

**AGREEMENT RELATING TO ACCESS FOR AND ADOPTION OF HIGH AND
LOW VOLTAGE MAINS AND SERVICE CONNECTIONS FOR METERED
AND UNMETERED CONNECTIONS**

BETWEEN

**WESTERN POWER DISTRIBUTION (SOUTH WEST) PLC, WESTERN
POWER DISTRIBUTION (SOUTH WALES) PLC, WESTERN POWER
DISTRIBUTION (EAST MIDLANDS) PLC, WESTERN POWER
DISTRIBUTION (WEST MIDLANDS) PLC**

AND

[CONNECTION PROVIDER]

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FORM OF AGREEMENT

THIS AGREEMENT is made the day of 2012

BETWEEN

Western Power Distribution (South West) plc, Western Power Distribution (South Wales) plc, Western Power Distribution (East Midlands) plc and Western Power Distribution (West Midlands) plc (company numbers: 02366894, 02366985, 02366923 and 03600574 respectively) whose registered office is at Avonbank, Feeder Rd, Bristol BS2 0TB (“**WPD**”); and

[company name] whose registered office is at [address] (the “**Connection Provider**”) together, the "Parties" and each a "Party".

WHEREAS

- (A) The Connection Provider will be appointed by various Customers to carry out and complete Contestable Connection Works.
- (B) WPD has agreed to provide such access to the Distribution System as is required by the Connection Provider to enable it to carry out and complete the Contestable Connection Works.
- (C) In consideration of the Connection Provider complying with its obligations under this Agreement, WPD has agreed to Adopt the Contestable Connection Works upon their satisfactory completion and the fulfilment of the terms and conditions of this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. Definitions and Interpretation

1.1 In this agreement except where the context otherwise requires the following shall have the meanings set opposite them:

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| Accreditation | means holding relevant accreditation under the National Electricity Registration Scheme operated by Lloyds Register, or at WPD’s discretion, having shown evidence of |
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| | sufficient expertise or knowledge to carry out the Contestable Connection Works to the required standard and “Accredited” shall be construed accordingly; |
| The Act | means The Electricity Act 1989 as amended by the provisions of the Utilities Act 2000; |
| Adoption | means the transfer by the Connection Provider to WPD of the property in and responsibility for the Contestable Assets with full title guarantee and the expression "Adopt" shall be construed accordingly; |
| Adoption Date | means the date the Contestable Assets or a part thereof are connected to WPD’s Distribution System and Energised; |
| Agreement | means this agreement including the Schedules and any other documents expressly incorporated into it by reference; |
| Applicable Legislation | means all laws, statutes, statutory instruments, acts, regulations, codes, judgements, orders, directives or determinations which affect the Contestable Connection Works or the performance of any obligations under the Agreement; |
| Authority | means the Gas and Electricity Markets Authority as established by Section 1 of the Utilities Act 2000; |
| CDM Regulations | means the Construction (Design and Management) Regulations 2007 and any amendment thereto; |
| Chargeable Inspection Regime | the regime set out in Standard Technique NC2L detailing the chargeable inspections which may be carried out by WPD, as such standard technique may be updated or amended from time to time; |
| Consents | means all consents, licences, permissions, approvals, wayleaves, easements rights over, or interests in land of any kind as may be required for the carrying out, completion and subsequent use of the Contestable Connection |

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| | Works; |
| Contestable Assets | means those Contestable Connection Works which will form part of the Distribution System; |
| Contestable Connection Works | means any and all Metered Connection Works and/or Unmetered Connection Works to be carried out by the Connection Provider on WPD's Distribution System; |
| Customer | means the respective third party who commissions the Contestable Connection Works to be carried out by the Connection Provider; |
| Defect | includes:- <ul style="list-style-type: none"> (a) any defect in materials or workmanship in the Contestable Connection Works; (b) any defect arising from any act or omission of the Connection Provider or its contractor in the course of carrying out the Contestable Connection Works, and (c) any failure of the Contestable Connection Works to comply with the approved design and/or the Specification; |
| Defects Liability Period | means the period of 2 years commencing on the Adoption Date of the relevant Contestable Assets; |
| Distribution System | means WPD's system for the distribution of electricity as defined in the Licence; |
| Encumbrance | means any debt, assignment, encumbrance, option, charge, adverse chain, lien, hire purchase, conditional sale or credit sale agreement or any other interest or right of any other person; |
| Energisation | means the taking of any step so as to enable electrical current to flow to or from the Distribution System to the Contestable Assets |

