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Determination of Point of Connection ("POC") Extension of Contestability Agreement

This Determination of POC Extension of Contestability Agreement is dated 2023 and made between:

- (1) National Grid Electricity Distribution [(South West)/(South Wales)/(East Midlands)/(West Midlands)]* plc (company number: 02366894/02366985/02366923/ 03600574*) whose registered office is at Avonbank, Feeder Rd, Bristol BS2 0TB ("NGED"); and
- (2) [Company name] (company number [company number]) whose registered office is at [address] (the "Connection Provider").

Background

- (A) NGED and the Connection Provider have entered into a framework agreement dated [INSERT] (the "Framework Agreement").
- (B) As part of NGED's commitment to the development and facilitation of competition in connections NGED has invited the Connection Provider to take part in this Extension of Contestability Initiative (as defined below in Clause 1.2).
- (C) The Connection Provider has agreed to take part in this Extension of Contestability Initiative on the terms and conditions set out in this Determination of POC EOC Agreement (as defined below in Clause 1.2).

It is agreed as follows:

1. Definitions and interpretation

- 1.1 The terms of this Determination of POC EOC Agreement shall be deemed to be incorporated into and form part of the Framework Agreement for the duration of this Determination of POC EOC Agreement. In the event of any conflict between this Determination of POC EOC Agreement and the Framework Agreement, the terms of this Determination of POC EOC Agreement shall prevail over the conflicting terms of the Framework Agreement solely in respect of the subject matter of this Determination of POC EOC Agreement.
- 1.2 In this Determination of POC EOC Agreement, terms have the meanings given to them in the Framework Agreement unless the context requires otherwise and in addition the following definitions shall apply:

"Affected Parties"

Means all customers (including, where relevant, the Connection Provider) whose connection offers or proposed connections have been identified by NGED as

* delete as appropriate

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being Interactive;

"Allocated Capacity" Means the capacity attributable to assets that are not yet installed and commissioned on the Distribution System, but which NGED has agreed will be made available for a Connection Provider in relation to a Proposed Connection in accordance with clause 8 but subject to the following:

- (i) that the Proposed Connection does not become Interactive; and
- (ii) that the Connection Provider submits a POC Acceptance Notice within the POC Acceptance Period,

(and "**Allocate**" shall be interpreted accordingly);

"Annual Ramp-up Programme" Means a build-out programme over a period of up to five years from completion of any Final Connection Contestable Works (where relevant) and the entering into (where required by NGED) of a new or, where relevant, varied connection agreement by the Customer, showing the annual growth of the capacity required up to the Required Capacity in the form set out at clause 5.3(h);

"Application Date" Means the date and time when NGED receives all the information required in relation to an application for connection;

"Associated Contestable Works" Means all works of any kind to be provided and carried out by the Connection Provider in respect of a Proposed Connection, excluding the Final Connection Contestable Works, the Customer's Installation works and any Determination of POC;

"CIRT" Means the CROWN internet routing and tracking portal by which the Connection Provider can access POC Data and submit a POC Determination Notice, POC Issue Notice and POC Acceptance Notice;

"Committed Capacity" Means the capacity attributable to assets that are not yet installed and commissioned on the Distribution System, but which NGED has confirmed will be made available for a customer (including a Customer) in relation to a proposed connection or connection offer (including a Proposed Connection and any Connection Offer) (and "**Commit**" and "**Committing**" shall be interpreted accordingly);

