

1. Definitions and Interpretation

1.1 All words and expressions defined in the Offer Letter (if any) shall, unless the context otherwise requires, have the same meanings in these General Conditions.

1.2 Unless the context otherwise requires, the following words have the following meanings:

"Act" means the Electricity Act 1989.

"Acceptance Form" means the form attached to the Offer Letter to be completed and signed by the Customer confirming the Customer's acceptance of the terms of the Connection Offer.

"Adoption" means the transfer by a Connection Provider to NGED of the property in and responsibility for the Contestable Connection Assets with full title guarantee and the expression "Adopt" and "Adopted" shall be construed accordingly.

"Adjoining Land" means any land which does not comprise any part of the Premises in relation to which Rights in Freehold Land and/or Rights in Leasehold Land must be granted to NGED for the purpose of carrying out the Connection Works, placing or installing and keeping installed any of the Connection Equipment and thereafter using, siting, laying, repairing, replacing, renewing, altering, maintaining, removing or gaining access to the Connection Equipment.

"Agreement" means the contract between NGED and the Customer on the terms of the Connection Offer (including these General Conditions), which is formed when NGED date the Customer's Acceptance Form.

"Business Day" means a day (other than a Saturday or a Sunday) on which clearing banks are open for business in the City of London.

"Conditions Precedent" means the conditions which must be fulfilled for the carrying out and/or continuation of NGED's Connection Works and/or Energisation and/or completion of any varied Connection Agreement, as detailed in Clause 2 of these General Conditions.

"Connection Agreement" means the agreement which sets out the terms and conditions on which an end user may be connected, and remain connected, to the Distribution System entered into prior to Energisation of each Connection Point and including, where relevant, the National Terms of Connection and any variation thereto.

"Connection Charge" means the payment to be made by or (where agreed by NGED) on behalf of the Customer to NGED for the provision of the connection (including in respect of any Connection Works undertaken by NGED).

"Connection Equipment" means all electric lines, materials, structures, equipment, plant, cables and apparatus necessary for the supply of electricity to or from the Connection Point(s) and/or (where relevant) any Proposed Infrastructure (and including such Proposed Infrastructure), which forms, or will form, part of the Distribution System.

"Connection Point" means the point(s) of connection at which a supply of electricity may (subject to Energisation) flow between the Distribution System and the Customer's Installation.

"Connection Provider" or **"ICP"** means a person with appropriate accreditation to undertake all or part of the Contestable Connection Works.

"Connection Works" means the works required for the Proposed Connection(s) and/or Proposed Infrastructure comprising the Contestable Connection Works and the Non-Contestable Connection Works.

"Connection Works Dispute" means any dispute, claim, proceedings, actions or steps taken (including before the issue of any proceedings) by a Third Party relating to, or arising from the Agreement including (i) any claim relating to arising in relation to an interest in, ownership of or title to the Premises, the Adjoining Land or to any other land required for the Connection Works or the Customer's Works or for the installation, siting, repairing, renewing, altering, maintenance or access of or to the Connection Equipment, the Connection Works, the Customer's Works or the Customer's Installation, and/or (ii) any claim relating to or arising from an assertion that the Connection Works or the Customer's Works have been carried out and/or the Connection Equipment or the Customer's Installation has been installed or constructed without, or not in accordance with, any required land rights or consents, permissions or licenses, which (in either case) delays, halts or postpones the Connection Works, the Customer Works and/or Energisation regardless of whether that is the intention of the Third Party or simply the effect of their action.

"Contestable Connection Assets" means those Contestable Connection Works that will form part of the Distribution System.

"Contestable Connection Works" means the works that the Customer has an option to carry out itself or by appointing a Connection Provider as more particularly described in the Specific Conditions.

"Cost Apportionment Factor" means the factor determined in accordance with the rules contained in NGED's Statement of Methodology and Charges for Connection in respect of an amount payable by the Customer for reinforcement of NGED's shared use Distribution System.

"Customer's Installation" means any electric lines, materials, structures, equipment, plant, cables and apparatus (not being Connection Equipment) installed or to be installed by the Customer, owned or operated, used or to be used by the Customer and connected or to be connected to the Distribution System or augmented pursuant to this Agreement (including, the Customer's distribution network or generating plant).

"Customer Works" means any works to be carried out by the Customer or the Customer's contractor excluding the Contestable Connection Works, as set out in the Specific Conditions.

"Distribution Code" means the Distribution Code of Licensed Distribution Network Operators of Great Britain (available to view at www.dcode.org.uk).

"Distribution System" means NGED's electricity distribution system.

"Energisation" means the movement of any switch or the insertion of any fuse or the taking of any other step so as to enable an electrical current to flow to or from the Distribution System (including any Point of Connection) to and, where applicable from, any Proposed Infrastructure and/or through NGED's Connection Equipment to and, where applicable, from the Customer's Installation at the Connection Point and **"Energise"** shall be construed accordingly.

"Event of Force Majeure" means an event beyond the reasonable control of a party including acts, defaults or omissions of sub-contractors, strike, lock out or other form of industrial action, other than by a party's own employees or agents, act of God, fire, explosion or flood, any third party obstruction preventing access to the Premises and/or Adjoining Land, theft and malicious damage or an electrical system emergency, provided that no event shall be treated as an Event of Force Majeure if it is attributable in whole or part to any wilful act or omission or any failure to take reasonable precautions by the affected party.

"Framework Network Access and Adoption Agreement" means the agreement containing the overarching terms under which NGED provide a Connection Provider with access to NGED's Distribution System and adopt a Connection Provider's Contestable Connection Works.

"Grid Code" means the code which sets out the operating procedures and principles governing the relationship between National Grid and all users to whom the code applies of the National Electricity Transmission System.