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| | or such part thereof (as the case may be) and “Energise” and other cognate expressions shall be construed accordingly; |
| Field Control Engineer | means the person appointed by the Connection Provider to exercise operational control over such section of the Distribution System relevant to the high voltage Contestable Connections Works to be carried out ; |
| Full Title Guarantee | means the absolute beneficial and ownership fee from any Encumbrance; |
| HVCC | means a High Voltage Connection Certificate issued by the Connection Provider to WPD in accordance with Clause 7.10; |
| HVNC | means a High Voltage Notice of Connection issued by the Connection Provider to WPD in accordance with Clause 3.4(a); |
| ICP HV Cable Assessment Form | means a form detailing the pre-commissioning and post-commissioning tests to be carried out in respect of all high voltage Contestable Connection Works, such document to be completed by the Connection Provider in accordance with Clause 7.10 of this Agreement and in such form as is required by Standard Technique NC2L, as such standard technique may be amended or updated from time to time; |
| Licence | means the distribution licence granted to WPD pursuant to Section 6(1)(c) of the Act; |
| LJCC | means a Live Jointing Certificate of Connection issued by the Connection Provider to WPD in accordance with Clause 7.6; |
| LJNC | means a Live Jointing Notice of Connection issued by the Connection Provider to WPD in accordance with Clause 3.3(a); |
| Metered Connection Works | means live low voltage mains and service connections and high voltage jointing connections for metered connections on the |

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| | Distribution System; |
| NRSWA | means the New Road and Street Works Act 1991; |
| Policy | means any instructions, rules or policies issued by WPD from time to time, including without limitation the Drug and Alcohol Policy, Code of Ethics and Anti-Bribery Policy and Standard Technique NC2L relating to Independent Connection Provider (ICP) High and Low Voltage Connections, and all other Standard Techniques applicable to the Contestable Connection Works as may be amended or updated from time to time; |
| Regulatory Body | means those government departments and regulatory, statutory and other entities, committees and bodies, present or future, which whether under statute, rules, regulations, codes of practice or otherwise are entitled by any Applicable Legislation to supervise, regulate, investigate or influence the matters dealt with in this Agreement or any other affairs of WPD; |
| Service Information Form | a form detailing the pre-commissioning and post-commissioning tests to be carried out in respect of all low voltage Contestable Connection Works, such document to be completed by the Connection Provider in accordance with Clause 7 of this Agreement and in such form as is required by Standard Technique NC2L, as such standard technique may be amended or updated from time to time; |
| Service Line | as defined in the Electricity Supply Quality and Continuity Regulations 2002, as amended from time to time; |
| Site | means the site where the Contestable Connection Works are to be carried out, as more particularly described in the relevant LJNC or HVNC; |
| Specification | means the specification set out in Schedule 1; |

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| Unmetered Connection Works | means live low voltage mains and service connections and disconnections and high voltage jointing connections and disconnections for unmetered connections on the Distribution System; |
| Working Day | has the meaning given to that term in Section 64 of the Act. For the purpose of timing, a notice received after 3.00 p.m. on a Working Day shall be considered to have arrived the following Working Day; |
| WPD's Central Control Engineer | means the control engineer at WPD's control centre; |
| WPD Group | Western Power Distribution (South West) plc, Western Power Distribution (South Wales) plc, Western Power Distribution (East Midlands) plc, Western Power Distribution (West Midlands) plc, and the subsidiaries of each of them, holding companies of each of them and any subsidiaries of such holding companies, "subsidiary" and "holding company" having the meanings ascribed to those terms in Section 1159, Companies Act 2006. |

1.2 In this Agreement, unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa and words in one gender include any other gender;
- (b) a reference to a statute or other statutory provision includes:
 - (i) any subordinate legislation (as defined in Section 21(1) Interpretation Act 1978) made under it;
 - (ii) any repealed statute or statutory provision which it re-enacts (with or without modification); and
 - (iii) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it;
- (c) references to:
 - (i) any party include its permitted successors in title and permitted assigns;

- (ii) clauses and schedules are to clauses and schedules of this Agreement and references to sub-clauses and paragraphs are references to sub-clauses and paragraphs of the clause or schedule in which they appear;
- (d) the headings are for convenience only and shall not affect the interpretation of this Agreement.

2. Term

- 2.1 This Agreement shall be deemed to have commenced on [] and shall continue in force until terminated by either Party in accordance with the terms of this Agreement.

3. Commencement of the Contestable Connection Works

- 3.1 This Agreement shall apply to all Contestable Connection Works which the Connection Provider has been engaged to carry out on the Distribution System during the term of this Agreement.

- 3.2 The Connection Provider shall be entitled to access the Distribution System to carry out and complete the Contestable Connection Works provided always that the following conditions have been satisfied prior to commencement of the Contestable Connection Works:

- (a) the Connection Provider shall hold appropriate Accreditation;
- (b) all employees and/or agents and/or sub-contractors of the Connection Provider who will carry out the Contestable Connection Works shall be technically competent and hold and carry evidence of relevant Accreditation;
- (c) the Connection Provider shall submit to WPD a LJNC or HVNC in respect of the relevant Contestable Connection Works in accordance with Clause 3.3 or 3.4, as appropriate;
- (d) the Contestable Connection Works have been approved by WPD in accordance with clause 3.3 or 3.4.

