site"	the proposed Connection Site for a New Connection;
"New Construction Planning Assumptions"	as defined in sub-paragraph 9.2.1 of Section I;
"New Transitional Application"	as defined in sub-paragraph 9.1.3 of Section I;
"NGC"	National Grid Company plc (No 2366977) whose registered office is at 1-3 Strand, London WC2N 5EH;
"NGC Application Date"	in respect of each Transmission Owner, the date on which such Transmission Owner receives an effective NGC Construction Application in relation to a Construction Project;
"NGC Connection Application"	an application made by NGC to a Transmission Owner pursuant to Section D, Part Two, paragraph 2.2 in relation to the construction of a New Connection Site and containing the information set out in Schedule Five;
"NGC Construction Application"	as defined in Section D, Part Two, sub-paragraph 2.1.2;
"NGC Investment Plan"	as defined in Section D, Part One, sub-paragraph 2.1.4;
"NGC Modification Application"	an application made by NGC to a Transmission Owner pursuant to Section D, Part Two, paragraph 2.2 in relation to the construction of a Modification and containing the information set out in Schedule Six;
"Non-Embedded Customer"	as defined in the CUSC as at the Code Effective Date;
"Non-Performing Party"	a Party that is unable to carry out any of its obligations under the Code in accordance with Section G, paragraph 8.1;
"Normal Capability Limits"	as defined in Section C, Part One, sub-paragraph 3.1.1;
"One Off Works"	the works described as such in a TO Construction Agreement;
"Operating Code"	that part of the Grid Code which is identified as the Operating Code;
"Operational"	in relation to Works undertaken by a Transmission Owner as part of a Construction Project, means that such Works have been completed and, in the case of Works at a Connection Site, Commissioned so that, subject to any Works being

	undertaken by NGC or another Transmission Owner, the User can use the GB Transmission System and any User Equipment the subject of the Construction Project to undertake those acts and things capable of being undertaken pursuant to the CUSC;
"Operational Capability Limits"	as defined in Section C, Part One, paragraph 4.3;
"Operational Effect"	an effect which causes the GB Transmission System to operate (or be at a materially increased risk of operating) differently to the way in which it would or may have normally operated in the absence of such effect;
"Other Code"	as the context admits or requires, any of the CUSC, CUSC Framework Agreement, Grid Code, BSC, BSC Framework Agreement and any agreement entered into pursuant to any of these;
"Other Code Party"	other than NGC, a party (including its officers, employees or agents) to or under any Other Code;
"Outage"	(as the context admits or requires): <ul style="list-style-type: none"> (a) a planned temporary reduction in the extent to which Transmission Services are provided by a Transmission Owner pursuant to Section C, Part One, paragraph 2.1; or (b) a planned temporary withdrawal from service (either partially or completely) of NGC Plant and Apparatus in England and Wales comprising part of the GB Transmission System;
"Outage Implementation Process"	as defined in Section C, Part Two, paragraph 6.1;
"Outage Plan"	the plan for the placement of Outages for each Financial Year developed and maintained by NGC in accordance with Section C, Part Two;
"Outage Proposal"	the proposal in respect of proposed Outages for each Financial Year developed, maintained and submitted to NGC by each Transmission Owner in accordance with, and including those matters set out in, Section C, Part Two;
"Part"	a part of this Code as referred to herein;
"Partial Shutdown"	the same as a Total Shutdown except that all generation has ceased in a separate part of the Total System and there is no

	electricity supply from External Interconnections or other parts of the Total System to that part of the Total System and, therefore that part of the Total System is shutdown, with the result that it is not possible for that part of the Total System to begin to function again without NGC's directions relating to Black Start;
"Party"	as defined in Section B, paragraph 2.1;
"Party Applicant"	a Transmission Licensee wishing to enter into the Framework Agreement;
"Party Details"	the details required from a Party and Party Applicant under Section B, sub-paragraph 3.1.2 and paragraph 4.1 as applicable;
"Party Entry Processes"	the procedures, processes and steps required to be taken by a Party on entry to the Code as defined in Section B, sub-paragraph 3.2.3;
"Party Liable"	as defined in Section G, paragraph 4.2;
"Party Representatives"	the representatives of the Parties as defined in Section B, sub-paragraph 6.1.2;
"Paying Party"	as defined in Section E, paragraph 3.1;
"Permitted Activities"	activities carried on by: <ul style="list-style-type: none"> (a) NGC, for the purposes of its Main Business; and (b) a Transmission Owner, for the purpose of its Transmission Business;
"Planned Works"	as defined in Section D, Part One, sub-paragraph 2.1.2.3;
"Planning Assumptions"	in respect of each Transmission Owner: <ul style="list-style-type: none"> (a) NGC's forecasts of power flows onto and off the Transmission Owner's Transmission System under conditions which NGC reasonably foresees will arise in the course of a Financial Year; or (b) information which NGC reasonably considers is necessary to allow the Transmission Owner to forecast power flows on to and off a Transmission Owner's Transmission System under conditions which NGC reasonably foresees will arise in the course of a Financial Year of

	operation,
	developed, in each case, in accordance with Schedule Three;
"Planning Code"	that part 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;
"Power Station"	as defined in the CUSC as at the Code Effective Date;
"Proceedings"	as defined in Section G, paragraph 17.1;
"Progress Report"	the progress report prepared and submitted by the Committee in accordance with Section B, sub-paragraph 7.2.8.1;
"Proposed Amendment"	a proposed amendment to this Code as defined at Section B, sub-paragraph 7.2.2.3;
"Proposed Amendment Report"	the proposed form of the Amendment Report developed in accordance with and as defined in Section B, sub-paragraph 7.2.5.8;
"Proposer"	a Party or other person making a proposal for an amendment to the Code as defined in Section B, paragraph 7.2.2.1;
"Protection"	as defined in the Grid Code as at the Code Effective Date;
"Quorum"	the quorum required for a Committee Meeting as defined in Section B, sub-paragraph 6.4.5;
"Reasonable Charges"	reasonable cost reflective charges comparable to charges for similar services obtainable in the open market;
"Receiving Party"	as defined in Section E, paragraph 3.1;
"Reference Notice"	a notice sent to the Authority or the Electricity Arbitration Association (as appropriate) and copied to each other Dispute Party in relation to a Dispute under Section H, paragraphs 4.1 or 5.1 setting out details of the Dispute;
"Regulations"	the Electricity Safety, Quality and Continuity Regulations 2002;
"Related Significant Incidents"	a series of Significant Incidents in which one or more Significant Incidents cause or exacerbate one or more other Significant Incidents;
"Related Undertaking"	as defined in Standard Condition A1;
"Relevant Connection Site"	in respect of each Construction Project:

	<ul style="list-style-type: none"> (a) the Connection Site or New Connection Site which is the subject of the relevant User Application; or (b) in the case of a User Application made to NGC by an Embedded User, the connection site of such Embedded User;
"Relevant Instrument"	<p>any or, as the context may require, a particular one of the following:</p> <ul style="list-style-type: none"> (a) the Act and all subordinate legislation made under the Act; (b) the Data Protection Act 1998 and all subordinate legislation made under it; (c) any Transmission Licence and any determination or notice made or issues by the Authority pursuant to the terms thereof, <p>and whether under any of the foregoing or otherwise, all authorisations, approvals, licences, exemptions, filings, registrations, notarisations, consents, guidelines and other matters which are required or which a Party acting in accordance with Good Industry Practice would obtain or comply with for the purposes of the Code, of or from any Competent Authority;</p>
"Relevant Parties"	the Parties to a Code Procedure or proposed new Code Procedure;
"Replacement of Assets"	any replacement of Transmission Connection Assets by NGC or a Transmission Owner which is the subject of, or otherwise requires, notice to be given by NGC to a User under and pursuant to the CUSC;
"Required Standard"	in relation 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 Standard(s) as specified in or pursuant to a Transmission Derogation);
"Safety Co-ordinators"	As defined in the Grid Code as at the Code Effective Date;
"Safety Rules"	the rules of NGC, a Transmission Owner 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;
"Schedule"	a schedule to and forming a part of this Code as referred to

	herein;
"Section"	a section of and forming a part of this Code as referred to herein;
"Secured Event"	as defined in respect of the GB Transmission System and each of the Parties' Transmission Systems in the Licence Standards;
"Services Capability Specification"	the specification of Transmission Owner Services provided and maintained in accordance with Section C, Part One, paragraph 3.1;
"Services Reduction"	as defined in Section C, Part One, sub-paragraph 4.1.2;
"Services Reduction Risk"	as defined in Section C, Part One, sub-paragraph 4.5.2;
"Services Restoration Proposal"	as defined in Section C, Part One, sub-paragraph 4.6.4;
"Seven Year Statement"	the annual statement prepared by NGC in accordance with Section D, Part One, paragraph 4 and Standard Condition C11 of its Transmission Licence;
"Seven Year Statement Works"	the works set out for a Transmission Owner in the Seven Year Statement and in a TO Construction Agreement which in such Transmission Owner's reasonable opinion are required to be completed before the Completion Date to ensure that the GB Transmission System complies with the requirements of Standard Condition C17 of NGC's Transmission Licence prior to a Construction Project being made Operational;
"Significant Incident"	<p>an Event which NGC determines, pursuant to Section C, Part Three, sub-paragraph 4.1.2, has had or may have a significant effect on the GB Transmission System including, without limitation, an Event(s) having an Operational Effect which results in, or may result in:</p> <ul style="list-style-type: none"> (a) operation of Plant and/or Apparatus either manually or automatically; (b) voltage on any part of the GB Transmission System moving outside statutory limits; (c) frequency of any part of the GB Transmission System falling outside statutory limits; or (d) instability of any part of the GB Transmission System.