"National Terms of Connection" means the terms of connection as set out in Schedule 2B of the Distribution Connection and Use of System Agreement established pursuant to the electricity distribution licences granted pursuant to section 6(1) of the Act.

"Notice of Completion of Installation" means the notice issued by the Customer to NGED confirming completion of the Customer's Installation in such form as NGED may from time to time prescribe.

"Non-contestable Connection Works" means the works which will always be carried out by NGED and which the Customer is not entitled to carry out itself or through an appointed Connection Provider as more particularly set out in the Specific Conditions.

"Point of Connection" means the point on the Distribution System to which new assets will be connected.

"Premises" means the premises on which the Customer's Installation is or will be located.

"Proposed Connection(s)" means the connection(s) or augmentation(s) of the Customer's Installation requested by the Customer from NGED under this Agreement, save to the extent that the requested connection or augmentation exceeds what is required in order to provide the capacity allocated to the Customer's Installation under this Agreement.

"Proposed Infrastructure" means any network infrastructure requested by the Customer from NGED under this Agreement to the extent that it is not required for a Proposed Connection(s).

"Rights in Freehold Land" means (but is not limited to) the grant of an easement in perpetuity, a lease for a term of 99 years (granted out of the freehold), the transfer of ownership of any part or parts of the Premises or any Adjoining Land to NGED and/or a wayleave, on terms acceptable to NGED, for the purposes of (but not limited to):

- (a) carrying out the Connection Works; and
- (b) installing, siting, laying, using, repairing, replacing, renewing, adding to, improving, altering, maintaining, removing or gaining access to the

accommodation and the Connection Equipment and at NGED's absolute discretion to supply Third Parties from the Connection Equipment.

"Rights in Leasehold Land" means (but is not limited to) the grant of an easement, a wayleave and/or a lease for a term equivalent to the then unexpired residue of the term of the Customer or any relevant Third Party's leasehold interest (on the assumption that their only interest is in a leasehold and they have no freehold interest) originally granted less one day in the Premises or any Adjoining Land to NGED, on terms acceptable to NGED, for the purposes of (but not limited to)

- (a) carrying out the Connection Works and;
- (b) installing, siting, laying, using, repairing, replacing, renewing, adding to, improving, altering, maintaining, removing or gaining access to the accommodation and the Connection Equipment and at NGED's absolute discretion to supply Third Parties from the Connection Equipment.

"Security Interest" means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

"Standard Technique" means the NGED standard techniques, published on the NGED Technical Information Site, applicable to the Contestable Connection Works (as may be amended or updated from time to time).

"Third Party" means any person, individual, legal entity, partnership, firm, association, corporate body, local authority, Court, competent authority or government, who is not a party to the Agreement, including any company within the same group of companies as a party to this Agreement.

"NGED Technical Information Site" means the website: www.westernpowertechinfo.co.uk where NGED publish Standard Techniques and other guidance.

1.3 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
 - (iv) modifies, consolidates, re-enacts or supersedes it;
- (c) references to:
 - (i) any party includes its permitted successors in title and permitted assigns;
 - (ii) clauses are to clauses of this Agreement and references to sub-clauses are references to sub-clauses of the clause in which they appear;

(d) the headings are for convenience only and shall not affect the interpretation of this Agreement.

2. Commencement and continuation of Connection Works and Conditions Precedent

2.1 As soon as reasonably practicable after NGED has dated the Customer's Acceptance Form the parties shall agree in writing a date for commencement of the Connection Works.

2.2 NGED shall be under no obligation to commence or continue with its Connection Works (including placing any order for plant or equipment required for the Proposed Connection(s)) unless and until the following Conditions Precedent have been met and, where relevant, continue to be met (to NGED's satisfaction, in its absolute discretion):

- (a) the Customer has completed any necessary Customer Works and any relevant Contestable Connection Works that the Customer opts to undertake itself or through appointing a Connection Provider that are necessary to enable NGED's Connection Works to commence or continue in accordance with this Agreement and any other works necessary in order to provide the Proposed Connection, including (where relevant) any infrastructure works, have been completed;
 - (b) NGED has been provided with or has otherwise secured, obtained or procured all necessary Rights in Freehold Land and/or Rights in Leasehold Land (and such rights are subsisting);
 - (c) the Customer has complied, and is continuing to comply, with its obligations under clause 4.1 and, where relevant, all approvals and consents to be obtained by NGED have been so obtained (and are subsisting), and it is safe (as determined by NGED in its absolute discretion) to commence and/or, continue with the Connection Works;
 - (d) where required, the Customer has confirmed it has fulfilled its obligations in accordance with the Distribution Code;
 - (e) the Customer has completed and returned the Health and Safety Questionnaire attached to the Connection Offer identifying any hazards specific to the Premises together with the risks that they may pose to people working on the Premises and the control measures planned;
 - (f) the Customer and, where relevant, any third party, has paid all invoices and any other sums due to NGED under or in connection with this Connection Offer (including any assessment & design fees);
 - (g) the Customer (or the Customer's appointed Connection Provider) is party to NGED's Framework Network Access and Adoption Agreement and/or any Site Specific Agreement thereunder; and
 - (h) any and all Connection Works Disputes have been fully resolved and/or settled.
- 2.3 NGED shall be under no obligation to Energise or permit the Energisation of the Proposed Connection(s) (including in circumstances where NGED have previously commenced or continued with its Connection Works notwithstanding clause 2.2) or complete a new or (as relevant) amended

Connection Agreement until the following conditions have been met (to NGED's satisfaction, in its absolute discretion):