- 3.3 For low voltage Contestable Connection Works:

- (a) the Connection Provider shall submit an LJNC to WPD on the Monday that is one week prior to the date on which the Contestable Connection Works are to commence. The LJNC may contain up to one week's proposed work. The LJNC may contain multiple submissions but each submission must be by street or adjacent street. Where the Contestable Connection Works are Metered Connection Works, the LJNC shall contain the parent Crown reference number in respect of the wider scheme of which the Contestable Connection Works form part;

- (b) within 5 Working Days of receipt of the LJNC, WPD shall either approve the Contestable Connection Works or provide comments to the Connection Provider detailing the reasons for the rejection of the LJNC by WPD;
- (c) the Connection Provider shall not commence the low voltage Contestable Connection Works unless and until WPD has provided its prior approval in respect of the LJNC for the relevant Contestable Connection Works.

3.4 For high voltage Contestable Connection Works:

- (a) the Connection Provider shall, where the Contestable Connection Works are proposed to be undertaken on WPD's Distribution System, submit a HVNC to WPD a minimum of 20 Working Days prior to the date on which the Connection Provider wishes to commence the Contestable Connection Works;
- (b) WPD and the Connection Provider shall agree the date on which the high voltage Contestable Connection Works are to commence and the date and time by which they are to be completed;
- (c) Where the Contestable Connection Works require the shutdown of any part of the Distribution System, WPD shall notify the Connection Provider if it considers it necessary for standby generation to be installed or alternative network arrangements such as "LV back feeds" to be in place prior to commencement of the Contestable Connection Works in order to minimise disruption to WPD's customers;
- (d) WPD may install or put in place the standby generation or alternative generation network arrangements required pursuant to clause 3.4(c). Alternatively, if instructed by WPD to do so, the Connection Provider shall, at WPD's cost, install or put in place any standby generation or alternative network arrangements required pursuant to clause 3.4(c);
- (e) The Connection Provider shall not commence the high voltage Contestable Connection Works unless and until:
 - (i) WPD has provided its prior approval in respect of the HVNC;
 - (ii) WPD has agreed a commencement and completion date and time for the relevant Contestable Connection Works; and
 - (iii) where notice has been provided by WPD in accordance with clause 3.4(c), the required standby generation or alternative network arrangements have been installed or put in place;
- (f) WPD shall undertake appropriate shutdown preparation to allow the high voltage Contestable Connection Works to proceed on the agreed commencement date;

- (g) Any material variation to the HVNC shall be notified to WPD as soon as reasonably practicable.

4. Design, Materials and Workmanship

- 4.1 The Connection Provider warrants that it accepts full responsibility for the design of the Contestable Connection Works.
- 4.2 The Connection Provider shall exercise such reasonable degree of skill, care and diligence in the design of the Contestable Connection Works to be expected of a professionally qualified and competent contractor experienced in the design of works of a similar nature, value, complexity and timescale to the Contestable Connection Works.
- 4.3 No approval, review or comment or failure to approve review or comment by WPD of or on the design of the Contestable Connection Works or any other matter shall relieve the Connection Provider of any liability whatsoever or any of its obligations under this Agreement.
- 4.4 The Connection Provider undertakes and warrants that all physical work will be carried out by a competent workforce in a safe manner to agreed standards and specifications and not to the detriment of other users of the Distribution System.
- 4.5 The Connection Provider shall, at its own cost, apply for, obtain and maintain all Consents required in respect of the Contestable Connection Works and the Site.
- 4.6 The Connection Provider shall carry out all Contestable Connection Works in accordance with all applicable Connection Provider's policies and procedures, Applicable Legislation and Policy and shall ensure that all Contestable Connection Works comply with the Specification. To the extent there is any discrepancy or inconsistency between this Agreement and Standard Technique: NC2L (as such document may be amended or updated from time to time), the provisions of the Standard Technique shall prevail.
- 4.7 WPD shall, within a reasonable period of receipt of a written request, supply the Connection Provider with all drawings relating to WPD's Distribution System as may be reasonably required to carry out the construction, installation or commissioning of the Contestable Connection Works.
- 4.8 The Connection Provider shall only use materials detailed by WPD in the Specification or materials which have been approved in writing by WPD for use.
- 4.9 The Connection Provider warrants that all completed Contestable Connection Works will comply with the Electricity Safety, Quality and Continuity Regulations 2002, BS-7671 and all Applicable Legislation.
- 4.10 For the avoidance of doubt this Agreement shall not apply to any emergency work or faults, save for such works as WPD may require the Connection Provider to carry out to rectify any defects in the Contestable Connection Works.