"Site Responsibility Schedule"	as defined in the Grid Code as at the Code Effective Date;
"Standard Condition"	a standard condition of Transmission Licences;
"Standard Planning Data"	the data listed in Part 1 of Appendix A of the Planning Code;
"Station Demand"	as defined in the CUSC as at Code Effective Date;
"SYS Programme"	as defined in Section D, Part One, sub-paragraph, 4.1.2;
"System"	as defined in the CUSC as at the Code Effective Date;
"System Construction"	Transmission Reinforcement Works or any other Works required to be undertaken by a Transmission Owner in order to facilitate the use or change in the use of the GB Transmission System by a User;
"System Construction Application"	an application made by NGC to a Transmission Owner pursuant to Section D, Part Two, paragraph 2.2 in relation to System Construction and containing the information set out in Schedule Seven;
"Tests"	tests involving simulating conditions or the controlled application of irregular, unusual or extreme conditions on a Transmission System or any part of a Transmission System or any other tests of a minor nature but which do not include commissioning or re-commissioning tests (and "Testing" shall be construed accordingly);
"Third Party Works"	the works specified as such in a TO Construction Agreement;
"TO Charges"	charges comprising the TO General System Charges and TO Site-Specific Charges;
"TO Commissioning Programme"	the sequence of operations/tests necessary to connect User Works and Transmission Connection Asset Works to the GB Transmission System for the purpose of making the User Works available for operation to be determined, in respect of a Transmission Owner, pursuant to the relevant TO Construction Agreement between such Transmission Owner and NGC;
"TO Construction Agreement"	as defined in Schedule Eight, sub-paragraph 1.1.3;
"TO Construction Offer"	an offer made by a Transmission Owner to NGC pursuant to Section D, Part Two, paragraph 4 and containing those matters set out in Schedule Eight;
"TO Construction"	as agreed between NGC and a Transmission Owner in relation

Programme"	to a Construction Project, or part of a Construction Project, and set out in the relevant TO Construction Agreement;
"TO Final Sums"	<p>the amount payable by NGC on termination of a TO Construction Agreement being the aggregate from time to time and for the time being of:</p> <p>(a) all Engineering Charges arisen prior to the date of termination;</p> <p>(b) fees, expenses and costs (excluding costs on account of interest charges incurred by the Transmission Owner) of whatever nature reasonably and properly incurred or due by the Transmission Owner in respect of any part of the Transmission Construction Works;</p>
"TO General System Charges"	as defined in Section E, sub-paragraph 2.1.1;
"TO Site Specific Charges"	as defined in Section E, sub-paragraph 2.1.2;
"Total System"	the GB Transmission System and all User Systems in Great Britain;
"Total Shutdown"	as defined in the Grid Code as at the Code Effective Date;
"Transition Period"	as defined in Standard Condition A1;
"Transitional Connection Site"	as defined in sub-paragraph 9.1.3.1 of Section I;
"Transitional Connection Site Specification"	as defined in sub-paragraph 8.1.1 of Section I;
"Transitional Construction Planning Assumptions"	as defined in sub-paragraph 8.3.1 of Section I;
"Transitional Implementation Dispute"	as defined in paragraph 13.5 of Section I;
"Transitional Investment Plans"	as defined in sub-paragraph 7.1.1 of Section I;
"Transitional NGC Investment Plan"	as defined in sub-paragraph 7.2.1 of Section I;
"Transitional Outage Plan"	as defined in sub-paragraph 5.1.1 of Section I;
"Transitional Outage"	as defined in sub-paragraph 5.2.1 of Section I;

Proposal"

"Transitional Planning Assumptions"

as defined in sub-paragraph 7.3.1 of Section I;

"Transitional Services Capability Specification"

as defined in paragraph 4.1 of Section I;

"Transmission"

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 a User System;

"Transmission Business"

as defined in Standard Condition A1;

"Transmission Connection Asset(s)"

the assets specified as Transmission Connection Assets:

- (a) in the Connection Site Specification; and
- (b) in relation to assets still being constructed, in the relevant TO Construction Agreement;

"Transmission Connection Asset Works"

the works specified as such in a TO Construction Agreement;

"Transmission Construction Works"

as defined in Schedule Eight, sub-paragraph 1.1.3;

"Transmission Derogation"

a direction issued by the Authority relieving a Transmission Owner from the obligation under its Transmission Licence to comply with standards or requirements in accordance with which it is otherwise required to plan and develop its Transmission System (including any conditions which apply in respect of such derogation, and **"Derogated"** shall be construed accordingly;

"Transmission Entry Capacity"

the figure specified as such for a Connection Site in a NGC Construction Application;

"Transmission Investment Plan"

the plan developed by each Transmission Owner in relation to the development and maintenance each Financial Year of its Transmission System pursuant to Section D, Part One, sub-paragraph 2.1.1 and containing those matters set out in sub-paragraph 2.1.2;

"Transmission Licence"

a transmission licence granted or treated as granted under section 6(1)(b) of the Act;

"Transmission Licence"

the conditions contained in and amended from time to time in

Conditions"	accordance with a Transmission Licence;
"Transmission Licensee"	the holder for the time being of a Transmission Licence;
"Transmission Owner"	Scottish Hydro-Electric Transmission Limited or SP Transmission Limited or such other person in relation to whose Transmission Licence the Standard Conditions in Section D (transmission owner standard conditions) have been given effect;
"Transmission Owner Site"	a site owned (or occupied pursuant to a lease, licence or other agreement) by a Transmission Owner in which there is a Connection. For the avoidance of doubt, a site owned by a User but occupied by a Transmission Owner is a Transmission Owner Site;
"Transmission Reinforcement Works"	in relation to a particular Construction Project, as defined in respect of each relevant Transmission Owner in its TO Construction Agreement;
"Transmission Services"	as defined in Section C, Part One, paragraph 2;
"Transmission System"	in respect of each Party, has the meaning given to the term "licensee's transmission system" in Standard Condition A1;
"Unsecured Event"	as defined in respect of the GB Transmission System and each of the Transmission Owner's Transmission Systems in the Licence Standards;
"Urgent Proposed Amendment"	an urgent proposal to amend the Code proposed in accordance with Section B, sub-paragraph 7.2.6;
"User(s)"	any person (other than NGC or a Transmission Owner) who is authorised to generate, participate in the transmission of, distribute or supply electricity or who is included in a class of person or persons which has been granted an exemption from section 6 of the Act and any person engaged in the sale or purchase of electricity or who otherwise purchases or acquires for purchase electricity;
"User Application"	<p>an application made by a User to NGC under and pursuant to the CUSC in respect of:</p> <p>(a) a New Connection; or</p> <p>(b) a Modification; or</p> <p>(c) use of the GB Transmission System by such User.</p>

"User Application Date"	the date of receipt by NGC of an effective User Application pursuant to the CUSC;
"User Derogation"	a direction issued by the Authority relieving a User from the obligation under its Licence to comply with such parts of the Grid Code or any Distribution Code as may be specified in such direction, and "Derogated" shall be construed accordingly;
"User 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 Section D, Part One, paragraph 3) which: (a) is connected to the Transmission Connection Assets forming part of the GB Transmission System at any particular Connection Site or New Connection Site to which that User wishes so to connect or (b) is connected to a Distribution System to which that User system wishes so to connect;
"User Outage"	a planned Outage of part or all of a User System or User Equipment;
"User Site"	a site owned (or occupied pursuant to a lease, licence or other agreement) by a User in which there is a Connection. For the avoidance of doubt, a site owned by NGC or a Transmission Owner but occupied by a User is a User Site;
"User System"	as defined in the CUSC as at Code Effective Date;
"User Works"	those works to be undertaken by a User which are necessary for installation of User Equipment and which are specified for each Construction Project in the relevant TO Construction Agreement(s);
"Value Added Tax" "VAT"	has the meaning given to such term in the Value Added Tax Act 1994 and any tax of a similar nature which may be substituted for a levied in addition to it;
"Week"	shall have the same meaning as the term "Week" is defined or used in the Grid Code as at the Code Effective Date;
"Withdrawal Date"	the date defined in Section B, paragraph 5.1.4 upon which the Withdrawing Party shall withdraw from the Framework Agreement;
"Withdrawal Notice"	the notice issued by a Party wishing to withdraw from the Framework Agreement as defined in Section B, sub-paragraph 5.1.2;

"Withdrawing Party"

a Party wishing to withdraw from the Framework Agreement in accordance with Section B, sub-paragraph 5.1.1;

"Works"

as the context admits or requires, Transmission Owner Construction Works, NGC Works and User Works.