- (a) NGED has been provided with or has otherwise secured, obtained or procured all necessary Rights in Freehold Land and/or Rights in Leasehold Land in accordance with clause 3 (and such rights are subsisting);
 - (b) the Customer has complied, and is continuing to comply, with its obligations under clause 4.1 and, where relevant, all approvals and consents to be obtained by NGED have been so obtained (and are subsisting);
 - (c) (where relevant) the Customer has ensured that the Customer's Installation is installed in such a manner that it will comply with Regulations 8(4) and 25 of The Electricity Safety, Quality and Continuity Regulations 2002, as in force immediately prior to Energisation, and has allowed NGED access to any property necessary to ensure that the Customer's Installation complies with such Regulations;
 - (d) (where relevant) the Customer has sent NGED a completed Notice of Completion of Installation;
 - (e) (where relevant) the Customer or end user has entered into a Bilateral Embedded Generation Agreement or a Bilateral Embedded Licence exemptable Large power station Agreement with NGESO (and if not done already, become a party to the Connection and Use of System Code);
 - (f) the Customer has paid in full the Connection Charge and all and any other sums due or invoiced by NGED in cleared funds, provided that NGED shall not be obliged to Energise or permit Energisation until a period of seven (7) days following such payment;
 - (g) any and all Connection Works Disputes have been fully resolved and/or settled; and
 - (h) all Connection Works and any other works necessary in order to provide the Proposed Connection, including (where relevant) any NGESO or other third party works, have been completed, and any other requirements set out in any relevant Framework Network Access and Adoption Agreement and/or any Site Specific Agreement thereunder required to be satisfied prior to Energisation have been so satisfied, in each case to the reasonable satisfaction of NGED.
- 2.4 If any Condition Precedent in clauses 2.2(d) and/or (e) have not been met by the Customer or waived by NGED within (6) months of the date of the Acceptance Form, NGED may terminate the Agreement with immediate effect on notice.
- 2.5 If any Conditions Precedent in clauses 2.2(a) to (g) cease to be met at any point prior to Energisation, or if the Customer is otherwise in breach of the Agreement, NGED may, at its absolute discretion, suspend its Connection Works for such period of time as NGED (at its absolute discretion) may deem to be reasonable in the circumstances.

- 2.6 If any of the Conditions Precedent set out in clause 2.3(a) to (f) and (h) have not been met by the proposed date for Energisation or completion of a varied Connection Agreement, NGED may, at its absolute discretion, delay Energisation or Connection Agreement completion for such period of time as NGED (at its absolute discretion) may deem to be reasonable in the circumstances.
- 2.7 If a Third Party takes any steps to cause, raise or pursue a Connection Works Dispute or if the Conditions Precedent at clauses 2.2(h) or 2.3(g) cease to be satisfied at any time up to the date of Energisation and/or completion of a Connection Agreement, NGED may, at its discretion:
- (a) not commence the Connection Works or any part or parts of the Connection Works; or
 - (b) where any part or parts of the Connection Works have commenced:
 - (i) cease all Connection Works and/or delay Energisation or completion of the varied Connection Agreement immediately; or
 - (ii) cease immediately all those Connection Works and/or any Energisation which are or is directly affected by any Connection Works Dispute.
- 2.8 Without prejudice to any other provision of this Agreement if, after proceeding with any of the steps outlined in clause 2.7, NGED is unable to commence, recommence and/or proceed with part or all of the Connection Works and/or Energisation and/or completion of a varied Connection Agreement within (12) months from taking such step, NGED will be entitled to vary the Agreement, to terminate the Agreement on notice or require for this Connection Offer to be reissued. Where NGED requires a variation to the Agreement (including, where relevant, the Connection Charge) NGED shall give notice of such required variation to the Customer and the Agreement shall be deemed to be varied accordingly as from the date of deemed service of such notice. For the avoidance of doubt, clause 14 shall not apply to any such variation. If the Customer does not accept (in accordance with its terms) or disputes any variation to the Agreement required by NGED as notified to the Customer then NGED shall have the option to terminate (with immediate effect by notice) the Agreement. Where NGED requires this Connection Offer to be reissued, NGED shall give notice of such requirement to the Customer and, provided that the Customer re-applies within twenty-eight (28) days of the date of such notification, NGED shall issue a renewed offer for any outstanding Connection Works on the basis of the Customer's original application date and incorporating any allowable changes requested by the Customer, which may be on different terms and/or for a different charge as set out in this Agreement, including to take account of any new milestones and milestone dates. If the Customer does not re-apply within the required time periods, then NGED shall have the option to terminate (with immediate effect by notice) this Agreement.
- 2.9 The Customer shall not in any way obstruct or impede Connection Works or the delivery of any

Connection Equipment to the Premises, and shall procure that its sub-contractors or agents do not in any way obstruct or impede the Connection Works or the delivery of any Connection Equipment to the Premises so as to prevent NGED from, or hinder or delay NGED in performing its obligations under this Agreement.