- 4.11 The Connection Provider shall be fully responsible for all liabilities, including ongoing guarantees relating to reinstatement under NRSWA, the Highways Act 1980 and other legal liabilities associated with activities under its control undertaken pursuant to this Agreement.
- 4.12 The Connection Provider is fully responsible for all necessary street works co-ordination, notifications, charges and penalties together with the provision of and maintenance of all signing, lighting and guarding required for excavation, interim and permanent reinstatement. Excavation shall be sufficient both for jointing and positive identification if multiple cables are present.

5. Switching

- 5.1 For high voltage Contestable Connection Works, the Connection Provider shall comply with all procedures and obligations set out in Standard Technique NC2L (as such standard technique may be amended or updated from time to time) in relation to any switching required to be carried out by the Connection Provider's Field Control Engineer on the Distribution System.
- 5.2 The Connection Provider shall not carry out any switching on the Distribution System without prior approval from WPD's Central Control Engineer.

6. Inspection

- 6.1 WPD will carry out chargeable inspections in accordance with the Chargeable Inspection Regime and the programme of works submitted by the Connection Provider with the relevant LJNC or HVNC, as appropriate. The Connection Provider will initially be allocated to Inspection Level 1 as detailed in the Chargeable Inspection Regime and may progress to lower levels of inspection in accordance with the Chargeable Inspection Regime. The same inspection regime will apply to both high voltage and low voltage Contestable Connection Works but with separate counts.
- 6.2 Any material failure of any inspection may result in the Connection Provider moving to a higher level of inspection and may result in the termination of this Agreement.
- 6.3 The Connection Provider will pay WPD for inspections as detailed in the Chargeable Inspection Regime. For the avoidance of doubt, where further inspection is required as a result of identifying a Defect during a previous inspection (irrespective of whether or not the previous inspection was undertaken within the Chargeable Inspection Regime) WPD will be entitled to charge the Connection provider for the costs of the re-inspection.
- 6.4 Should the Connection Provider fail to provide to WPD notification of any change to its programme of works WPD may charge the Connection Provider for costs incurred by WPD as a result of any abortive visit.

- 6.5 WPD shall notify the Connection Provider of any Defect in writing as soon as practicable following the inspection. Where practicable, WPD shall also notify the Connection Provider's nominated contact verbally whilst on Site.
- 6.6 Where, as a result of any inspection, WPD is of the reasonable opinion that the standard of the Connection Provider's work contains any Defect, the Connection Provider shall indemnify WPD, and keep WPD indemnified, against the reasonable costs of any remedial works WPD may be required to undertake to remedy the Defect or unsatisfactory work. The Connection Provider shall also meet the reasonable cost of any further inspections that may be required to verify that any Defects have been remedied.
- 6.7 The Connection Provider shall allow WPD access at all times to all places where the Contestable Connection Works are to be carried out, are in the process of being carried out or have been carried out, for the purposes of inspecting the Contestable Connection Works and all materials used or intended for use in the Contestable Connection Works.
- 6.8 WPD acting reasonably, may, by giving the Connection Provider reasonable written notice, require the Connection Provider to uncover or make openings in any part of the Contestable Connection Works. The Connection Provider shall bear its own costs and all costs incurred by WPD in complying with such notice if such inspection of the Contestable Connection Works reveals any Defect or material non-compliance with the requirements of this Agreement. WPD shall be liable for all reasonable costs incurred by the Connection Provider in complying with such notice if such inspection of the Contestable Connection Works fails to reveal any Defect or material non-compliance with the requirements of this Agreement.
- 6.9 If WPD serves a notice on the Connection Provider to uncover works which WPD was unable to inspect due to the Connection Provider failing to notify WPD of a change to the work programme or the Contestable Connection Works not being carried out, the Connection Provider shall be liable for all costs incurred by the Connection Provider and WPD in uncovering and inspecting such works irrespective of whether any Defects are revealed by such uncovering and inspection. Any costs incurred by WPD shall be reimbursed by the Connection Provider pursuant to Clause 13.
- 6.10 WPD is under no obligation to give the Connection Provider prior notice of WPD's intention to carry out a Site inspection.
- 6.11 In carrying out any inspection or test, neither WPD nor any of its representatives gives any warranty, express or implied as to the adequacy, safety or other characteristics of the Contestable Connection Works and neither WPD nor any of its representatives shall be responsible in any way for the Contestable Connection Works solely by virtue of such inspections or tests.

- 6.12 Notwithstanding any inspections or tests by WPD, the Contestable Assets shall remain the property of and at the risk of the Connection Provider who shall continue to be liable for them unless and until the Adoption of the Contestable Assets.
- 6.13 WPD shall be entitled to carry out additional inspections which fall outside of the Chargeable Inspection Regime at any time. Subject to Clause 6.3, the costs of such additional inspections shall be borne by WPD.