SCHEDULE ONE

THE SYSTEM OPERATOR - TRANSMISSION OWNER CODE

ACCESSION AGREEMENT

- (1) NATIONAL GRID COMPANY PLC; and
- (2) []

**THE SYSTEM OPERATOR - TRANSMISSION OWNER CODE
ACCESSION AGREEMENT**

THIS ACCESSION AGREEMENT is made on []

BETWEEN:

- (1) **NATIONAL GRID COMPANY** plc a company registered in England with number 2366977 whose registered office is at 1-3 Strand, London, WC2N 5EH ("**NGC**"), which expression shall include its successors and/or permitted assigns; on its own behalf and on behalf of all the other parties to the Framework Agreement; and
- (2) [*Insert name of person wishing to be admitted to the STC*] (the "**Party Applicant**") whose principal office is at [].

WHEREAS

- (A) By the Framework Agreement dated [] in force between the Parties and by virtue of any Accession Agreement entered into by any Party before the date of this Accession Agreement, the Parties agreed to give effect to and be bound by the STC.
- (B) The Party Applicant has complied with the requirements of the STC (if any) as to accession and wishes to be admitted as a Party.
- (C) By the Framework Agreement and the provisions of the STC all Parties authorise NGC to sign this Accession Agreement on their behalf.

IT IS HEREBY AGREED as follows:

- 1. In this Accession Agreement, words and expression defined in or for the purposes of the Framework Agreement and not otherwise defined herein shall have the meanings ascribed thereto under the Framework Agreement.
- 2. NGC (acting on its own behalf and on behalf of each of the other Parties) hereby admits the Party Applicant as an additional Party under the Framework Agreement with effect from the date of this Accession Agreement on the terms and conditions hereof.
- 3. The Party Applicant hereby accepts its admission as a Party and undertakes with NGC (acting on its own behalf and on behalf of each of the other Parties) to perform and to be bound by the Framework Agreement as a Party as from the date hereof.
- 4. For all purposes in connection with the Framework Agreement the Party Applicant shall as from the date hereof be treated as if it has been a signatory of the Framework Agreement from the date hereof, and as if this Accession Agreement were part of the Framework Agreement from the date hereof, and the rights and obligations of the Parties shall be construed accordingly.
- 5. This Accession Agreement and the Framework Agreement shall be read and construed as one document and references (in or pursuant to the Framework Agreement) to the Framework Agreement (howsoever expressed) should be read and construed as reference to the Framework Agreement and this Accession Agreement.

6. If any provision of this Accession Agreement is or becomes invalid, unenforceable or illegal or is declared to be invalid, unenforceable or illegal by any court of competent jurisdiction or by any other Competent Authority (as defined in the STC), such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of this Accession Agreement, which shall continue in full force and effect notwithstanding the same. The Party Applicant and NGC (acting on its own behalf and on behalf of each of the other 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 this Accession Agreement, except for such rights, powers or benefits as are expressly conferred on the Parties and the Party Applicant in accordance with and subject to its terms or except for or to the extent provided in the STC.
7. This Accession Agreement may be executed in counterparts.
8. This Accession Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties hereby submit to the jurisdiction of the courts of England and Wales and the courts of Scotland only.
9. If Party Applicant is a company which is incorporated under the Companies Act 1985 (as amended), its address for service shall be its registered office. If the Party Applicant is not a company incorporated under the Companies Act 1985 (as amended) it shall provide to NGC an address in Great Britain for service of process on its behalf in any proceedings, provided that if any such Party Applicant fails at any time to provide such address, such Party Applicant shall be deemed to have appointed NGC as its agent to accept service of process on its behalf until and unless such Party Applicant provides NGC with an alternative address in Great Britain for these purposes.

AS WITNESS the hands of the duly authorised representatives of the parties hereto the day and year first above written.

END OF SCHEDULE ONE

SCHEDULE TWO
LIST OF CODE PROCEDURES

SCHEDULE THREE

INFORMATION AND DATA EXCHANGE SPECIFICATION

This Schedule sets out the information and data permitted to be Disclosed by a Party to a Transmission Owner in accordance with Section F of the Code.

1. Information and Data Exchange During the Transition Period

During the Transition Period, a Party may Disclose to a Transmission Owner such information and data as shall:

- 1.1 be reasonably requested by a relevant Party or Parties for the purpose of Section I and approved by the Authority from time to time; or
- 1.2 otherwise be notified by the Authority from time to time.

2. Information and Data Exchange Other than During the Transition Period

SCHEDULE FOUR

Criteria for Assessing Those Transmission Systems Affected by a Construction Project

SCHEDULE FIVE

NGC CONNECTION APPLICATIONS

1. Requirements for a NGC Connection Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.1:

1.1 A NGC Connection Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.1 shall contain the following information:

Proposed New Connection Site

- 1.1.1 The User Application Date.
- 1.1.2 Identification of the intended location of the New Connection Site (preferably by reference to an extract from an ordinance survey map), specifying the name of the New Connection Site together with details of access to the New Connection Site, including from the nearest main road.
- 1.1.3 A plan or plans of the proposed New Connection Site indicated (as far as NGC is able) the position of all buildings, structures, plant and apparatus and of all services located on the New Connection Site.
- 1.1.4 Details of whether the New Connection Site is to be heritable or leasehold (to include details of any servitudes or wayleaves or other property rights) insofar as NGC is aware.
- 1.1.5 The occupier of the New Connection Site so far as NGC is aware.
- 1.1.6 Where a sub-station may be needed, an indication by reference to the plan referred to in sub-paragraph 1.1.3, any location for it suggested by the relevant User, giving dimensions of the area.
- 1.1.7 Where the User is prepared to make available to the Transmission Owner the land necessary for the sub-station referred to in sub-paragraph 1.1.6, brief proposals for the Transmission Owner's interest in it including (if relevant) such interest and the consideration to be paid for it.
- 1.1.8 Whether space is available on the New Connection Site for working storage and accommodation areas for the contractors of the Transmission Owner and, if so, an indication by reference to the plan referred to in sub-paragraph 1.1.3 above the location of such areas, giving approximate dimensions of the same.
- 1.1.9 Details (including copies of any surveys or reports) of the physical nature of land in which the User has an interest (whether heritable or leasehold or by way of a servitude or wayleave or other property right) at the proposed New Connection Site including the nature of the ground and the sub-soil including the results of any tests undertaken by the User in connection with the New Connection.

- 1.1.10 Details and copies of all existing relevant planning and other consents (statutory and otherwise) relating to the New Connection Site and the User Equipment and/or details of any pending applications for the same.
- 1.1.11 Whether access to or use of the New Connection Site for the purposes of installing, maintaining and operating equipment is subject to any existing restrictions and, if so, details of such restrictions.
- 1.1.12 To the extent that NGC is aware of them, identification by reference to a plan (if possible) the owners and (if different) occupiers of the land adjoining the New Connection Site and brief details of the owner's and occupier's respective interests in such land.

Technical Information

- 1.1.13 Standard Planning Data.
- 1.1.14 A copy of the User's Safety Rules.
- 1.1.15 The User's intended Connection Entry Capacity.
- 1.1.16 The User's intended Transmission Entry Capacity.

Programme

- 1.1.17 The User's suggested construction programme in bar chart form for the construction work necessary to install the User Equipment.
- 1.1.18 The date on which NGC wishes the New Connection Site to be made Operational.

2. Requirements for a NGC Connection Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.2:

- 2.1 A NGC Connection Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.2 shall contain the following information:
 - 2.1.1 The User Application Date.
 - 2.1.2 Standard Planning Data.
 - 2.1.3 The User's intended Transmission Entry Capacity.
 - 2.1.4 The date on which NGC wishes the New Connection Site to be made Operational.

3. Requirements for a NGC Connection Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.3:

- 3.1 A NGC Connection Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.3 shall contain the following information:

3.1.1 The User Application Date.

3.1.2 The date on which NGC wishes the New Connection Site to be made Operational.

SCHEDULE SIX

NGC MODIFICATION APPLICATIONS

1. Requirements for a NGC Modification Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.1:

- 1.1 A NGC Modification Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.1 shall contain the following information:

The Connection Site to be Modified

- 1.1.1 The User Application Date.
- 1.1.2 Identify by name the Connection Site at which the Modification is to be undertaken.
- 1.1.3 Details of the rights in any additional land which the User is proposing to acquire at the Connection Site (to include heritable or leasehold interests or by way of a servitude or wayleave or other property right so as to undertake the Modification).
- 1.1.4 Whether space is available on the Connection Site for working storage and accommodation areas for the contractors of the Transmission Owner and, if so, an indication by reference to a plan the location of such areas, giving approximate dimensions of the same.
- 1.1.5 Details (including copies of any surveys or reports) of the physical nature of any additional land referred to in sub-paragraph 1.1.3 above including the nature of the ground and the sub-soil including the results of any tests undertaken by the User in connection with the New Connection.
- 1.1.6 Details and copies of all existing relevant planning and other consents (statutory and otherwise) relating to the Connection Site or the Modification and/or details of any pending applications for the same.
- 1.1.7 An indication of what, if any, of the necessary construction works necessary for the Modification NGC would like the Transmission Owner to conduct on its behalf (or on behalf of the User).

Technical Information

- 1.1.8 Full details of the proposed Modification together with relevant Standard Planning Data to the extent that the data will change, as a result of the proposed Modification, from data previously made available to the Transmission Owner.