3. **Property Matters**

- 3.1 Where the Customer holds a freehold interest or a leasehold interest in the Premises and/or any Adjoining Land, the Customer will provide for NGED all of the necessary Rights in Freehold Land and/or the Rights in Leasehold Land (the type and extent of which are to be determined by NGED) for the sum of £1.00.
- 3.2 Where the Customer does not hold a freehold interest or a leasehold interest in the Premises and/or any Adjoining Land, the Customer will:
- (a) provide all reasonable assistance to NGED as may be required from time to time in order for NGED to secure all necessary Rights in Freehold Land and/or Rights in Leasehold Land to be obtained by NGED (the type and extent of which are to be determined by NGED) in the Premises and/or Adjoining Land; and
 - (b) where an ICP is undertaking any part of the Contestable Connection Works, procure that the ICP obtains all necessary Rights in Freehold Land and/or Rights in Leasehold Land (the type and extent of which are to be determined by NGED) in the Premises and/or Adjoining Land for NGED in accordance with the Framework Network Access and Adoption Agreement; or
 - (c) where the Customer is an ICP obtain all necessary Rights in Freehold Land and/or Rights in Leasehold Land (the type and extent of which are to be determined by NGED) in the Premises and/or Adjoining Land for NGED in accordance with the Framework Network Access and Adoption Agreement.
- 3.3 NGED shall not be required to enter into any documents for the grant of the rights in Freehold Land until:
- (a) there has been a full release of any Security Interest holder and/or any Third Party's interest or right in any part or parts of the Premises and/or the Adjoining Land which will be transferred to NGED;
 - (b) where NGED will be granted an easement in perpetuity, a lease for a term of 99 years or a wayleave, it has been provided with evidence of the written consent of any Security Interest holder and/or any Third Party with an interest or right in the Premises and/or the Adjoining Land, to the proposed grant; and
 - (c) it has been provided with documentary evidence to establish the ownership of (to include confirmation of all relevant rights held in) the Premises and the Adjoining Land.
- 3.4 NGED shall not be required to enter into any documents for the grant of the rights in Leasehold Land until:

- (a) it has been provided with evidence of the written consent of the freehold owner, any Security Interest holder and/or any Third Party with an interest or right in the Premises and/or the Adjoining Land, to the proposed grant; and
 - (b) it has been provided with documentary evidence to establish the ownership of (to include confirmation of all relevant rights held in) the Premises and the Adjoining Land.
- 3.5 The Customer shall indemnify NGED and keep NGED indemnified fully on demand against any liabilities, losses, damages, costs (including all reasonable legal costs), expenses and charges suffered or incurred by NGED arising out of or on in connection with any Connection Works Dispute provided that this indemnity shall not apply to the extent that such Connection Works Dispute arises directly as a result of NGED's own negligence or wilful breach of this Agreement.
- 3.6 If the Customer or any Third Party prevents NGED from entering the Premises, the Adjoining Land or any other land required for the Connection Works or the Connection Equipment, with the result that NGED is unable to carry out the Connection Works, or the Connection Works are suspended on the Customer's instruction for which NGED is not responsible, or if NGED has to stand-down any Connection Works as a result of any Condition Precedent not having been, or ceasing to be met or where the Connection Works cannot be carried out due to alterations to the layout of the Premises, the Adjoining Land, any other land required for the Connections Works or Connection Equipment or due to necessary alterations (the nature and extent of which shall be determined solely by NGED) of the design (including the route) of the Connection Works, NGED shall not be deemed to be in breach of this Agreement, any anticipated date of completion of any Connection Works (or phase or part thereof). Energisation (where relevant) and/or completing a new / varied Connection Agreement shall be extended by such period as reasonably required by NGED in consequence thereof, and any costs reasonably incurred by NGED in consequence thereof shall be added to the Connection Charge.
- 3.7 If, at any time, any Rights in Freehold Land and/or Rights in Leasehold Land are terminated or varied in any way so as to adversely affect (in NGED's opinion) NGED's ability to carry out the Connection Works and installing, siting, laying, repairing, replacing, renewing, altering, maintaining, removing or gaining access to the accommodation and the Connection Equipment then, without prejudice to any rights of NGED under clause 2.2, NGED shall have the right to terminate the Agreement with immediate effect on notice, without prejudice to any accrued rights of NGED or obligations on the Customer.
- 3.8 The Customer shall except and reserve out of any conveyance or lease it makes to any

purchaser/lessee of the Premises, part of the Premises or the Adjoining Land any Rights in Freehold Land and/or Rights in Leasehold Land which are necessary in order to lawfully authorise the Connection Works.

- 3.9 Any costs (including legal costs and, notwithstanding clause 3.2, the costs of providing any support and assistance requested by an ICP) incurred in connection with, or arising from, securing, obtaining or procuring the terms, and executing the grant, of Rights in Freehold Land and/or Rights in Leasehold Land shall, unless otherwise set out in this Agreement or expressly agreed in writing between NGED and the Customer, be satisfied by the Customer, or if incurred by NGED, shall be invoiced by NGED to the Customer.
4. **Compliance, consents, safety and access**
- 4.1 Unless otherwise notified by NGED in writing to the Customer, the Customer shall:
- (a) before the time specified for delivery of any of NGED's Connection Equipment to the Premises and/or the Adjoining Land, obtain all consents and approvals in connection with the regulations and by-laws of any local or other authority which shall be applicable to the Connection Works on the Premises and/or the Adjoining Land including all planning, environmental and statutory consents;
 - (b) provide all accommodation, equipment, buildings, structures, foundations, approaches or work equipment of the quality specified in the Specific Conditions, if any;
 - (c) ensure that the 'Principal Designer' and the 'Principal Contractor' as defined by the Construction (Design & Management) Regulations 2015 ("CDMR") carry out all their duties and obligations as set out in the CDMR;
 - (d) at all times provide and maintain suitable access to the Premises, and ensure that the Premises are safe, for the purposes of carrying out the Connection Works or delivering, installing, laying, repairing, replacing, renewing, altering, or maintaining the Connection Equipment and on production of written identity the Customer shall allow any NGED representative to enter the Premises provided that such visits are made during normal working hours (being between 07:00-19:00 hrs, Monday to Friday except for bank holidays); and at other times with the Customer's consent.
- 4.2 Each party shall take all reasonable steps to ensure the safety of the other party's employees, contractors and agents while the Connection Works are in progress or NGED is maintaining or repairing the Connection Equipment.
- 4.3 NGED shall not be under any obligation to commence or continue to provide the Connection Works unless it is reasonably satisfied that each part of the Customer's Installation is so constructed, installed, protected and used so far as is reasonably practicable to prevent danger, and not to cause interference with the Distribution System.