7. Commissioning and Completion

- 7.1 The Connection Provider shall ensure that all pre-commissioning tests and checks listed in the Service Information Form or ICP HV Cable Assessment Form (as the case may be) are satisfactorily completed and recorded prior to Energisation. The Connection Provider shall not make any connection which fails the pre-commissioning tests.
- 7.2 The Connection Provider shall ensure that all post-commissioning tests listed in the Service Information Form or ICP HV Cable Assessment Form (as the case may be) are completed and recorded immediately following the Energisation of any new connection.
- 7.3 The Connection Provider shall complete the Service Information Form or ICP HV Cable Assessment Form detailing all pre-commissioning and post-commissioning tests carried out in respect of the Contestable Connection Works in relation to each LJNC or HVNC and shall provide such evidence and records as may be reasonably required by WPD that the required tests have been completed and passed. WPD may carry out its own tests and checks at any time.
- 7.4 If any of the Contestable Connection Works do not pass the post-commissioning tests the Connection Provider shall immediately notify WPD and WPD may:
- (a) on safety grounds, under ESQCR Regulation 26, disconnect the Contestable Connection Works from WPD's Distribution System until the Connection Provider undertakes all work necessary to enable the Contestable Connection Works to pass the post-commissioning tests; or
 - (b) undertake such works and recover the cost thereof from the Connection Provider.
- 7.5 The Connection Provider shall complete the low voltage Contestable Connection Works within the week proposed in the relevant LJNC. If the Connection Provider fails to complete the low voltage Contestable Connection Works within the week specified in the relevant LJNC, the Connection Provider shall cease work, WPD's approval provided pursuant to Clause 3.3 shall be deemed to have been withdrawn and the Connection Provider shall be required to recommence the approval process and submit a new LJNC for the relevant Contestable Connection Works.

- 7.6 The Connection Provider shall provide to WPD a completed LJCC and Service Information Form on or before the second Monday following the week during which the low voltage Contestable Connection Works are carried out.
- 7.7 The Connection Provider shall commence and complete the high voltage Contestable Works on the dates and by the time agreed with WPD pursuant to clause 3.4;
- 7.8 If the Connection Provider fails to commence or complete the high voltage Contestable Connection Works on the dates or by the time agreed pursuant to clause 3.4, the Connection Provider shall be liable for all costs incurred and/or losses suffered by WPD as a result of such delay.
- 7.9 On completion of the Contestable Connection Works, the Connection Provider shall return the Distribution System to WPD in accordance with the requirements of Standard Technique NC2L, as such standard technique may be amended or updated from time to time.
- 7.10 The Connection Provider shall provide directly to the Records Team a HVCC on the second Monday following the agreed date on which the works are to commence. The HVCC must include a plan on a WPD background (EMU) for all completed works, an ICP HV Cable Assessment Form and the Field Control Engineer's switching log, in accordance with Standard Technique NC2L, as such technique may be amended or updated from time to time.

8. Adoption

- 8.1 The Contestable Assets shall be Adopted by WPD on completion of Energisation and the relevant Contestable Assets shall become part of the Distribution System.
- 8.2 Subject to clause 11.3, the Connection Provider shall carry the whole risk of loss or damage to every part of the Contestable Connection Works until the Adoption of such part, and shall indemnify and keep indemnified WPD against all demands, actions, proceedings, damages, losses, costs and expenses not including indirect or consequential loss and expense which are made or brought against or incurred or suffered by WPD in connection with or arising from any part of the Contestable Connection Works prior to Adoption of such part.

9. Safety and CDM Regulations

- 9.1 The Connection Provider shall provide its personnel with all necessary safety equipment to enable them to work in a safe manner.
- 9.2 The Connection Provider shall be responsible for safety of the public, including where required and without limitation in providing appropriate signing, lighting, or guarding (noting that the provisions of the NRSWA might not apply to an un-adopted highway), or in ensuring that Energised terminations are not left exposed and are effectively sealed.

- 9.3 Should any unforeseen eventuality relating to WPD's Distribution System arise during the course of carrying out the Contestable Connection Works then the Connection Provider shall contact WPD immediately.
- 9.4 Each Party acknowledges that he is aware of and undertakes to the other that in relation to the Contestable Connection Works he will duly comply with the CDM Regulations.

10. Rectification of Defects

- 10.1 If any Defects appear within the Defects Liability Period, WPD may in its absolute discretion elect:
- (a) to issue a notice to the Connection Provider to return to the Site to rectify the Defect at no cost to WPD; or
 - (b) for WPD to rectify the Defect itself and recover any costs incurred in doing so from the Connection Provider.
- 10.2 The Connection Provider shall indemnify WPD against reasonable costs incurred or suffered by WPD in remedying any Defect in connection with any of the Contestable Assets during the Defects Liability Period unless such Defects arises as a result of any breach by WPD of this Agreement.