Programme

- 1.1.9 The User's suggested construction programme in bar chart form for the construction work necessary to install the Modification.
 - 1.1.10 The date on which NGC wishes the Modification to be made Operational.
- 2. **Requirements for a NGC Modification Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.2:**
 - 2.1 A NGC Modification Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.2 shall contain the following information:
 - 2.1.1 The User Application Date.
 - 2.1.2 Standard Planning Data.
 - 2.1.3 The User's intended Transmission Entry Capacity.
 - 2.1.4 The date on which NGC wishes the Modification to be made Operational.
- 3. **Requirements for a NGC Modification Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.3:**
 - 3.1 A NGC Modification Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.3 shall contain the following information:
 - 3.1.1 The User Application Date.
 - 3.1.2 The date on which NGC wishes the Modification to be made Operational.

SCHEDULE SEVEN

SYSTEM CONSTRUCTION APPLICATIONS

1. **Requirements for a System Construction Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.2:**
 - 1.1 A System Construction Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.2 shall contain the following information:
 - 1.1.1 The User Application Date.
 - 1.1.2 Identify the location or intended location of any User Plant and Apparatus in relation to which the User Application relates.
 - 1.1.3 Standard Planning Data.
 - 1.1.4 The User's intended Transmission Entry Capacity.
 - 1.1.5 The date on which NGC wishes the System Construction to be made Operational.
2. **Requirements for a System Construction Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.3:**
 - 2.1 A System Construction Application submitted by NGC to a Transmission Owner pursuant to Section D, Part Two, sub-paragraph 2.2.3 shall contain the following information:
 - 2.1.1 The User Application Date.
 - 2.1.2 The date on which NGC wishes the System Construction to be made Operational.

SCHEDULE EIGHT

TO CONSTRUCTION OFFER

1. Requirements of a TO Construction Offer

1.1 Unless otherwise agreed with NGC, a TO Construction Offer shall be signed by the Transmission Owner and shall include the information set out in Transmission Licence Condition D4A and, to the extent that such information does not otherwise require it, shall also include the following:

1.1.1 a description of any Change(s) to its Transmission System required to give effect to the Construction Project;

1.1.2 a description of any associated variation in the Transmission Services to be provided to NGC under Section C, Part One, paragraph 2.1 and including (where appropriate) any new or revised Normal Capability Limits that will apply;

1.1.3 a contract (a **"TO Construction Agreement"**) for the construction of those Changes to its Transmission System described in paragraph 1.1.1, which is capable of being entered into by NGC and which binds NGC upon signature, and which shall contain the following:

1.1.3.1 commercial terms in, or substantially in, the form set out in Schedule Nine;

1.1.3.2 a description (in the form of Appendices) of any of the following types of works required to be undertaken by the Transmission Owner to give effect to the Construction Project:

- (a) Transmission Connection Asset Works;
- (b) Transmission Reinforcement Works;
- (c) Seven Year Statement Works;
- (d) One Off Works; and
- (e) such additional works as are required in order to comply with any relevant Consents in relation to any of the works in (a) - (d) above,

(referred to together as the **"Transmission Construction Works"**)

1.1.3.3 Appendices setting out any User Works and Third Party Works, respectively, associated with the Construction Project;

- 1.1.3.4 an Appendix setting out the TO Construction Programme, including the date on which the Transmission Construction Works shall be completed;
- 1.1.3.5 the Independent Engineer for the purposes of the TO Construction Agreement;
- 1.1.3.6 the date by which NGC or the User shall have commenced, or shall be ready to commence, the Commissioning Programme;
- 1.1.3.7 the Completion Date; and
- 1.1.3.8 such other terms as are or may be appropriate for the purpose of the TO Construction Agreement (including, without limitation, any Liquidated Damages).
- 1.1.4 the likely material effect of Transmission Construction Works on other third parties (not including the User to whose User Application the TO Construction Offer relates);
- 1.1.5 any Outage(s) forming part of or otherwise associated with the Transmission Owner Construction Works;
- 1.1.6 a description of any assumptions, technical limitations or works of other Parties which the TO Construction Offer is based upon and which are likely to be associated with the provision of Transmission Services at the Connection Site or New Connection Site or otherwise in relation to the construction of the relevant parts of the Construction Project including (without limitation) any SYS Works proposed for another Party's Transmission System which are required to be undertaken in order for the Transmission Owner to give effect to the TO Construction Offer;
- 1.1.7 a description of any technical design or operational criteria which the Transmission Owner reasonably considers User Equipment would be required to meet in order for such Transmission Owner to comply with Standard Condition D3 of its Transmission Licence.
- 1.2 In the case of a TO Construction Offer in relation to a New Connection, such TO Construction Offer may contain some or all of the following conditions:
 - 1.2.1 That NGC shall procure that the User enters into an Interface Agreement with the Transmission Owner covering the New Connection Site in a form to be agreed between the Transmission Owner and User but substantially in the form set out in Schedule O of the CUSC.
 - 1.2.2 That the New Connection Site is not a nominated site under the "NAECI" (the National Agreement for the Engineering Construction Industry) conditions and will not become one and any agreement for this site will be conditional upon this.

- 1.3 A TO Construction Offer shall remain open for acceptance by NGC according to the terms of Section D, Part Two, paragraph 5 of the Code.

SCHEDULE NINE

TO CONSTRUCTION TERMS

A. PRO FORMA TERMS FOR TO CONSTRUCTION AGREEMENT BETWEEN NGC AND A TRANSMISSION OWNER UNDERTAKING WORKS WHICH INCLUDE WORKS AT A RELEVANT CONNECTION SITE.

1. Definitions and Interpretation

1.1 Unless the subject matter or context otherwise requires or is inconsistent therewith, terms and expressions in this TO Construction Agreement shall have the same meanings, interpretations or constructions as set out in Section J of the Code.

1.2 For the purposes of this TO Construction Agreement,

1.2.1 **"Consents"** means, in relation to any Transmission Construction Works:

- (a) all such planning and other statutory consents; and
- (b) all wayleaves, easements, rights over or interests in land or any other consent; or
- (c) permission of any kind as shall be necessary for the construction of the Works or Planned Works and for commencement and carrying on of any activity proposed to be undertaken at or from such Transmission Construction Works when completed;

1.3 The Relevant Connection Site and Works to which this TO Construction Agreement applies shall be as set out in the relevant Appendices to this TO Construction Agreement.

2. Carrying out of the Works

2.1 Forthwith following the Effective Date, the Transmission Owner and the User shall agree the Safety Rules and Local Safety Instructions to apply during the TO Construction Programme and TO Commissioning Programme. Failing agreement within three months of the Effective Date, the matter shall be referred to the Independent Engineer for determination in accordance with paragraph 5 of this TO Construction Agreement.

2.2 In relation to a Relevant Connection Site, the Transmission Owner shall, and NGC shall procure that the User shall, ensure that each other is supplied with a copy of the 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 Relevant Connection Site from time to time.

- 2.3 Subject to paragraphs 2.4 and 2.6 forthwith following the Effective Date, the Transmission Owner shall use its best endeavours to obtain in relation to the Transmission Construction Works and NGC shall use its best endeavours to procure that the User obtains in relation to the User Works, all Consents. Each shall give advice and assistance to the other to the extent reasonably required by the other in the furtherance of these obligations. Further, each Party shall, and NGC shall procure that the User shall, so far as it is legally able to do so, grant to the other, or the User, all such wayleaves, easements, servitude rights or other rights over or interests (but not estates as regards land in England and Wales and not heritable or leasehold interests as regards land in Scotland) in land or any other consents reasonably required by the other or the User in order to enable the Works to be expeditiously completed and to enable that other to carry out its obligations to the other under this TO Construction Agreement and in all cases subject to such terms and conditions as are reasonable.
- 2.4 The following additional provisions shall apply in respect of the Consents and Transmission Construction Works:
- 2.4.1 All dates specified in this TO Construction Agreement are subject to the Transmission Owner obtaining Consents for the Transmission Construction Works in a form acceptable to it and within the time required to carry out the Transmission Construction Works in accordance with the TO Construction Programme.
- 2.4.2 In the event of:
- (a) the Consents not being obtained by the required date; or
 - (b) the Consents being subject to conditions which affect the dates; or
 - (c) the Transmission Owner wishing to amend the Transmission Construction Works to facilitate the granting of the Consents,
- the Transmission Owner shall be entitled to revise the Transmission Construction Works (and as a consequence the relevant Appendices of this TO Construction Agreement which set out such Transmission Construction Works and any related charges). For the avoidance of doubt such revisions shall be at the Transmission Owner's absolute discretion and the consent of NGC is not required.
- 2.5 The Parties shall regularly update each other in writing or by such other means as the relevant Parties may agree as to progress made by them and, in the case of NGC, as to progress made by the User from time to time in the obtaining of relevant Consents pursuant paragraphs 2.3 or 2.4.
- 2.6 NGC shall be liable to pay to the Transmission Owner:
- 2.6.1 all of the Transmission Owner's Engineering Charges accrued; and
- 2.6.2 proper and reasonable out-of-pocket expenses incurred and/or paid or which the Transmission Owner is legally bound to incur or pay,

in seeking and obtaining the Consents the subject of paragraph 2.3 excluding any costs associated with the Seven Year Statement Works and any other works, to the extent that NGC has paid or is liable to pay such costs under another TO Construction Agreement.