- 4.4 The inspection, non-inspection or non-rejection of the Customer's Installation by NGED shall not constitute any warranty or representation express or implied as to the adequacy, safety or other characteristics of the Customer's Installation.
5. **Performance of NGED Connection Works and basis of Connection Offer**
- 5.1 In consideration of the Customer complying with its obligations as set out in the Agreement (including payment of the Connection Charge) NGED shall:
- (a) perform the NGED Connection Works with reasonable skill and care and in accordance with the terms of this Agreement; and
 - (b) provide such information as is reasonably required by the Customer from time to time to keep the Customer informed of the progress of the NGED Connection Works.
- 5.2 NGED specifically excludes all warranties, express or implied, including any implied term, condition, representation or warranty of satisfactory quality or fitness for a particular purpose, that the NGED Connection Works or Connection Equipment will meet the Customer's requirements except those that cannot be excluded at law.
- 5.3 NGED's proposals (including the Connection Charge) have been calculated on the basis of NGED's current charge-out rates and the information available to NGED at this time. Without prejudice to any other provision of the Agreement, the Customer acknowledges that the Agreement (including the Connection Charge) may be adjusted to take account of, and/or additional costs, charges or expenses may arise in relation to, the following (where relevant):
- (a) any necessary alterations (the nature and extent of which shall be determined solely by NGED) to the design (including the route) of the Connection Works, including as a result of: (i) the unavailability of the proposed cable/overhead line routes (which includes where the Rights in Freehold Land and/or Rights in Leasehold Land required in respect of such routes may only be obtained other than on NGED's standard terms or rates), (ii) the variation, cancellation, termination or non-completion of any third party (including NGESO) works or associated works (being works provided for in an agreement between NGED and another customer or third party) necessary in order to provide the Proposed Connection on the basis set out in this Agreement, (iii) any subsequent information made available to NGED relating to health, safety and the environment that influences the design of the scheme, or (iv) any surveys undertaken by NGED in respect of the Proposed Connection, including any site survey;
 - (b) final competitive tenders and increases in labour, contract, or material costs. For schemes with long lead in times this may be some time after acceptance of the Connection Offer;
 - (c) (without prejudice to any other right or remedy) any breach by the Customer of any of its obligations under the Agreement, or any errors, inaccuracies or omissions in any information provided by the Customer;
 - (d) any recalculation of any reinforcement costs payable in the event that a previous connection offer triggered reinforcement and is subsequently terminated.
- 5.4 Unless otherwise stated. And without prejudice to any other provision of the Agreement, the Connection Offer (including the Connection Charge) does not take account of (including any costs, charges or expenses incurred or arising in connection with) any of the following:
- (a) any requirement for NGED's Connection Works to be undertaken out of regular working hours or on an overtime basis;
 - (b) the protection regime (allowance has been made in the Connection Charge for a basic scheme only and no allowance has been made beyond NGED's metering circuit breakers into the Customer's Installation);
 - (c) the diversion of NGED's existing assets (if any) or any third party apparatus (including any gas pipes and telephone lines), or any other special engineering solutions or consents required (including for crossing any existing or proposed railway / rail track schemes, roads, rivers and/or canals) that are required for, or undertaken as a consequence of, the Proposed Connection(s), including costs for any supervision by a relevant authority that may be required, highway / rail track or road closures, application fees, design fees, fees to employ Chartered Engineers to prepare and/or approve designs, pre work surveys, inspection fees, monitoring, post work surveys, testing, witness testing, indemnities, completion certificates and any other associated works;
 - (d) specialist disposal of soil (in accordance with The Landfill (England and Wales) Regulations 2007) and import of suitable backfill;
 - (e) excavation and cable laying at abnormal depth, or through rock or other hard substances or in contaminated soil;
 - (f) foundations for buildings, towers etc. to be established in ground which is not normal ground bearing type;
 - (g) construction of access roads;
 - (h) the extension of existing system inter-tripping;
 - (i) compliance with any requirements of a Highway Authority in respect of NGED's Connection Works, including the Traffic Management Act 2004 and any permit scheme made thereunder, including obtaining any permits, alterations to the route or restrictions on working hours;
 - (j) permanent reinstatement of any excavation on the Premises;
 - (k) unless an offer specifically for this, service connections to public lighting columns which,