11. Liability and Indemnities

- 11.1 The Connection Provider shall indemnify WPD and keep WPD indemnified fully and on demand against all claims, demands, actions, proceedings, damages, liabilities, losses, costs (including all reasonable legal costs), expenses and fines which are attributable to any act, omission, default, delay, negligence or breach of statutory duty by or on the part of the Connection Provider made or brought against or incurred or suffered by WPD arising out of or in connection with:
- (a) the carrying out or the purported carrying out of the Contestable Connection Works;
 - (b) any claim by a Regulatory Body due to any default by the Connection Provider arising from or in connection with the Contestable Connection Works;
 - (c) any third party claim in respect of title to the Contestable Assets;
 - (d) any breach or alleged breach by the Connection Provider of any Consents or failure by the Connection Provider to obtain and/or maintain the required Consents;
 - (e) failure by the Connection Provider to ensure that the officers, employees or agents of the Connection Provider and other persons for whom the Connection Provider is responsible in law conduct themselves upon the

Site during the carrying out of the Contestable Connection Works in a proper and responsible manner;

- (f) any personnel (including without limitation any employee, agent or sub-contractor) who were employed or engaged in executing the Works bringing a claim against WPD where such a claim arises out of anything done or omitted to be done by the Connection Provider in relation to the employment or engagement of the same during the term of the Agreement and/or arising on or as a result of the termination or expiry of the Agreement (howsoever caused).
- 11.2 WPD shall not be liable for any costs incurred or losses suffered by the Connection Provider or any third party as a result of WPD's failure to provide access to the Distribution System or any delay caused by WPD to the Contestable Connection Works.
- 11.3 The Connection Provider will not be liable for loss or damage arising from WPD's negligence, any breach by WPD of its obligations under this Agreement or WPD's wilful failure to fulfil its responsibilities under this Agreement.
- 11.4 The Connection Provider's total liability to WPD for all matters arising under or in connection with this Agreement shall be limited to £10,000,000 (ten million pounds) per incident or series of incidents arising out of any one event.

12. Force Majeure

- 12.1 If either Party is unable to carry out its obligations under this Agreement as a result of an event beyond the reasonable control of WPD including but not limited to:-
- (a) Severe weather conditions, fire or explosion;
 - (b) A strike, lock out, or other form of industrial action other than by a Party's own employees or agents ;
 - (c) The existence of circumstances by reason of which WPD could reasonably expect that if it took the action it would or would be likely to be in breach of an enactment (including any directions given by the Secretary of State under section 96 of the Act);
 - (d) outbreak of hostilities, riot, civil disturbance or acts of terrorism; or
 - (e) theft or malicious damage associated with the Contestable Connection Works

(each, an "Event of Force Majeure"),

then for the duration of any Event of Force Majeure, this Agreement shall remain in full force and effect but the affected Party's obligations shall be suspended without liability.

13. Payment

- 13.1 WPD shall as soon as is reasonably practicable after the end of each month issue an invoice specifying any charges payable in respect of the Chargeable Inspection Regime.
- 13.2 The Connection Provider shall pay all invoices within 28 days of WPD issuing the invoice.
- 13.3 If any amount remains unpaid after the due date WPD shall be entitled to charge interest on the amount unpaid including interest on Value Added Tax unpaid calculated from day to day at the rate of 5% above the base rate of the Bank of England such interest shall accrue from day to day and shall be compounded annually.

14. Dispute Resolution – Escalation

- 14.1 Any dispute between the Parties with respect to the interpretation of any provision of the Agreement and with respect to the obligations imposed by it on the other Party, shall be resolved as provided for in this clause 14.
- 14.2 Neither Party shall commence formal dispute resolution proceedings (to include litigation), until the earlier of:
 - (a) the Parties' designated representatives (as referred to in clause 14.3(a)) jointly concluding that resolution of the dispute through continued negotiation of the matter does not appear likely; and
 - (b) 30 (thirty) Working Days after a Party's written request under clause 14.3(a) was submitted to the other Party and that other Party has failed to appoint a designated representative.
- 14.3 Prior to the initiation of any formal dispute resolution proceedings (to include litigation), the Parties shall first attempt to resolve their dispute informally, as follows:
 - (a) upon the written request of either Party to the other, each Party shall appoint a designated representative for the purpose of endeavouring to resolve such dispute;
 - (b) the designated representatives shall meet as often as either Party reasonably deems necessary in order to gather and provide to the other all information with respect to the matter in issue which the Party believes to be appropriate in connection with its resolution. The designated representatives shall discuss the problem and negotiate with each other in good faith in an effort to resolve the dispute informally;
 - (c) during the course of negotiations, all reasonable requests made by either Party to the other for non-privileged information, reasonably related to the

Agreement, shall be honoured in order that each of the Parties may be fully advised of the other's position; and

- (d) the method of endeavouring to resolve the dispute shall be left to the discretion of the designated representatives.