NGC acknowledges these out of pocket ancillary expenses may include planning inquiries or appeals and the capital costs together with reasonable legal and surveyors costs of landowners or occupiers in acquiring permanent easements or other rights in respect of any electric line or underground cable forming part of the Transmission Connection Asset Works. This sum shall not include any capital costs incurred by the Transmission Owner in the acquisition by it of the freehold of any land upon which a land charge is payable. The Transmission Owner shall keep NGC informed of the level of such charges and expenses being incurred. NGC shall pay such sums within 30 (thirty) days of the date of the Transmission Owner's invoice therefor.

- 2.7 Paragraphs 2.2, 2.3, 2.4 and 2.5 of Section J of the Code relating to Consents shall apply to the construction arrangements set out in this TO Construction Agreement as if set out here in full.
- 2.8 NGC may by written notice to the Transmission Owner terminate this TO Construction Agreement at any time whereupon NGC shall in addition to the sums for which it is liable under paragraph 2.6 be liable to pay to the Transmission Owner a sum equal to the Transmission Owner's estimate or if applicable revised estimate of TO Final Sums. NGC shall pay such sums within 16 (sixteen) days of the date of the Transmission Owner's invoice(s) therefor and (where applicable) on termination the Transmission Owner shall disconnect the User's Equipment at the Relevant Connection Site and:
- 2.8.1 NGC shall procure that a User removes any of the User's Equipment on the Transmission Owner's land within six months of the date of termination or such longer period as may be agreed between the Transmission Owner and the User; and
- 2.8.2 the Transmission Owner shall remove any of the Transmission Connection Assets on the User's land within six months of the date of termination or such longer period as may be agreed between the Transmission Owner and the User.
- 2.9 The Transmission Owner shall be entitled to contract or sub-contract for the carrying out of its respective parts of the Works. NGC or any contractor on its or the User's behalf (as appropriate) shall be responsible for ensuring the commencement and carrying out of the User Works to such stage of completion as shall render them capable of being Commissioned in accordance with the TO Construction Programme and the Transmission Owner or any contractor on its behalf shall be responsible for commencing and carrying out the Transmission Construction Works to such stage of completion as shall render them capable of being Commissioned in accordance with the TO Construction Programme.
- 2.10 NGC may, at its discretion, notify the Transmission Owner at any time in writing to discontinue, postpone or otherwise delay all or part of any Works or other activities under this TO Construction Agreement and may direct that the Transmission Owner produce an

amended TO Construction Programme and/or TO Commissioning Programme accordingly, as a consequence of:

- 2.10.1 a User breaching any credit or security requirement pursuant to the CUSC or CUSC Construction Agreement;
 - 2.10.2 a delay or failure by NGC, a User or another Joint Project Party to obtain any Consents; or
 - 2.10.3 a delay or failure by another Joint Project Party under and pursuant to any other TO Construction Agreement in respect of the same Construction Project.
- 2.11 During the period of and at the times and otherwise as provided in the TO Construction Programme and the TO Commissioning Programme the Transmission Owner shall allow NGC or the User and in either case their employees, agents, suppliers, contractors and subcontractors and NGC shall allow and ensure that the User allows (in relation to its sites) the Transmission Owner, its employees, agents, suppliers, contractors and sub-contractors, necessary access to its site to enable each to carry out the Transmission Connection Asset Works and One Off Works or User Works but not so as to disrupt or delay the construction and completion of the other's Works on the said sites or the operation of any other's Plant and Apparatus located thereon, such access to be in accordance with any reasonable regulations relating thereto made by the site owner or occupier.
- 2.12 Not later than six months prior to the Commissioning Programme Commencement Date, the Transmission Owner shall provide NGC with a draft TO Commissioning Programme for the Commissioning of the Transmission Connection Assets, and the User's Equipment. NGC shall, as quickly as practicable and in any event within three months of receipt thereof, determine whether or not to approve the proposed Commissioning Programme (which approval shall not be unreasonably withheld or delayed) and shall within such three month period either notify the Transmission Owner of its approval or, in the event that NGC reasonably withholds its approval, notify the Transmission Owner of any changes or variations to the proposed commissioning programme recommended by NGC. If the Transmission Owner does not accept such changes or variation submitted by NGC any dispute shall be referred to the Independent Engineer for determination. The TO Commissioning Programme agreed between the parties or determined by the Independent Engineer as the case may be shall be implemented by the parties and their sub-contractors in accordance with its terms.
- 2.13 If at any time prior to the Completion Date it is necessary for the Transmission Owner or the Transmission Owner in its reasonable discretion wishes to make any addition to or omission from or amendment to its Transmission Connection Asset Works and/or Transmission Reinforcement Works and/or the One Off Works and/or the Third Party Works the Transmission Owner shall notify NGC in writing of such addition, omission or amendment and the relevant Appendix of this TO Construction Agreement shall be automatically amended to reflect the change.

- 2.14 Transmission Reinforcement Works are conditional on any relevant nuclear generator granting approval to the carrying out of the Transmission Construction Works in terms of any Nuclear Site Licence Provisions Agreement. In the event of the relevant nuclear generator not granting approval the Transmission Owner shall be entitled to change the Transmission Construction Works, the TO Construction Programme and all dates specified in this TO Construction Agreement.
- 2.15 It is hereby agreed and declared for the purposes of the Construction (Design and Management) Regulations 1994 that the Transmission Owner is the only client in respect of the Transmission Construction Works and shall accordingly discharge all the duties of a client under the said Regulations.
- 2.16 The Transmission Owner and NGC hereby agree and acknowledge that this TO Construction Agreement is not to be treated as a construction contract within the meaning of section 104 of the Housing Grants, Construction and Re-generation Act 1996 and sections 104 to 113 of the said Act shall have no application to any part of the Transmission Construction Works and the Parties' rights and obligations with regard to matters of dispute resolution and payment procedures are as expressly set out herein.

3. DELAYS

- 3.1 If either Party shall have reason to believe that it, another Transmission Owner or, in the case of NGC a User, is being delayed or will be delayed in carrying out that Party's or a User's Works (as appropriate) for any reason (whether it is one entitling it to the fixing of a new date under paragraph 3.2 of this TO Construction Agreement or not) it shall forthwith notify the other Party in writing of the circumstances giving rise to the delay and of the extent of the actual and/or anticipated delay.
- 3.2 If prior to the Completion Date a Party (in this paragraph 3.2 the "**Affected Party**") shall be delayed in carrying out any of the Affected Party's Works (including their commissioning) by reason of (a) any act, default or omission on the part of the other Party (in this paragraph the "**Defaulting Party**") or of the Defaulting Party's employees, agents, contractors, sub-contractors or, in the case where NGC is the Defaulting Party, by reason of a delay by the User or (b) any act, default or omission on the part of any Transmission Owner which is not a Party to this TO Construction Agreement or its employees, agents, contractors or subcontractors or (c) by reason of an event of Force Majeure, the Affected Party shall be entitled to have such later date or dates fixed as the Commissioning Programme Commencement Date and/or (as the case may be) the Completion Date as may be fair and reasonable in the circumstances provided that it shall have notified the Defaulting Party in writing of such act, default or omission or event of Force Majeure within 28 days of it becoming aware of the occurrence giving rise to the delay together with an estimate of the proposed delay which it will cause the Affected Party. In the event of a dispute between the parties over what is or are any fair and reasonable date or dates to be fixed in the circumstance this shall be promptly referred to and determined by the Independent Engineer. Once the new date or dates are fixed the TO Construction Programme and/or TO Commissioning Programme shall be deemed automatically amended as appropriate.

4. COMMISSIONING PROGRAMME AND LIQUIDATED DAMAGES

- 4.1 Each Party shall give written notice to the other declaring its readiness to commence the Commissioning Programme when this is the case.
- 4.2 The Commissioning Programme shall commence forthwith once both Parties shall have given written notice to the other under paragraph 4.1.
- 4.3 The Transmission Construction Works shall be deemed to have been Commissioned on the date that the Independent Engineer certifies in writing to that effect.
- 4.4 In the event that the actual date of commencement of the Commissioning Programme shall be later than the Commissioning Programme Commencement Date the Transmission Owner (if and to the extent that it is responsible for delayed commissioning beyond the Commissioning Programme Commencement Date, such responsibility and/or its extent to be determined by the Independent Engineer failing agreement between the parties) shall be liable to pay to NGC Liquidated Damages for each day that the actual date of commencement of the Commissioning Programme is later than the Commissioning Programme Commencement Date. It is declared and agreed that such Liquidated Damages shall cease to be payable in respect of any period after the date of actual commencement of the Commissioning Programme.
- 4.5 In the event that the actual date on which the Transmission Construction Works are Commissioned is later than the Completion Date the Transmission Owner (if and to the extent that it is responsible for delayed completion beyond the Completion Date, such responsibility and/or its extent to be determined by the Independent Engineer failing agreement between the Parties) shall be liable to pay to NGC Liquidated Damages for each day that the actual date on which the Transmission Construction Works are Commissioned is later than the Completion Date. It is hereby agreed and declared that such Liquidated Damages shall cease to be payable in respect of any period after completion of the Transmission Construction Works.
- 4.6 Liquidated Damages payable under paragraphs 4.4 and 4.5 shall accumulate on a daily basis but shall be payable calendar monthly. On or before the 13th day of each month the Party entitled to receive the payment of Liquidated Damages shall send to the other Party a statement of the Liquidated Damages which have accrued due in the previous calendar month. The Party receiving such statement shall in the absence of manifest error pay the Liquidated Damages shown on the statement within 28 days of the date upon which the statement is received.
- 4.7 Without prejudice to and in addition to the obligation of NGC pursuant to paragraph 2.6 the payment or allowance of Liquidated Damages pursuant to this paragraph 4 shall be in full satisfaction of the Transmission Owner's liability for failure to perform its obligations by the Commissioning Programme Commencement Date and/or the Completion Date as appropriate.
- 4.8 In the event that NGC or a User shall have failed, in circumstances not entitling NGC to the fixing of a new date as the Commissioning Programme Commencement Date pursuant to paragraph 3.2, to procure that the User complete the User Works by the