- where required, will be the subject of a separate connection offer;
- (l) unless an offer specifically for this, temporary service connections required on the Premises which, where required, will be the subject of a separate connection offer;
 - (m) where applicable, testing and commissioning that is undertaken in accordance with Engineering Recommendation G99 (as amended from time to time) that must be witnessed by NGED (NGED's charges for witnessing are available on request); and
 - (n) any impact on the transmission system and/or NGESO requirements arising as a result of or in connection with this Agreement and the proposed development (including the Proposed Connection(s) (as based on information available to NGED at the date of this Agreement)), as may be re-assessed and revised from time to time, including: (i) all fees and/or costs charged by NGESO in relation to any modification application (including under section 6.9 of the Connection and Use of System Code (the "**CUSC**")), Statement of Works request and/or subsequent project progression under section 6.5.5 of the CUSC (as may be adjusted as agreed between NGED and NGESO from time to time), or other similar process agreed between NGED and NGESO, that may be required at any time, including any further or revised request or application, or request to vary an existing modification (including where required following any change to the Proposed Connection(s) or termination of the Agreement (and notwithstanding such termination) for any reason); (ii) the costs of any works required on the Distribution System and/or transmission system and any NGESO cancellation charge and/or security requirement in respect of the same; (iii) modifications to the operating characteristics of the Proposed Connection(s) and/or the Customer's Installation (which may include a requirement to operate at a different power factor or within a different power factor range to that under this Agreement and/or curtail import / export capacity (including to zero)) and/or; (iv) any other conditions of connection required by NGESO
- 5.5 NGED reserves the right to require the Connection Offer to be reissued, amend this Agreement and/or its proposals (including modifications to the operating characteristics of the Proposed Connection(s) and/or the Customer's Installation) and/or the Connection Charge, and/or recover from the Customer any costs, charges and/or expenses incurred or arising as a result of or in connection with any of the matters set out in clauses 5.3 and/or 5.4.
- 5.6 NGED will notify the Customer in writing as soon as reasonably practicable after it becomes aware of any such costs, charges and/or expenses and/or change to the Agreement (including the Connection Charge) and/or its proposals), which the Customer acknowledges may be after such costs, charges and/or expenses arise and/or this Agreement and/or NGED's proposals are amended and after acceptance of the Connection Offer or termination or expiry of this Agreement) and, in respect of any costs, charges and/or expenses or Connection Charge increase, will issue an invoice to the Customer.
- 5.7 Without prejudice to any other provision of this Agreement, clause 14 of these General Conditions does not apply to any recalculation of the Connection Charge, amendment to this Agreement and/or NGED's proposals and/or the recovery by NGED of costs, charges and/or expenses under clause 5.5. Notwithstanding the above, where NGED requires a signed variation to the Agreement (including, where relevant, the Connection Charge), NGED shall give notice of such required variation to the Customer and the Agreement shall be deemed to be varied accordingly as from the date of deemed service of such notice. If the Customer does not accept (in accordance with its terms) or disputes any variation to the Agreement required by NGED as notified to the Customer then NGED shall have the option to terminate (with immediate effect by notice) the Agreement.
- 5.8 Where NGED requires this Connection Offer to be reissued pursuant to clause 5.5, NGED shall give notice of such requirement to the Customer and, provided that the Customer re-applies within twenty-eight (28) days of the date of such notification, NGED shall issue a renewed offer for any outstanding Connection Works on the basis of the Customer's original application date and incorporating any allowable changes requested by the Customer, which may be on different terms and/or for a different charge as set out in this Agreement, including to take account of any new milestones and milestone dates. If the Customer does not re-apply within the required time periods, NGED shall have the option to terminate (with immediate effect by notice) this Agreement.
- 5.9 The anticipated date of completion of any Connection Works (or phase or part thereof). Energisation (where relevant) and/or completing a new / varied Connection Agreement shall be extended by such period as reasonably required by NGED to take account of any of the matters set out at clauses 5.3 or 5.4.
- 6. Connection Charges and payment**
- 6.1 The Customer shall pay to NGED the Connection Charge, as may be amended in accordance with this Agreement. The Customer acknowledges and agrees that any payment of the Connection Charge, even where such payment is made by a Third Party, shall be deemed by NGED to have been made by the Customer.
- 6.2 Payment of the Connection Charge shall be made in accordance with the Payment Conditions.

- 6.3 Unless otherwise provided, the Customer shall pay any amount due to NGED within 28 days of the date of any invoice.
- 6.4 Without prejudice to any other rights and remedies which NGED may have, if the Customer fails to pay NGED any invoice when due, NGED may, at its absolute discretion, charge interest at a rate of 5% over the Bank of England base until it receives full payment of such invoice in cleared funds from the Customer.
- 6.5 Where under this Agreement any party agrees to pay to any other party any sum or to furnish to any other party consideration which (in either case) is consideration for a taxable supply that sum or consideration shall be exclusive of Value Added Tax payable on it and the recipient of the supply shall pay an amount equal to such Value Added Tax in addition to any sum or consideration on receipt of a valid Value Added Tax invoice from the relevant party.
- 6.6 NGED shall be entitled to require security for any Customer obligation (including any payment obligation) from the Customer at any time.
- 6.7 NGED has the discretion to make any payment due to the Customer from NGED (including any credit note issued in accordance with clause 13.2) by crediting the source of the original payment (notwithstanding that such payment may have been made by a Third Party). Where the Customer requests that any payment be made by NGED to a Third Party, whether or not such Third Party made the original payment, and NGED at its sole discretion agrees to that request, the Customer shall undertake to complete, and to require the Third Party in question completes, the form entitled "Authority for payment to a party other than the Customer" that will be provided to the Customer by NGED prior to the payment taking place. In the event that NGED issues a credit note to or pays a Third Party in accordance with this clause 6.8, then NGED shall have discharged its obligation in full to make payment to the Customer and shall not be liable to the Customer for such payment or issue or for any failure to pay or issue such credit note to the Customer.
- 7. Ownership and use of Connection Equipment**
- 7.1 The Connection Equipment shall be installed in a position agreed by NGED.
- 7.2 The property in the Connection Equipment shall remain with NGED who may use it to connect its other customers.
- 8. Customer Works and Customer Installation**
- 8.1 The Customer shall carry out all Customer Works with reasonable skill and care and in accordance with all applicable laws, rules and regulations.
- 8.2 NGED shall be under no obligation to permit the Customer's Installation to be connected directly or indirectly to the Distribution System unless it is satisfied that:
- (a) it will not cause danger or damage to, or undue interference with the Distribution System or the electricity supply to any third party; and
 - (b) if applicable, the Customer has done everything necessary to lawfully operate and use the Customer's Installation for export of electricity to the Distribution System.
 - (c) it has been granted, and enjoys the benefit of, all of the necessary rights in Freehold Land and/or all of the necessary Rights in Leasehold Land and there are no disputes or potential disputes concerning the ownership of, or in any way connected generally with, the Premises, the Adjoining Land or any land required for the Customer's Installation and there are no Connection Works Dispute.
- 8.3 The Customer shall produce such evidence as may be reasonably required by NGED to show that the Customer has complied with its obligations under clause 8.2 above.
- 8.4 Save where express written representations are made by NGED or where the relevant works are carried out by NGED, neither by inspection, Energisation, connection nor in any other way does NGED give any guarantee or warranty, expressed or implied, as to the adequacy, safety or any other characteristic of the Customer's Installation or anything connected to it directly or indirectly (save for any Connection Equipment). NGED shall not be under any obligation to repair or maintain the Customer's Installation.
- 9. EU Procurement Regulations**
- Where the EC Procurement Regulations apply to the procurement by NGED of works, goods or services necessary to carry out the Connection Works, NGED shall comply with such Regulations and provide details reasonably required by the Customer to prove such compliance.
- 10. Liability**
- 10.1 Each party accepts unlimited liability for death or personal injury caused by its negligence, and for any fraudulent misrepresentation it has made.
- 10.2 NGED shall not be liable to the Customer under or in connection with this Agreement (whether for breach of this Agreement, in tort (including negligence), or otherwise) other than for:
- (i) direct losses resulting from any delay in the anticipated date (as adjusted pursuant to this Agreement) for completion of any Connection Works (or phase or part thereof), Energisation (where relevant) and/or completion of a new/varied Connection Agreement caused by NGED's negligent acts or omissions, which such liability shall be limited to the amount payable under the Electricity (Connection Standards of Performance) Regulations 2015 (or any update thereto); and
 - (ii) physical damage to the Customer's tangible property (save where provided in clause 10.3) resulting from any act, default or omission (whether negligent or otherwise) of