15. Dispute Resolution – Adjudication

- 15.1 In the event of any dispute or difference not being resolved in accordance with Clause 14, either Party may refer any dispute or difference to adjudication under Part I of the Scheme for Construction Contracts (England and Wales) Regulations (as amended), which Part shall take effect as if it was incorporated into this clause.
- 15.2 The adjudicator shall be appointed by The Chartered Institute of Arbitrators.

16. Intellectual Property

- 16.1 The copyright and any other intellectual property rights in all drawings, reports, specifications, calculations and other documents created or provided by WPD or on behalf of WPD ("**WPD IP**") to the Connection Provider under the provisions of this Agreement shall remain and belong to WPD and WPD shall grant a licence to the Connection Provider to use solely for the purpose of performing its obligations under this Agreement.
- 16.2 Except with the prior written consent of WPD the Connection Provider shall not make copies or permit copies to be made nor permit the use of the items referred to in sub-clause 16.1 in connection with any project and/or other works other than the Contestable Connection Works or any parent scheme associated with the Contestable Connection Works.
- 16.3 The Connection Provider shall not at any time throughout the duration of the Agreement, assign, license or otherwise grant any rights in any WPD IP to any other person including but not limited to the Customer.

17. Assignment and Sub-Contracting

- 17.1 The Connection Provider may not assign or transfer its rights and obligations under or benefits of this Agreement without the written consent of WPD.
- 17.2 WPD may assign the benefit of this Agreement to any other company within the WPD Group.
- 17.3 The Connection Provider may sub-contract any part of the Contestable Connection Works with WPD's consent (such consent not to be unreasonably withheld) provided that the Connection Provider ensures that only appropriately Accredited contractors are engaged in the carrying out or completion the Contestable Connection Works. The sub-contracting by the Connection Provider of any of its obligations under this Agreement shall not relieve the Connection Provider from liability for performance of such obligations in accordance with

this Agreement and any such sub-contracting must be on terms and conditions as to the person employed by the sub-contractor, and the quality of the work and materials used, no less onerous than those contained in this Agreement.

- 17.4 WPD shall have the right to sub-contract or delegate the performance of any part of its obligations or duties under this Agreement without the prior consent of the Connection Provider.

18. Insurance

- 18.1 The Connection Provider undertakes and agrees to take out and maintain insurance cover in full force and effect at its own cost to cover its liabilities under this Agreement, including but not limited to the following:

- (a) public liability insurance with a limit of indemnity of not less than £5,000,000 per incident or series of incidents arising out of one event against death and personal injury and loss or damage to property; and
- (b) employer's liability insurance for a minimum liability of £5,000,000 per incident or series of incidents arising out of any one event or for any higher minimum limit which may be required at any time in order to comply with Applicable Legislation, and

the Connection Provider shall, whenever reasonably required in writing by WPD, provide confirmation from its insurer that the policies effecting the insurances required by this Clause remain current together with evidence of payment of the last premium due.

- 18.2 The Connection Provider's liability insurance policies shall include an indemnity to principals clause.

19. Confidentiality

- 19.1 Except as referred to in sub-clause 19.2, each party shall treat as strictly confidential and shall not disclose to any third party any information received or obtained as a result of entering into or performing this Agreement which relates to the provisions or subject matter of this Agreement, or the negotiations relating to this Agreement.

- 19.2 Any party may disclose information which would otherwise be confidential if and to the extent that:

- (a) It is required to do so by law or any securities exchange or regulatory or governmental body to which it is subject wherever situated;
- (b) It considers it necessary to disclose the information to its professional advisers, auditors and bankers provided that it does so on a confidential basis;

- (c) The information has come into the public domain through no fault of that party; or
- (d) Each party to whom it relates has given its consent in writing.

20. Termination

- 20.1 Either Party may terminate this Agreement by giving the other Party 3 months' notice in writing (or such lesser period as may be agreed between the Parties).
- 20.2 Without prejudice to any right or remedy a Party may have against the other for breach of this Agreement, either Party may, with immediate effect by notice in writing to the other Party, terminate this Agreement on or at any time after the happening of any of the following events:
 - (a) the Connection Provider or WPD failing in any material respect to comply with any of its obligations under this Agreement, and (if such failure is capable of remedy) the failure is not remedied to the reasonable satisfaction of WPD within 30 days of the Party so failing receiving notice of the occurrence thereof and requiring the same to be remedied;
 - (b) the other Party passing a resolution for its winding-up or a court of competent jurisdiction makes an order for the winding-up or the dissolution of the other party;
 - (c) any steps are taken for the making of an administration order or the appointment of an administrator under the out-of-court procedure under the Enterprise Act 2002 or notice is given of an intention to appoint an administrator in relation to the other party or any steps are taken for the appointment of a receiver or administrative receiver, or an encumbrancer takes possession of or sells any of the other party's assets;
 - (d) the other party makes an arrangement or composition with its creditors generally or makes an application to a court of competent jurisdiction for protection from its creditors generally;
 - (e) the other party ceases to carry on business at any time for 30 consecutive days;
 - (f) the other party is unable to pay its debts (within the meaning of that term under section 123, Insolvency Act 1986);
 - (g) no physical work forming part of the Contestable Connection Works has commenced within one year after the date of the Agreement;
 - (h) the Connection Provider commits a breach of health and safety rules or obligations (including but not limited to WPD's Health and Safety Policy Documents); or