Construction Backstop Date to a stage where NGC or such User (as appropriate) is ready to commence the Commissioning Programme, the Transmission Owner shall have the right to terminate this TO Construction Agreement upon giving notice in writing to NGC. In the event of such termination NGC shall in addition to the amounts for which it is liable under paragraph 2.6, also be liable to the Transmission Owner to pay a sum equal to the Transmission Owner's estimate or revised estimate of TO Final Sums. NGC shall pay such sums within 14 (fourteen) days of the date of the Transmission Owner's invoice(s) therefor and on termination (where applicable) The Transmission Owner shall disconnect the User Equipment at the Relevant Connection Site and (a) NGC shall, or shall ensure that the User shall, remove any of the User Equipment on the Transmission Owner's land within six months of the date of termination or such longer period as may be agreed between the Transmission Owner and NGC or the Transmission Owner and the User and (b) the Transmission Owner shall remove any Transmission Connection Assets on the User's land within six months of the date of termination or such longer period as may be agreed between the Transmission Owner or NGC and the User.

5. INDEPENDENT ENGINEER

In relation to matters raised pursuant to this TO Construction Agreement, the Parties agree and shall procure that the Independent Engineer shall act as an expert and not as an arbitrator and shall decide those matters referred or reserved to him under this TO Construction Agreement by reference to Good Industry Practice using his skill, experience and knowledge and with regard to such other matters as the Independent Engineer in his sole discretion considers appropriate. All references to the Independent Engineer shall be made in writing by either Party with notice to the other being given contemporaneously as soon as reasonably practicable and in any event within 16 days of the occurrence of the dispute to be referred to the Independent Engineer. The Parties shall promptly supply the Independent Engineer with such documents and information as he may request when considering such question. The Independent Engineer shall use his best endeavours to give his decision upon the question before him as soon as possible following its referral to him. The Parties shall share equally the fees and expenses of the Independent Engineer. The Parties expressly acknowledge that submission of disputes for resolution by the Independent Engineer does not preclude subsequent submission of disputes for resolution by arbitration as provided in Section H of the Code. Pending any such submission the parties shall treat the Independent Engineer's decision as final and binding.

6. BECOMING OPERATIONAL

6.1 Without prejudice to paragraph 5 and subject to the provisions of this TO Construction Agreement, the Transmission Owner shall assist NGC in Connecting and Energising the User Equipment at the Relevant Connection Site including by:

- (a) completing any Works required to be completed by the Transmission Owner at the times and in such manner as set out in the TO Construction Programme; and

- (b) completing any operations, tests or other activities required to be completed by the Transmission Owner at the times and in such manner as set out in the Commissioning Programme.

7. TO FINAL SUMS

7.1 Within 58 days of the date of termination of this TO Construction Agreement the Transmission Owner shall:

- (a) furnish NGC with a further statement showing a revised estimate of TO Final Sums and will provide as soon as practicable evidence of such costs having been incurred; and
- (b) by written notice to NGC inform NGC of all capital items which cost the Transmission Owner in excess of £10,000 and in relation to which an amount on account of TO Final Sums shall have been paid and whether the Transmission Owner (1) wishes to retain the said capital items or (2) dispose of them.

7.2 In respect of all capital items which the Transmission Owner wishes to retain (other than those which have been, or are proposed to be installed as a replacement for Transmission Plant and Transmission Apparatus) the Transmission Owner shall forthwith reimburse to NGC the amount paid by NGC on account of TO Final Sums in respect of the said capital items (including without limitation the amount paid on account of the design, purchase, installation and testing of the said capital item and also associated construction works and interest charges) together with interest calculated thereon on a daily basis from the date of termination of this TO Construction Agreement to the date of payment at Base Rate for the time being and from time to time provided that in the event that the Transmission Owner wishes to retain any capital item which has been installed but wishes to remove it to storage or to another site then it shall only reimburse to NGC the cost of the capital item and not the costs of such installation and shall deduct from any reimbursement due to NGC the costs of removal and/or storage.

7.3 In respect of all capital items which the Transmission Owner wishes to dispose (other than those which have been, or are proposed to be installed as a replacement for Transmission Plant and Transmission Apparatus) it shall forthwith (and subject to the Transmission Owner obtaining the consent of the Authority under its Transmission Licence if required) sell or procure the sale of the said capital item on an arms-length basis as soon as reasonably practicable. Forthwith upon receipt of the sale proceeds the Transmission Owner shall pay to NGC the proceeds received from any such sale together with interest thereon calculated on a daily basis from the date of termination to the date of payment at Base Rate for the time being and from time to time less any reasonable costs associated with the sale including the costs and expenses reasonably incurred and/or paid and/or which the Transmission Owner is legally bound to pay on removing the capital item, any storage charges and any costs reasonably incurred by the Transmission Owner in respect of reinstatement associated with removal of the capital item. The Transmission Owner shall provide NGC with reasonably sufficient evidence of all such costs and expenses having been incurred. If the Authority does not agree to the disposal of the capital item the capital item shall be retained by the Transmission Owner

and the Transmission Owner shall reimburse NGC the notional current market value in situ of the said capital item as between a willing buyer and a willing seller as agreed between the Parties and failing agreement as determined pursuant to Section H of the Code together with interest thereon calculated on a daily basis from the date of termination of this TO Construction Agreement to the date of payment at Base Rate for the time being and from time to time.

- 7.4 As soon as reasonably practicable after termination of this TO Construction Agreement the Transmission Owner shall provide NGC with a statement of and invoice for the TO Final Sums together with evidence of such costs having been incurred and/or paid and/or having been committed to be incurred. If the TO Final Sums are greater than the payments made by NGC in respect of the Transmission Owner's estimate(s) of TO Final Sums NGC shall within 35 days of the said statement and invoice prepared by the Transmission Owner pay to the Transmission Owner the additional payments due by NGC together with interest calculated thereon on a daily basis at Base Rate for the time being and from time to time from the date of previous payment(s) sums equal to the Transmission Owner's estimate of TO Final Sums to the date of the statement of and invoice for TO Final Sums. If the TO Final Sums is less than the payments made by NGC in respect of the Transmission Owner's estimate of TO Final Sums paid by NGC following termination of this TO Construction Agreement the Transmission Owner shall forthwith pay to NGC the excess paid together with interest on a daily basis at the Base Rate for the time being and from time to time from the date of payment of the fair and reasonable estimate of TO Final Sums to the date of reimbursement by the Transmission Owner of the said excess paid.

7.5 **Provision of Bi-annual Estimate**

The Transmission Owner shall provide to NGC an estimate ("the **Bi-annual Estimate**") in substantially the form set out in the relevant Appendix to this TO Construction Agreement and showing the amounts of all payments required or which may be required to be made by NGC to the Transmission Owner in respect of TO Final Sums and Engineering Charges and other expenses in relation to seeking Consents referred to in paragraph 2.4 at the following times and in respect of the following periods:-

- (a) forthwith and on and with effect from the Effective Date, in respect of the period from the Effective Date until the next following 31st March or 30th September (whichever shall first occur); and
- (b) not less than 82 (eighty-two) 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 this TO Construction Agreement shall be terminated or shall expire in accordance with paragraph 8.

The Transmission Owner shall provide NGC with all advice and assistance reasonably requested by NGC in relation to any discussions or correspondence with a User in connection with Bi-annual Estimates.

7.6 Entitlement to Estimate

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

8. TERM

8.1 Subject to the provisions for earlier termination set out in the Code, this TO Construction Agreement shall continue in force unless and until terminated in accordance with paragraphs 2.8, or 4.8.

8.2 Any provisions for payment survive the termination of this TO Construction Agreement.

9. THE CODE

9.1 The provisions of:

9.1.1 Section E (Payment);

9.1.2 Section F (Confidentiality);

9.1.3 Section G, paragraphs 5 (Third Party Rights), 6 (Transfer and Sub-contracting), 7 (Intellectual Property), 8 (Force Majeure), 9 (Privilege), 10 (Waiver), 11 (Nominated Representative), 12 (Communications), 13 (Counterparts), 14 (Severance of Terms), 15 (Language), 16 (Data Protection Act), 17 (Jurisdiction), 18 (Governing Law), 19 (No Partnership)

of the Code shall apply to this TO Construction Agreement as if set out in this TO Construction Agreement in full.

10. DISPUTES

10.1 Except as specifically provided for in this TO Construction Agreement any dispute arising under the terms of this TO Construction Agreement shall be referred to arbitration in accordance with the terms of Section H of the Code.

11. VARIATIONS

11.1 Subject to paragraphs 11.2 and 11.3 below, no variation to this TO Construction Agreement shall be effective unless made in writing and signed by or on behalf of both the Transmission Owner and NGC.