- NGED, its employees, agents or sub-contractors, or from NGED's breach of the Agreement or breach of statutory duty, which such liability shall be limited to the reasonable costs of rectifying or making good such physical damage.
- 10.3 Nothing in this clause 10 shall exclude, restrict or otherwise prejudice or affect the rights, powers, duties and obligations of either party which are conferred or created by the Act, NGED's distribution licence or the Electricity Safety, Quality and Continuity Regulations 2002.
- 11. Force Majeure**
- 11.1 Neither party shall be deemed to be in breach of this Agreement or otherwise be liable to the other by reason of any delay or non-performance of any of its obligations (other than any payment obligation) under this Agreement to the extent that such delay or non-performance is due to an Event of Force Majeure. Such obligations shall be suspended while the Event of Force Majeure continues.
- 11.2 The party affected by an Event of Force Majeure shall immediately notify the other party in writing of the nature and extent of the Event of Force Majeure and the affected party shall use all reasonable endeavours to mitigate its effects.
- 11.3 If the Event of Force Majeure continues for more than 2 calendar months, the unaffected party shall be at liberty to terminate this Agreement with immediate effect by giving written notice on the other. The service of such notice shall be without prejudice to any rights or obligations that have accrued prior to termination.
- 12. Termination**
- 12.1 The Customer may by 30 days' prior notice in writing terminate the Agreement at any time without cause.
- 12.2 Without prejudice to any other right to terminate as set out in the Agreement, either party may by written notice terminate the Agreement with immediate effect at any time if the other party commits a material breach of the Agreement provided that where such breach is capable of remedy the party in breach has been advised in writing of the breach and has not rectified it within thirty (30) days of receipt of such advice/notice. For the purposes of this sub-clause a breach shall be considered capable of remedy if time is not of the essence in performance of the obligation and if that party can comply with the obligation within the 30 day period.
- 12.3 Without prejudice to any other right to terminate as set out in the Connection Offer, NGED may by notice in writing terminate the Agreement with immediate effect by notice on or at any time on the happening of any of the following events:
- (a) the Customer fails to pay any amount that is due and payable to NGED under or in connection with this Connection Offer (including any assessment & design fees);
- (b) the passing of a resolution for the Customer's winding-up or the making by a court of competent jurisdiction of an order for the winding-up or the dissolution of the Customer;
- (c) the making of an administration order or the appointment of an administrator under the out-of-court procedure under the Enterprise Act 2002 or the appointment of a receiver or an administrative receiver over, or the taking possession or sale by an encumbrancer of, any of the Customer's assets;
- (d) the Customer making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally; or
- (e) the Customer being struck off the Register of Companies or the making of an application for it to be struck off; or
- (f) the Customer ceasing to do business at any time for 30 consecutive days or it otherwise ceasing to exist.
- 12.4 Unless otherwise set out, this Agreement shall automatically expire on completion of all Connection Works and (where relevant) Energisation of the Proposed Connection(s) or, where no Connection Works are being undertaken, upon effectiveness of a new / varied Connection Agreement.
- 12.5 The provisions of this clause 12 are without prejudice to any other right or remedy either party may have against the other for breach or non-performance of this Agreement.
- 13. Consequences of Termination or Expiry**
- 13.1 Unless otherwise provided, all rights and obligations of the parties shall cease to have effect immediately upon expiry or termination of this Agreement (howsoever effected) except that termination or expiry shall not affect:
- (a) the accrued rights and obligations of the parties at the date of termination or expiry. This includes the recovery from the Customer of all and any sums owing to NGED as a result of any steps taken by either party under Clause 3; and
- (b) the provisions contained in clauses 5, 6, 7, 8, 10, 13, 15, 17, 18, 19 and 20 of these General Conditions, together with any other provisions of the Connection Offer which are expressly stated to survive or implicitly surviving termination, shall survive the expiry or termination of this Agreement howsoever caused and shall continue in full force and effect.
- 13.2 If on termination of the Agreement any staged payments made by the Customer exceed the actual costs incurred by NGED in carrying out the Connection Works up to and including the date of termination, NGED shall issue a credit note in respect of such excess amount and reimburse the Customer accordingly, provided that NGED shall have the right to set off from such amount any sums due to NGED by the Customer under this Agreement. This includes any sums incurred by NGED pursuant to Clause 3.