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- "Committed Network"** Means assets that are not yet installed and commissioned on NGED's Distribution System, but which are planned to be so in order to provide Committed Capacity;
- "Conditional Interactive Proposed Connection"** Means any Interactive proposed connection (including any Interactive Proposed Connection) in respect of which the acceptance of terms, or the Commitment of capacity by NGED, is conditional on whether one or more other Affected Party(s) in an Interactive Queue accept their terms or have capacity Committed to them by NGED;
- "Confirmation of Capacity Notice"** Means the notice issued by NGED to the Connection Provider in accordance with clause 9;
- "Connection"** Means an end connection within a Development Area;
- "Connection Offer"** Means:
- (i) in circumstances where a connection application is submitted to NGED, the relevant written connection offer from NGED to the Customer relating to the Contestable Connection Works as set out in each Site Specific Agreement; or
 - (ii) in circumstances where a connection application is submitted to the Connection Provider, the relevant written connection offer from the Connection Provider to the Customer relating to the Contestable Connection Works and the Determination of POC;
- "Contestable Determination of POC"** Means a Determination of POC which meets all of the POC Contestability Criteria and as a result, can be undertaken by the Connection Provider;
- "Customer"** Means:
- (i) in circumstances where a connection application is submitted to NGED, the third party (which may include an IDNO) who commissions Contestable Connection Works set out in the relevant Connection Offer to be carried out by the Connection Provider; or
 - (ii) in circumstance where a connection application is submitted to the Connection Provider, the third party who submits the application for Contestable Connection Works to be carried out by the Connection Provider (which may include an

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IDNO) or, where there is no such third party, the Connection Provider;

"Data"	Means Network Data and POC Data;
"Data Access Method"	Means through CIRT;
"Data Protection Legislation"	<p>Means any laws and regulations relating to privacy or the use or processing of data relating to natural persons, including:</p> <ul style="list-style-type: none">(i) EU Regulation 2016/679 as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018 (the "UK GDPR");(ii) the Data Protection Act 2018 ("DPA"); and(iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003; <p>in each case as updated, amended or replaced from time to time;</p>
"Data Subject"	Means as defined in the DPA;
"Derived Data"	<p>Means any Data combined or aggregated (wholly or in part) with other data or information or adapted to such a degree that it:</p> <ul style="list-style-type: none">(i) cannot be identified as originating or deriving directly from the Data and cannot be reverse-engineered such that it can be so identified; and(ii) is not capable of use substantially as a substitute for the Data;
"Detailed Information"	Means the extent to which Contestable Connection Works are required from NGED and a detailed site layout plan in relation to Connections setting out individual premises and (where required) kVA requirements per premises, road layout and substation location information;
"Determination of POC"	Means the assessment of the Distribution System and determination and POC Design of the Point of Connection for a Proposed Connection;
"Determination of POC EOC Agreement"	Means this agreement (including any appendices to it) between NGED and the Connection Provider;

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"Determination of POC EOC Commencement Date"	Means the date specified on the front sheet of this Determination of POC EOC Agreement;
"Development Area"	Means the area indicated as such on the plan submitted by the Connection Provider within a POC Determination Notice in respect of a Proposed Connection in accordance with Clause 5.3(g) and/or (as relevant) a Development Plan;
"Development Capacity"	Means the capacity in excess of the Required Capacity for a Proposed Connection intended for utilisation within a Development Scheme;
"Development Plan"	Means a plan setting out the land parcels which are intended to utilise the Development Capacity;
"Development Scheme"	Means a proposed development within a Development Area as indicated on a Development Plan;
"DPA"	Means the Data Protection Act 1998;
"Draw-down Date"	Means the date by which an application to draw-down Reserved Capacity (or a proportion thereof) must have been received by NGED from the Connection Provider or a third party in accordance with the terms of this Determination of POC EOC Agreement;
"Draw-down Confirmation"	Means a confirmation by NGED of the Connection Provider's Draw-down Request that Commits (subject to the POC Terms and Conditions) the capacity requested for the relevant Development Scheme phase;
"Draw-down Request"	Means a request by the Connection Provider containing the information required by NGED (including but not limited to the Detailed Information, the import and/or export capacity required for the relevant phase and, where the request relates to a distribution network or otherwise if requested by NGED, an Annual Ramp-up Programme for the relevant phase), to draw down Reserved Capacity (or a proportion thereof) for a phase in respect of a Development Scheme;
"Existing Network"	Means NGED's currently installed and commissioned Distribution System;
"Extension of Contestability Initiative"	NGED will provide the Input Services to facilitate the Connection Provider carrying out Determination of POC on the terms of this Determination of POC EOC Agreement;