- 11.2 The Transmission Owner and NGC shall effect any amendment required to be made to this TO Construction Agreement by the Authority as a result of a change in the Code or a Licence or an order or direction made pursuant to the Act or a Licence. NGC hereby authorises and instructs the Transmission Owner to make any such amendments on its behalf and undertakes not to withdraw, qualify or revoke such authority or instruction at any time.
- 11.3 The Transmission Owner has the right to vary any Appendices to this TO Construction Agreement in accordance with paragraphs 2.4 or 2.13.

B. PROFORMA TERMS FOR TO CONSTRUCTION AGREEMENT BETWEEN NGC AND A TRANSMISSION OWNER ONLY UNDERTAKING WORKS WHICH ARE NOT AT A RELEVANT CONNECTION SITE.

1. Definitions and Interpretation

1.1 Unless the subject matter or context otherwise requires or is inconsistent therewith, terms and expressions in this TO Construction Agreement shall have the same meanings, interpretations or constructions as set out in Section J of the Code.

1.2 For the purposes of this TO Construction Agreement,

1.2.1 "**Consents**" means, in relation to any Transmission Construction Works:

- (a) all such planning and other statutory consents; and
- (b) all wayleaves, easements, rights over or interests in land or any other consent; or
- (c) permission of any kind as shall be necessary for the construction of the Works and for commencement and carrying on of any activity proposed to be undertaken at or from such Transmission Construction Works when completed;

1.3 The Relevant Connection Site and Works to which this TO Construction Agreement applies shall be as set out in the relevant Appendices to this TO Construction Agreement.

2. Carrying out of the Works

2.1 Subject to paragraph 2.2, forthwith following the Effective Date, the Transmission Owner shall use its best endeavours to obtain in relation to the Transmission Construction Works and NGC shall use its best endeavours to procure that the User obtains in relation to the User Works, all Consents. Each shall give advice and assistance to the other to the extent reasonably required by the other in the furtherance of these obligations. Further, each Party shall, and NGC shall procure that the User shall, so far as it is legally able to do so, grant to the other, or the User, all such wayleaves, easements, servitude rights or other rights over or interests (but not estates as regards land in England and Wales and not heritable or leasehold interests as regards land in Scotland) in land or any other consents reasonably required by the other or the User in order to enable the Works to be expeditiously completed and to enable that other to carry out its obligations to the other under this TO Construction Agreement and in all cases subject to such terms and conditions as are reasonable.

2.2 The following additional provisions shall apply in respect of the Consents and Transmission Construction Works:

2.2.1 All dates specified in this TO Construction Agreement are subject to the Transmission Owner obtaining Consents for the Transmission Construction

Works in a form acceptable to it and within the time required to carry out the Transmission Construction Works in accordance with the TO Construction Programme.

2.2.2 In the event of:-

- (a) the Consents not being obtained by the required date; or
- (b) the Consents being subject to conditions which affect the dates; or
- (c) the Transmission Owner wishing to amend the Transmission Construction Works to facilitate the granting of the Consents,

the Transmission Owner shall be entitled to revise the Transmission Construction Works (and as a consequence the relevant Appendices of this TO Construction Agreement which set out such Transmission Construction Works and any related charges). For the avoidance of doubt such revisions shall be at the Transmission Owner's absolute discretion and the consent of NGC is not required.

- 2.3 The Parties shall regularly update each other in writing or by such other means as the relevant Parties may agree as to progress made by them and, in the case of NGC, as to progress made by the User from time to time in the obtaining of relevant Consents pursuant paragraphs 2.1 or 2.2.

- 2.4 NGC shall be liable to pay to the Transmission Owner:

2.4.1 all of the Transmission Owner's Engineering Charges accrued; and

2.4.2 proper and reasonable out-of-pocket expenses incurred and/or paid or which the Transmission Owner is legally bound to incur or pay,

in seeking and obtaining the Consents the subject of paragraph 2.1 excluding any costs associated with the Seven Year Statement Works and any other works, to the extent that NGC has paid or is liable to pay such costs under another TO Construction Agreement.

NGC acknowledges these out of pocket ancillary expenses may include planning inquiries or appeals and the capital costs together with reasonable legal and surveyors costs of landowners or occupiers in acquiring permanent easements or other rights in respect of any electric line or underground cable forming part of the Transmission Connection Asset Works. This sum shall not include any capital costs incurred by the Transmission Owner in the acquisition by it of the freehold of any land upon which a land charge is payable. The Transmission Owner shall keep NGC informed of the level of such charges and expenses being incurred. NGC shall pay such sums within 30 (thirty) days of the date of the Transmission Owner's invoice therefor.

- 2.5 Paragraphs 2.2, 2.3, 2.4 and 2.5 of Section J of the Code relating to Consents shall apply to the construction arrangements set out in this TO Construction Agreement as if set out here in full.

- 2.6 NGC may by written notice to the Transmission Owner terminate this TO Construction Agreement at any time whereupon NGC shall in addition to the sums for which it is liable under paragraph 2.4 be liable to pay to the Transmission Owner a sum equal to the Transmission Owner's estimate or if applicable revised estimate of TO Final Sums. NGC shall pay such sums within 16 (sixteen) days of the date of the Transmission Owner's invoice(s) therefor.
- 2.7 The Transmission Owner shall be entitled to contract or sub-contract for the carrying out of its respective parts of the Works. NGC or any contractor on its or the User's behalf (as appropriate) shall be responsible for ensuring the commencement and carrying out of the User Works to such stage of completion as shall render them capable of being Commissioned in accordance with the TO Construction Programme and the Transmission Owner or any contractor on its behalf shall be responsible for commencing and carrying out the Transmission Construction Works to such stage of completion as shall render them capable of being Commissioned in accordance with the TO Construction Programme.
- 2.8 NGC may, at its discretion, notify the Transmission Owner at any time in writing to discontinue, postpone or otherwise delay all or part of any Works or other activities under this TO Construction Agreement and may direct that the Transmission Owner produce an amended TO Construction Programme accordingly, as a consequence of:
- 2.8.1 a User breaching any credit or security requirement pursuant to the CUSC or CUSC Construction Agreement;
 - 2.8.2 a delay or failure by NGC, a User or another Joint Project Party to obtain any Consents; or
 - 2.8.3 a delay or failure by another Joint Project Party under and pursuant to any other TO Construction Agreement in respect of the same Construction Project.
- 2.9 If at any time prior to the Completion Date it is necessary for the Transmission Owner or the Transmission Owner in its reasonable discretion wishes to make any addition to or omission from or amendment to its Transmission Reinforcement Works and/or the One Off Works and/or the Third Party Works the Transmission Owner shall notify NGC in writing of such addition, omission or amendment and the relevant Appendix of this TO Construction Agreement shall be automatically amended to reflect the change.
- 2.10 Transmission Reinforcement Works are conditional on any relevant nuclear generator granting approval to the carrying out of the Transmission Construction Works in terms of any Nuclear Site Licence Provisions Agreement. In the event of the relevant nuclear generator not granting approval the Transmission Owner shall be entitled to change the Transmission Construction Works, the TO Construction Programme and all dates specified in this TO Construction Agreement.
- 2.11 It is hereby agreed and declared for the purposes of the Construction (Design and Management) Regulations 1994 that the Transmission Owner is the only client in respect of the Transmission Construction Works and shall accordingly discharge all the duties of a client under the said Regulations.

- 2.12 The Transmission Owner and NGC hereby agree and acknowledge that this TO Construction Agreement is not to be treated as a construction contract within the meaning of section 104 of the Housing Grants, Construction and Re-generation Act 1996 and sections 104 to 113 of the said Act shall have no application to any part of the Transmission Construction Works and the Parties' rights and obligations with regard to matters of dispute resolution and payment procedures are as expressly set out herein.

3. **DELAYS**

- 3.1 If either Party shall have reason to believe that it, another Transmission Owner or, in the case of NGC a User, is being delayed or will be delayed in carrying out that Party's or a User's Works (as appropriate) for any reason (whether it is one entitling it to the fixing of a new date under paragraph 3.2 of this TO Construction Agreement or not) it shall forthwith notify the other Party in writing of the circumstances giving rise to the delay and of the extent of the actual and/or anticipated delay.
- 3.2 If prior to the Completion Date a Party (in this paragraph 3.2 the "**Affected Party**") shall be delayed in carrying out any of the Affected Party's Works (including their commissioning) by reason of (a) any act, default or omission on the part of the other Party (in this paragraph the "**Defaulting Party**") or of the Defaulting Party's employees, agents, contractors, sub-contractors or, in the case where NGC is the Defaulting Party, by reason of a delay by the User or (b) any act, default or omission on the part of any Transmission Owner which is not a Party to this TO Construction Agreement or its employees, agents, contractors or subcontractors or (c) by reason of an event of Force Majeure, the Affected Party shall be entitled to have such later date or dates fixed as the Completion Date as may be fair and reasonable in the circumstances provided that it shall have notified the Defaulting Party in writing of such act, default or omission or event of Force Majeure within 28 days of it becoming aware of the occurrence giving rise to the delay together with an estimate of the proposed delay which it will cause the Affected Party. In the event of a dispute between the parties over what is or are any fair and reasonable date or dates to be fixed in the circumstance this shall be promptly referred to and determined by the Independent Engineer. Once the new date or dates are fixed the TO Construction Programme shall be deemed automatically amended as appropriate.