- (i) the Connection Provider ceases, or any of its employees or agents cease, to hold any licence or professional qualification or has its name, or any of its employees or agents have their names, removed from any register which is or which WPD considers necessary or desirable for the performance of its duties under the Agreement.
- 20.3 The termination of this Agreement for whatever reason or cause shall be without prejudice to any other rights or obligations which may have accrued or become due between any of the Parties prior to or on the date of termination, and any provisions, rights or obligations stated to take effect on termination shall remain in full force and effect.
- 20.4 Clauses 11, 12, 14, 15, 18, 19, 20, 22 and 24 shall survive the termination, for whatever reason, of this Agreement.
- 20.5 Where the Agreement is terminated by WPD under Clause 20.2, the Connection Provider shall pay to WPD any reasonable costs incurred by WPD as a result of the termination.

21. Variations

- 21.1 No purported variation of the Agreement shall be effective unless it is in writing and signed by or on behalf of each of the Parties by its respective authorised representatives.

22. Notices

- 22.1 Subject to clause 22.4, any notice, request or other communication to be made by one Party to the other under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by prepaid first class post, courier fax or e-mail to the other Party as follows:

- (a) If to WPD to:

Western Power Distribution (South West) plc Avonbank, Feeder Rd,
Bristol BS2 0TB

Fax: 0117 933 2282

E-mail: []

- (b) If to the Connection Provider, to: []

Fax: []

E-mail [.....]

or to any other persons, addresses or fax numbers as may from time to time be notified by one Party to the other.

- 22.2 A notice request or other communication sent in accordance with this clause shall be deemed to have been served:
- (a) at the time of delivery if delivered personally;
 - (b) if sent by post, 48 hours after the date of posting; and
 - (c) 2 hours after transmission if served by fax or e-mail on a Working Day prior to 3 p.m. or in any other case at 10 a.m. on the Working Day after the date of despatch.
- 22.3 If the deemed time of service is not during normal business hours in the country of receipt, the notice shall be deemed served at or, in the case of faxes or e-mails, two hours after the opening of business on the next Working Day of that country.
- 22.4 Neither Party can serve any proceedings or serve any other documents in any legal action by e-mail.
- 22.5 A Party shall not attempt to prevent or delay the service on it of a notice connected with the Agreement.

23. Third Party Rights

No express term of this Agreement nor any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

24. Governing Law and Jurisdiction

- 24.1 This Agreement and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by the laws of England and Wales.
- 24.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with this Agreement, its subject matter or formation.

AS WITNESS whereof the parties have signed below:

| | |
|---|--|
| <p>Signed on behalf of Western Power Distribution (South West) plc:</p> <hr/> | <p>Signed on behalf of Western Power Distribution (West Midlands) plc:</p> <hr/> |
|---|--|

| | |
|--|--|
| <p>Signed on behalf of Western Power Distribution (South Wales) plc:</p> <hr/> | <p>Signed on behalf of Western Power Distribution (East Midlands) plc:</p> <hr/> |
|--|--|

SIGNED BY:

Name

Position

For and on behalf of

[Connection Provider]

Schedule 1

The Specification

The Connection Provider shall comply with the specifications laid out under the following documentation as amended from time to time:

| ACTIVITY | STANDARD TECHNIQUE REFERENCE |
|---|---|
| Customer Information Leaflet | ST:NC2C |
| Guide for Customers and Connection Providers | ST:NC2C |
| Preparation of Cost Indication or Offer | ST:NC2A |
| Allocating costs | ST:NC2B |
| Charges for provision of information | ST:NC2F |
| Standards of Performance | ST:CS4A / ST:NC2K |
| Specification: | |
| Material | ST:NC2D |
| Design & Planning | ST:NC2D |
| Records | ST:NC2D |
| Design Approval | ST:NC2F |
| Purchase of materials | ST:NC2D |
| Agreement / Accreditation of Connection Provider | ST:NC2E |
| Inspection | ST:NC2H |
| Recording Assets | ST:NC2H |
| ICP High and Low Voltage Connections under ICP DSRs | ST:NC2L |

- a) Relevant parts of Engineering Recommendation G81 and WPD appendices;
- b) The Agreement relating to access for and adoption of live low voltage mains and service connection for metered and unmetered connections.
- c) Balancing and Settlement Code dated 14th August 2000 including Service Lines and BSC procedures (as therein defined) made under it.