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"Final Connection Contestable Works"	Means the installation of the connection equipment in such a way that, subject to Energisation, the Associated Contestable Assets are, or an IDNO Distribution Network is, physically able to receive a supply of electricity from the Distribution System or, as the case may be, the Distribution System is physically able to receive a supply of electricity from the Premises including any and all live mains, service and jointing connections and disconnections for metered and unmetered connections to be carried out by the Connection Provider on the Distribution System;
"Firm Connection Requirements"	Means Connections in respect of which Detailed Information has been provided;
"IDNO Network"	Means an IDNO's system for the distribution of electricity as defined in its licence;
"Independent Distribution Network Operator" or "IDNO"	Means an entity that holds a distribution licence granted, or treated as granted, pursuant to Section 6(1) of the Act in which section B of the standard licence conditions does not have effect;
"Indemnified Party"	Means NGED, any company in the NGED Group and any of their respective servants and agents;
"Input Services"	Means any essential input from NGED required to enable the Connection Provider to carry out a Determination of POC (including, but not limited to the provision of the POC Data and Network Data) as set out in: (i) this Determination of POC EOC Agreement; (ii) any applicable Standard Technique(s); and (iii) the POC Terms and Conditions;
"Installed Capacity"	Means the capacity of Connections installed on the Customer's Installation (where the same is a distribution network) in respect of an Energised Connection Point;
"Intellectual Property Rights"	Means all industrial and intellectual property rights including patents, utility models, rights in inventions, registered designs, rights in designs, trademarks, copyright and neighbouring rights, database rights, moral rights, trade secrets, and rights in confidential information and know-how (all whether registered or unregistered and including any renewals and extensions

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thereof) and all rights or forms of protection having equivalent or similar effect to any of these which may subsist anywhere in the world and the right to apply for registrations of any of the foregoing;

- "Interactive"** Means where NGED receive two or more applications or requests for proposed connections (including a request to allocate capacity) which make use of the same part of the Existing Network or Committed Network or otherwise have a material operational effect on the network such that there is or would be a material impact on any terms and conditions for connection agreed with NGED in respect of such connection applications (and **"Interactivity"** shall be interpreted accordingly);
- "Interactive Proposed Connection"** Means a Proposed Connection that has become Interactive;
- "Interactive Terms"** Means a connection offer issued, or the terms that apply to the Commitment of capacity by NGED, in respect of a Conditional Interactive Proposed Connection or an Unconditional Interactive Proposed Connection;
- "Interactive Queue"** Means the queue of Affected Parties whose connection offers or proposed connections have become Interactive, formed on the basis of the Priority of each Affected Party in relation to the other Affected Parties;
- "Legacy Date"** Means the original Application Date or POC determination date (including any POC Determination Date) of an Unsuccessful Applicant that may be retained and carried forward by the Unsuccessful Applicant if they apply for a new connection during a relevant reapplication period, that will be used to determine their relative position in any subsequent Interactive Queue(s) in which they become an Affected Party;
- "Letter of Authority"** Has the meaning given to it in clause 5.3(j);

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"Network Data"	Includes, but is not limited to, the following information: <ul style="list-style-type: none">(i) geographical network records showing the location, size and type of assets;(ii) load information for the Distribution System, including guidance on the rules to be applied when allocating demand diversity of new and existing Customers to circuits;(iii) relevant design standards and documents;(iv) mapping data; and(v) substation details;
"Non-Contestable Determination of POC"	Means a Determination of POC which does not meet all of the POC Contestability Criteria and as a result, cannot be undertaken by the Connection Provider;
"Notice of Interactivity"	Means a notice issued by NGED in accordance with clause 10;
"Permitted Use"	Means use in connection with the Determination of POC by the Connection Provider in accordance with this Determination of POC EOC Agreement;
"Personal Data"	Means as defined in the DPA;
"POC Acceptance Notice"	Means the notice submitted by the Connection Provider to NGED requesting that NGED Commit the Required Capacity for the Proposed Connection;
"POC Acceptance Period"	Means the period of 90 days from the day that NGED receives the POC Issue Notice for a Proposed Connection as may be reduced in respect of any Interactive Proposed Connection in accordance with clause 10.1;
"POC Contestability Criteria"	Means the criteria which must be met in order for a Determination of POC to be a Contestable Determination of POC, as published on the NGED Technical Information Site and updated from time to time;
"POC Data"	Means any information that the Connection Provider requires in addition to the Network Data including, but not limited to:

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- (i) agreed supply capacities for existing embedded networks;
- (ii) earthing arrangements for distribution Substations (PME / SNE / PNB / None);
- (iii) Protection arrangements for Distribution substations (Fuse size or CB settings);
- (iv) earthing arrangements for the distribution network (Hot or Cold – ROEP >/< 430V);
- (v) protection data for primary substations and HV feeders; and
- (vi) feeder load data for HV networks (raw data from data logging OAS) detailed within the applicable Standard Technique(s);

"POC Defect" Means any defect or error in the Determination of POC (including a failure to comply with the relevant Standard Technique);

"POC Defect Correction Period" Means the period of 10 years after the Adoption Date;

"POC Design" Means the design for the Point of Connection for the Proposed Connection;

"POC Determination Date" Means the date and time when NGED receives all information required in order to determine whether a Determination of POC is a Contestable Determination of POC;

"POC Determination Notice" Means the notice to be issued by the Connection Provider notifying NGED of the Connection Provider's intention to carry out Determination of POC for a Proposed Connection;

"POC Issue Notice" Means the notice to be submitted by the Connection Provider to NGED requesting that NGED Allocate the Required Capacity;

"POC Notice Period" Means the period of thirty-five (35) Working Days from the date upon which the Connection Provider receives all of the POC Data requested in accordance with clause 5.4(a);

"POC Terms and" Means the terms and conditions attached to this

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Conditions"	Determination of POC EOC Agreement in Appendix 1, as may be updated and amended from time to time;
"Point of Connection"	Means the point of connection between the existing Distribution System and the Associated Contestable Connection Works or an IDNO Distribution Network;
"Policies"	Means any instructions, rules or policies issued by NGED from time to time, including without limitation the Drug and Alcohol Policy, Code of Ethics and Anti-Bribery Policy and all Standard Techniques published on the NGED Technical Information Site applicable to the Contestable Connection Works and/or Determination of POC (as may be amended or updated from time to time);
"Priority"	Means the order of Affected Parties in an Interactive Queue determined according to each Affected Party's respective Application Date, Legacy Date or POC determination date (including any POC Determination Date). The Affected Party with the earliest Application Date, Legacy Date or POC determination date (including any POC Determination Date) will be first, the Affected Party with the next earliest Application Date, Legacy Date or POC determination date will be second, and so on;
"Programme of Works"	Has the meaning given to it in clause 11;
"Proposed Connection"	Means the connection of the Customer's Installation to the Distribution System, or the enhancement of such connection, requested by the Connection Provider through submission of a POC Determination Notice or a Draw-down Request;
"Provisionally Successful Applicant"	Means where one or more Affected Party(s) with Priority in an Interactive Queue does not accept their connection offer, or does not request NGED to Commit capacity, in respect of an Interactive proposed connection in accordance with the applicable Interactive Terms, and it is therefore possible, subject to payment of any charges in accordance with clause 10.1(e), for the Connection Provider's Conditional Interactive Proposed Connection to be accommodated;
"Reapplication Period"	Means: (i) in circumstances where NGED Commits the

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Required Capacity to an Affected Party in the Interactive Queue other than the Connection Provider, the period of 10 Working Days from the date on which NGED notifies the Connection Provider that it is an Unsuccessful Applicant;