4. **COMMISSIONING PROGRAMME AND LIQUIDATED DAMAGES**

- 4.1 The TO Construction Works shall be deemed to have been Commissioned on the date that the Independent Engineer certifies in writing to that effect.
- 4.2 In the event that the actual date on which the Transmission Construction Works are Commissioned is later than the Completion Date the Transmission Owner (if and to the extent that it is responsible for delayed completion beyond the Completion Date, such responsibility and/or its extent to be determined by the Independent Engineer failing agreement between the Parties) shall be liable to pay to NGC Liquidated Damages for each day that the actual date on which the Transmission Construction Works are Commissioned is later than the Completion Date. It is hereby agreed and declared that such Liquidated Damages shall cease to be payable in respect of any period after completion of the Transmission Construction Works.

- 4.3 Liquidated Damages payable under paragraph 4.2 shall accumulate on a daily basis but shall be payable calendar monthly. On or before the 13th day of each month the Party entitled to receive the payment of Liquidated Damages shall send to the other Party a statement of the Liquidated Damages which have accrued due in the previous calendar month. The Party receiving such statement shall in the absence of manifest error pay the Liquidated Damages shown on the statement within 28 days of the date upon which the statement is received.
- 4.4 Without prejudice to and in addition to the obligation of NGC pursuant to paragraph 2.4 the payment or allowance of Liquidated Damages pursuant to this paragraph 4 shall be in full satisfaction of the Transmission Owner's liability for failure to perform its obligations by the Completion Date.

5. INDEPENDENT ENGINEER

In relation to matters raised pursuant to this TO Construction Agreement, the Parties agree and shall procure that the Independent Engineer shall act as an expert and not as an arbitrator and shall decide those matters referred or reserved to him under this TO Construction Agreement by reference to Good Industry Practice using his skill, experience and knowledge and with regard to such other matters as the Independent Engineer in his sole discretion considers appropriate. All references to the Independent Engineer shall be made in writing by either Party with notice to the other being given contemporaneously as soon as reasonably practicable and in any event within 14 days of the occurrence of the dispute to be referred to the Independent Engineer. The Parties shall promptly supply the Independent Engineer with such documents and information as he may request when considering such question. The Independent Engineer shall use his best endeavours to give his decision upon the question before him as soon as possible following its referral to him. The Parties shall share equally the fees and expenses of the Independent Engineer. The Parties expressly acknowledge that submission of disputes for resolution by the Independent Engineer does not preclude subsequent submission of disputes for resolution by arbitration as provided in Section H of the Code. Pending any such submission the parties shall treat the Independent Engineer's decision as final and binding.

6. TO FINAL SUMS

- 6.1 Within 55 days of the date of termination of this TO Construction Agreement the Transmission Owner shall:
- (a) furnish NGC with a further statement showing a revised estimate of TO Final Sums and will provide as soon as practicable evidence of such costs having been incurred; and
 - (b) by written notice to NGC inform NGC of all capital items which cost the Transmission Owner in excess of £10,000 and in relation to which an amount on account of TO Final Sums shall have been paid and whether the Transmission Owner (1) wishes to retain the said capital items or (2) dispose of them.

- 6.2 In respect of all capital items which the Transmission Owner wishes to retain (other than those which have been, or are proposed to be installed as a replacement for Transmission Plant and Transmission Apparatus) the Transmission Owner shall forthwith reimburse to NGC the amount paid by NGC on account of TO Final Sums in respect of the said capital items (including without limitation the amount paid on account of the design, purchase, installation and testing of the said capital item and also associated construction works and interest charges) together with interest calculated thereon on a daily basis from the date of termination of this TO Construction Agreement to the date of payment at Base Rate for the time being and from time to time provided that in the event that the Transmission Owner wishes to retain any capital item which has been installed but wishes to remove it to storage or to another site then it shall only reimburse to NGC the cost of the capital item and not the costs of such installation and shall deduct from any reimbursement due to the User the costs of removal and/or storage.
- 6.3 In respect of all capital items which the Transmission Owner wishes to dispose (other than those which have been, or are proposed to be installed as a replacement for Transmission Plant and Transmission Apparatus) it shall forthwith (and subject to the Transmission Owner obtaining the consent of the Authority under its Transmission Licence if required) sell or procure the sale of the said capital item on an arms-length basis as soon as reasonably practicable. Forthwith upon receipt of the sale proceeds the Transmission Owner shall pay to NGC the proceeds received from any such sale together with interest thereon calculated on a daily basis from the date of termination to the date of payment at Base Rate for the time being and from time to time less any reasonable costs associated with the sale including the costs and expenses reasonably incurred and/or paid and/or which the Transmission Owner is legally bound to pay on removing the capital item, any storage charges and any costs reasonably incurred by the Transmission Owner in respect of reinstatement associated with removal of the capital item. the Transmission Owner shall provide NGC with reasonably sufficient evidence of all such costs and expenses having been incurred. If the Authority does not agree to the disposal of the capital item the capital item shall be retained by the Transmission Owner and the Transmission Owner shall reimburse NGC the notional current market value in situ of the said capital item as between a willing buyer and a willing seller as agreed between the Parties and failing agreement as determined pursuant to Section H of the Code together with interest thereon calculated on a daily basis from the date of termination of this TO Construction Agreement to the date of payment at Base Rate for the time being and from time to time.
- 6.4 As soon as reasonably practicable after termination of this TO Construction Agreement the Transmission Owner shall provide NGC with a statement of and invoice for the TO Final Sums together with evidence of such costs having been incurred and/or paid and/or having been committed to be incurred. If the TO Final Sums are greater than the payments made by NGC in respect of the Transmission Owner's estimate(s) of TO Final Sums NGC shall within 35 days of the said statement and invoice prepared by the Transmission Owner pay to the Transmission Owner the additional payments due by NGC together with interest calculated thereon on a daily basis at Base Rate for the time being and from time to time from the date of previous payment(s) sums equal to the Transmission Owner's estimate of TO Final Sums to the date of the statement of and

invoice for TO Final Sums. If the TO Final Sums is less than the payments made by NGC in respect of the Transmission Owner's estimate of Final Sums paid by NGC following termination of this TO Construction Agreement the Transmission Owner shall forthwith pay to NGC the excess paid together with interest on a daily basis at the Base Rate for the time being and from time to time from the date of payment of the fair and reasonable estimate of TO Final Sums to the date of reimbursement by the Transmission Owner of the said excess paid.

6.5 Provision of Bi-annual Estimate

The Transmission Owner shall provide to NGC an estimate ("the Bi-annual Estimate") in substantially the form set out in the relevant Appendix to this TO Construction Agreement and showing the amounts of all payments required or which may be required to be made by NGC to the Transmission Owner in respect of TO Final Sums at the following times and in respect of the following periods:-

- (a) forthwith on and with effect from the Effective Date, in respect of the period from the Effective Date until the next following 31st March or 30th September (whichever shall first occur); and
- (b) not less than 82 (eighty-two) 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 immediately following 1st April or 1st October (as the case may be), until this TO Construction Agreement shall be terminated or shall expire in accordance with paragraph 7.

The Transmission Owner shall provide NGC with all advice and assistance reasonably requested by NGC in relation to any discussions or correspondence with a User in connection with Bi-annual Estimates.

6.6 Entitlement to Estimate

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

7. TERM

- 7.1 Subject to the provisions for earlier termination set out in the Code, this TO Construction Agreement shall continue in force unless and until terminated in accordance with paragraph 2.6.
- 7.2 Any provisions for payment survive the termination of this TO Construction Agreement.

8. THE CODE

8.1 The provisions of:

8.1.1 Section E (Payment);

8.1.2 Section F (Confidentiality);

8.1.3 Section G, paragraphs 5 (Third Party Rights), 6 (Transfer and Sub-contracting), 7 (Intellectual Property), 8 (Force Majeure), 9 (Privilege), 10 (Waiver), 11 (Nominated Representative), 12 (Communications), 13 (Counterparts), 14 (Severance of Terms), 15 (Language), 16 (Data Protection Act), 17 (Jurisdiction), 18 (Governing Law), 19 (No Partnership)

of the Code shall apply to this TO Construction Agreement as if set out in this TO Construction Agreement in full.

9. DISPUTES

9.1 Except as specifically provided for in this TO Construction Agreement any dispute arising under the terms of this TO Construction Agreement shall be referred to arbitration in accordance with the terms of Section H of the Code.

10. VARIATIONS

10.1 Subject to paragraphs 10.2 and 10.3 below, no variation to this TO Construction Agreement shall be effective unless made in writing and signed by or on behalf of both the Transmission Owner and NGC.

10.2 The Transmission Owner and NGC shall effect any amendment required to be made to this TO Construction Agreement by the Authority as a result of a change in the Code or a Licence or an order or direction made pursuant to the Act or a Licence. NGC hereby authorises and instructs the Transmission Owner to make any such amendments on its behalf and undertakes not to withdraw, qualify or revoke such authority or instruction at any time.

10.3 The Transmission Owner has the right to vary any Appendices to this TO Construction Agreement in accordance with paragraph 2.9.

SCHEDULE TEN

CHARGES

PART ONE: TO GENERAL SYSTEM CHARGES

PART TWO: TO SITE-SPECIFIC CHARGES

PART THREE: OTHER CHARGES