- 13.3 On termination of the Agreement by the Customer pursuant to clause 12.1 or termination by NGED for any reason, NGED may submit an invoice to the Customer for any Connection Works carried out by NGED and/or for any costs incurred by NGED in expectation of the NGED Connection Works to the extent not yet invoiced, together with any other costs or losses suffered or incurred by NGED in consequence of such termination (including the removal of any Connection Equipment and/or carrying out network reinforcement works (including buying equipment) in order to provide the Proposed Connection which such works the Customer is not liable to pay for in full). NGED may require the Customer, at no cost to NGED, to assist NGED in removing the Connection Equipment. Any costs payable pursuant to this Clause 13.3 are payable within 7 days of invoice by NGED.
14. **Variation**
- 14.1 Each party shall be entitled to propose variations to the terms of this Agreement provided no purported variation to the Agreement shall be effective unless it is in writing and signed on behalf of both parties.
- 14.2 The Connection Charge shall be adjusted by such an amount as is reasonable to reflect the increased or, as the case may be, decreased cost to NGED of meeting its obligations under this Agreement as a result of the variation.
- 14.3 If the parties are unable to agree a proposed variation, the parties shall attempt to resolve the matter in accordance with the dispute resolution procedure set out in clauses 15.1 and 15.2.
15. **Dispute Resolution**
- 15.1 Subject to clause 15.3 if a dispute arises out of or in connection with this Agreement, the parties shall:
- (a) within 7 days of written notice of the dispute being received by the receiving party in good faith seek to resolve the dispute through negotiations between the parties' senior representatives who have the authority to settle it;
 - (b) not pursue any other remedies available to them until at least 28 days after the first written notification of the dispute.
- 15.2 The appointed representatives shall use all reasonable endeavours to resolve the dispute.
- 15.3 Nothing in this clause 15 shall prevent any party from having recourse to a court of competent jurisdiction for the sole purpose of seeking a preliminary injunction or such other provisional judicial relief as it considers necessary to avoid irreparable damage.
16. **Assignment**
- 16.1 This Agreement shall be binding on and enure for the benefit of the successors in title of the parties but, except as set out in sub-clause 16.2, shall not be assignable by either party without the prior written consent of the other. In addition, a party to this Agreement may not hold the benefit of the Agreement or any rights under it on trust for any third party or parties.
- 16.2 NGED may assign the benefit of this Agreement to any company within its Group. For the purposes of this Agreement, "Group" means a company's subsidiaries, its holding companies and any subsidiaries of such holding companies, "subsidiary" and "holding company" having the meanings ascribed to those terms in Section 1159 of the Companies Act 2006.
17. **General**
- 17.1 This Agreement and any documents referred to in this Agreement set out the entire agreement and understanding between the parties in respect of the subject matter of this Agreement.
- 17.2 To the extent any provision in these General Conditions conflicts with any other provision in the Agreement, the order of precedence shall be:
- (a) the Specific Conditions;
 - (b) any other part of the Offer Letter; and
 - (c) these General Conditions.
- 17.3 To the extent that any provision of this Agreement is found by any court or competent jurisdiction to be invalid, unlawful or unenforceable it shall not affect the enforceability of the remainder of the Agreement.
- 17.4 No single or partial exercise or failure or delay in exercising any right, power or remedy by either party shall constitute a waiver by that party of, impair or preclude any further exercise of, that or any right, power or remedy arising under this Agreement or otherwise.
- 17.5 No express term of this Agreement or 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.
- 17.6 Where any liability or obligation is undertaken by two or more persons, the liability or obligation of each of them shall be joint and several, and the release or compromise in whole or in part of the liability of or grant of any time or indulgence to any one or more of joint and several obligors shall not affect the liability of the other or others.
- 17.7 Where the words "includes", "including" or "in particular" are used in this Agreement, they are deemed to have the words "without limitation" following them and where the context permits the words "other" or "otherwise" are illustrative and shall not limit the sense of the words preceding them.
- 17.8 This Agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart, when executed, shall be an original of this Agreement and all counterparts shall together constitute one instrument.
18. **IP rights and confidentiality**
- 18.1 All rights in the design, specification, plans or drawings contained or accompanying this Agreement belong to and remain with NGED and shall not be used by the Customer or any other person without NGED's written consent.

18.2 All data and information acquired or reviewed by the parties in connection with this Connection Offer is confidential and shall not be divulged to any third party without the prior written consent of the other party except insofar as may be required by law.

19. **Notices**

19.1 Any notice to a party under this Agreement shall be in writing signed by or on behalf of the party giving it and shall, unless delivered to a party personally, be left at, or sent by prepaid first class post, prepaid recorded delivery or email to the address of the party as set out in this Agreement or as otherwise notified in writing.

19.2 A notice shall be deemed to have been served:

- (a) at the time of delivery if delivered personally;
- (b) at 9.00am on the 2nd Business Day after posting in the case of an address in the UK, or 9.00am on the 5th Business Day after posting for any other address; or

- (c) 2 hours after transmission if served by email; or in any other case at 10 am on the Business Day after the date of despatch, provided that, if any deemed receipt above would occur outside of business hours (meaning 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt) in the place of receipt, it shall be deferred until business hours resume .

19.3 A party shall not attempt to prevent or delay the service on it of a notice connected with this Agreement.

20. **Governing law and jurisdiction**

20.1 The Agreement shall be governed by and construed in accordance with the laws of England and Wales, and subject to clause 15, the parties irrevocably submit for all purposes to the exclusive jurisdiction of the courts of England and Wales.