- (ii) in all other circumstances, the period of 10 Working Days from the date that NGED notifies the Connection Provider that the Determination of POC is a Non-Contestable Determination of POC;

"Required Capacity" Means the capacity required by the Connection Provider in relation to a Proposed Connection;

"Reserved Capacity" Means capacity, up to the Development Capacity, in excess of that committed to Firm Connection Requirements for a Development Scheme under an accepted connection offer or pursuant to a Confirmation of Capacity Notice or Draw-down Confirmation, that is reserved for, and available to, the Connection Provider in connection with a Development Scheme;

"Standard Techniques" Means the NGED standard techniques published on the NGED Technical Information Site applicable to the Contestable Connection Works and/or Determination of POC (as may be amended or updated from time to time);

"Successful Applicant(s)" Means any Affected Party who completes the acceptance or capacity Commitment process in respect of, and as set out in, their Interactive Terms;

"Term" Means the term as provided for in clause 3;

"Termination Date" Means the date of termination of this Determination of POC EOC Agreement in accordance with clause 13.

"Unconditional Interactive Proposed Connection" Means any Interactive proposed connection (including any Interactive Proposed Connection) in respect of which the acceptance of terms, or the Commitment of capacity by NGED, is not conditional on the Commitment of capacity to, or the acceptance of terms by, any other Affected Party(s) in an Interactive Queue;

"Unsuccessful Applicant(s)" Any Affected Party in an Interactive Queue who is not a Successful Applicant.

1.3 The definitions of "Contestable Connection Works" and "Final Connection Contestable Works" shall be interpreted, in the Framework Agreement and in this

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Determination of POC EOC Agreement, as not including Determination of POC, but will include any physical Point of Connection works undertaken by the Connection Provider provided that, with the exception of clauses 5 and 27 of the Framework Agreement, references to Contestable Design shall be interpreted as including Determination of POC.

1.4 In this Determination of POC EOC Agreement, unless the context requires otherwise, the principles of interpretation set out in clause 1.2 of the Framework Agreement shall apply.

1.5 The terms set out below apply solely in respect of this Determination of POC EOC Agreement for the duration of this Determination of POC EOC Agreement.

2. Party Responsibilities

2.1 The Connection Provider agrees to carry out Contestable Determination of POC and NGED agrees to provide the Input Services subject to the terms and conditions of this Determination of POC EOC Agreement.

2.2 This Determination of POC EOC Agreement shall prevail over any terms and conditions in any POC Determination Notice, POC Issue Notice or POC Acceptance Notice (the "Connection Provider Notices") submitted by the Connection Provider, any acknowledgement from NGED of any such Connection Provider Notice, or in any other correspondence between the parties relating to the subject matter of this Determination of POC EOC Agreement except only to the extent any terms and conditions of a Connection Provider Notice do not conflict with this Determination of POC EOC Agreement.

2.3 This Determination of POC EOC Agreement and (to the extent that it applies to this Determination of POC EOC Agreement) the Framework Agreement set out the entire agreement and understanding between the parties in respect of the subject matter of this Determination of POC EOC Agreement.

2.4 Any company in the NGED Group may provide Input Services in accordance with this Determination of POC EOC Agreement. Irrespective of the company in the NGED Group that provided the Input Services the Connection Provider may only enforce its rights and remedies under this Determination of POC EOC Agreement against NGED and for these purposes only any breach of this Determination of POC EOC Agreement by the company in the NGED Group that provided the Input Services shall be deemed to be a breach by NGED.

3. Term

This Determination of POC EOC Agreement shall be deemed to have commenced on the Determination of POC EOC Commencement Date and shall continue until terminated in accordance with its terms.

4. Data Licence and Data Obligations

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- 4.1 NGED grants to the Connection Provider a non-exclusive, non-transferable, revocable licence, to access, view and combine or aggregate the Data with other data or information or adapt the Data and create Derived Data for the Permitted Use during the Term and in accordance with the terms of this Determination of POC EOC Agreement.
- 4.2 NGED shall make available or otherwise provide the Data to the Connection Provider in accordance with:
 - (a) any applicable Standard Technique(s); and
 - (b) the Data Access Method or any alternative method as may be determined by NGED from time to time.
- 4.3 Except as expressly provided in this Determination of POC EOC Agreement, the Connection Provider shall not:
 - (a) use the Data (wholly or in part) in its products or services except in connection with the Permitted Use;
 - (b) store the Data on its IT systems except in connection with the Permitted Use; or
 - (c) redistribute the Data (wholly or in part).
- 4.4 The Connection Provider shall:
 - (a) only make such copies of the Data as are strictly required in relation to the Permitted Use;
 - (b) not extract, re-utilise, use, exploit, redistribute, copy or store the Data other than for the Permitted Use or as expressly permitted by this Determination of POC EOC Agreement; and
 - (c) not do anything that may damage the reputation of NGED.
- 4.5 The Connection Provider shall establish and maintain appropriate technical and organisational measures to prevent the unauthorised or unlawful use or processing of the Data and against accident, alteration, actual loss or destruction of, or damage to, the Data, having regard to the state of technological development.
- 4.6 If the Connection Provider breaches its obligations under this Determination of POC EOC Agreement or is investigated by any relevant regulator or it receives any request, claim, complaint, notice or communication in relation to the use of the Data, it shall immediately notify NGED and shall co-operate fully with NGED in relation to such matter and will enable NGED or any relevant regulator to have prompt accompanied access during regular business hours to premises or operations where such Data is processed.
- 4.7 The Connection Provider shall notify NGED promptly if any Data is or is suspected to have been lost or destroyed or become damaged, corrupted or unusable and shall restore such Data at its own expense.

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5. Contestable Determination of POC

5.1 The Connection Provider may only undertake Contestable Determination of POC.

5.2 The Connection Provider shall submit a POC Determination Notice to NGED via CIRT (or any other method that NGED may agree from time to time) on each occasion that it wishes to carry out Contestable Determination of POC for a Proposed Connection in accordance with this Determination of POC EOC Agreement and any applicable Standard Technique(s).

5.3 The POC Determination Notice shall specify, in relation to the Proposed Connection:

- (a) the Customer;
- (b) the Required Capacity and (where relevant) any Development Capacity, together with a corresponding Development Plan;
- (c) the Premises;
- (d) the nature and type of load and/or generation that is to be connected;
- (e) estimated timescales for the Contestable Connection Works;
- (f) the proposed network owner that will be responsible for the end-consumer connections and MPAN creation;
- (g) a polygon showing the location and size of the development and a detailed site layout plan in relation to end connections setting out individual premises and (where required) kVA requirements per premises, road layout and substation location information;
- (h) where the Customer's Installation constitutes a distribution network or otherwise if requested by NGED, an Annual Ramp-up Programme in the following form:

	Upon Energisation / CA variation	Year 1	Year 2	Year 3	Year 4	Year 5
Maximum Import Capacity	[] kVA	[] kVA	[] kVA	[] kVA	[] kVA	[] kVA
Maximum Export Capacity	[] kVA	[] kVA	[] kVA	[] kVA	[] kVA	[] kVA

- (i) any POC Data required;
- (j) where the Proposed Connection is proposing to utilise capacity that has been reserved under a reservation of capacity agreement ("**ROC Capacity**") and, as relevant, that (i) the Connection Provider is the capacity customer under that

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agreement and is drawing-down ROC Capacity thereunder, or (ii) that a letter of authority from the capacity customer confirming (without conditions) that such ROC Capacity can be utilised for the Proposed Connection on the terms requested (including, without limitation, the capacity applied for) is in place ("**Letter of Authority**"), and provide a copy of the same; and

(k) any additional information requested in writing by NGED.

5.4 If NGED (acting in its sole discretion) determines that the Determination of POC for the Proposed Connection is a Contestable Determination of POC, NGED shall:

(a) within five (5) Working Days, or fifteen (15) Working Days where the POC Determination Date is within a reapplication period in respect of a previous Interactive Queue, (extended to six (6) weeks in either case in the event that monitoring equipment is required) of receipt of the POC Determination Notice or any additional information requested by NGED in order to make such determination, make available to the Connection Provider any POC Data requested in the POC Determination Notice in accordance with this Determination of POC EOC Agreement and applicable Standard Technique(s); and

(b) until expiry of the POC Notice Period, inform the Connection Provider as soon as reasonably practicable of any changes or proposed changes to the Distribution System which could affect the Determination of POC for the Proposed Connection (including, but not limited to, enquiries, requests or applications in relation to new or augmented connections to the Distribution System) and whether the Determination of POC for the Proposed Connection has become a Non-Contestable Determination of POC.

5.5 If NGED (acting in its sole discretion) determines that the Determination of POC for the Proposed Connection is a Non-Contestable Determination of POC:

(a) NGED shall, within five (5) Working Days, or fifteen (15) Working Days where the POC Determination Date is within a reapplication period in respect of a previous Interactive Queue, of receipt of the POC Determination Notice or any additional information requested by NGED in order to make such determination or, where clause 5.4(b) applies, as soon as reasonably practicable, confirm in writing that the Connection Provider may not undertake Determination of POC for the Proposed Connection, specifying the applicable POC Contestability Criteria that have not been met;

(b) the Connection Provider may not issue a POC Issue Notice in relation to the Proposed Connection; and

(c) subject to clause 6, NGED shall have no obligation to provide Allocated Capacity or Committed Capacity in relation to the Proposed Connection.

6. Non-Contestable Determination of POC and NGED Works

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- 6.1 Without prejudice to clause 6.2 below, if the Determination of POC for the Proposed Connection is a Non-Contestable Determination of POC (whether as originally determined by NGED as set out in clause 5.5 above or as subsequently determined by NGED in accordance with clause 5.4(b)), or if NGED Commits the Required Capacity to an Affected Party in an Interactive Queue other than the Connection Provider in accordance with clause 10.4, then the Connection Provider, acting as Customer, may submit an application to NGED for a Connection Offer for the Required Capacity and the terms of this Determination of POC EOC Agreement shall no longer apply. In such circumstances, provided that the Connection Provider submits the application within the Reapplication Period, the POC Determination Date shall be used for the purposes of determining Priority in any Interactive Queue in which they become an Affected Party (if such Connection Offer is or becomes Interactive), including whether any such Connection Offer is a Conditional Interactive Proposed Connection or an Unconditional Interactive Proposed Connection.
- 6.2 If at any time the Connection Provider requests NGED to undertake any works in respect of the Proposed Connection (other than the Determination of POC) which require an offer to be made pursuant to Section 16 of the Act, then NGED will issue a Connection Offer to the Connection Provider, acting as Customer, based on the Determination of POC as determined by the Connection Provider (and, where required, approved by NGED) and the information provided by the Connection Provider to NGED, including in the POC Determination Notice. The terms of this Determination of POC EOC Agreement shall continue to apply in respect of the Determination of POC by the Connection Provider, however once the NGED works request has been made, the Connection Provider will no longer be entitled to issue a POC Issue Notice or a POC Acceptance Notice if they have not already done so and any purported issue of a POC Issue Notice or POC Acceptance Notice shall be deemed to not be valid. In such circumstances, the POC Determination Date shall be used for the purposes of determining whether any such Connection Offer is a Conditional Interactive Proposed Connection or an Unconditional Interactive Proposed Connection and, if relevant, the Connections Provider's position in any Interactive Queue in which they become an Affected Party, if such Connection Offer is or becomes Interactive.

7. Determination of POC

- 7.1 Save as otherwise expressly set out in this Determination of POC EOC Agreement and the applicable Standard Technique(s), the Connection Provider accepts full responsibility for the Determination of POC.
- 7.2 The Connection Provider shall comply with all procedures and obligations set out in the applicable Standard Technique(s) when undertaking Determination of POC including, without limitation, submitting its POC Design to NGED for inspection or approval where required and POC Design self-approval.
- 7.3 Where a Connection Provider has submitted its POC Design to NGED for approval in accordance with the applicable Standard Technique(s), NGED shall give either its approval to the POC Design or a reasoned rejection of it to the Connection Provider within a reasonable period of time.

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- 7.4 No approval, review or comment, or failure to approve, review or comment by NGED of or on the Determination of POC shall relieve the Connection Provider of any liability whatsoever or any of its obligations under this Determination of POC EOC Agreement. The Connection Provider has sole responsibility for ensuring that the Determination of POC conforms in all respects with any Standard Technique(s), including any Specification.
- 7.5 Where a POC Design has been approved by NGED, the Connection Provider shall not vary the POC Design in any way without having first obtained the written approval of NGED, such approval not to be unreasonably withheld or delayed. NGED may make a reasonable charge, and the Connection Provider will pay to NGED, for approval of any variation to the POC Design.
- 7.6 If, prior to the termination of this Determination of POC EOC Agreement, NGED changes its working practice or Specification, NGED shall notify the Connection Provider. The Connection Provider will, to the extent that such change impacts the POC Design with regard to any part of any Associated Contestable Works not already constructed and adopted, forthwith amend the POC Design as necessary and ensure that any change in working practice or Specification is implemented without delay save where NGED agrees an alternative timescale.
- 7.7 The Connection Provider shall ensure that the Determination of POC and the manner in it is carried out complies at all times with:
- (a) the Connection Provider’s applicable procedures;
 - (b) all applicable Policies and Good Industry Practice;
 - (c) the requirements of all Applicable Legislation including the Act; and
 - (d) the Specification.

8. Allocation of Capacity

- 8.1 Subject to clauses 8.2 and 8.3, the Connection Provider shall submit a POC Issue Notice to NGED via CIRT (or any other method that NGED may agree from time to time) on each occasion that it requires NGED to Allocate any Required Capacity on the Distribution System in relation to a Proposed Connection in accordance with this Determination of POC EOC Agreement and any applicable Standard Technique(s).
- 8.2 The Connection Provider may only submit a POC Issue Notice for a Proposed Connection:
- (a) after five (5) Working Days, or fifteen (15) Working Days where the POC Determination Date is within a reapplication period in respect of a previous Interactive Queue, of receipt by NGED of the POC Determination Notice or of any additional information requested by NGED in order to assess whether a Determination of POC for a Proposed Connection is a Non-Contestable

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Determination of POC or a Contestable Determination of POC and thereafter until expiry of the POC Notice Period;

- (b) if a POC Determination Notice has been submitted in relation to the Proposed Connection; and
 - (c) if the Connection Provider (i) has not been notified by NGED that it may not undertake the Determination of POC for the Proposed Connection in accordance with clause 5, (ii) any Letter of Authority is still subsisting and has not been withdrawn, and/or (iii) is not otherwise prohibited from issuing a POC Issue Notice in accordance with this Determination of POC EOC Agreement.
- 8.3 If the POC Notice Period expires before the Connection Provider has issued a POC Issue Notice in relation to a Proposed Connection, the Connection Provider must issue a new POC Determination Notice in relation to the Proposed Connection.
- 8.4 The POC Issue Notice shall specify, in relation to the Proposed Connection:
- (a) the name and address of the Customer; and
 - (b) the date of any Connection Offer made by the Connection Provider to the Customer in relation to the Proposed Connection.
- 8.5 NGED shall Allocate the Required Capacity for the Connection Provider in relation to a Proposed Connection on receipt of a POC Issue Notice provided that the Connection Provider can demonstrate to NGED (acting in its sole discretion) that all of the conditions set out in clause 8.2(a) to (c) have been (and, where relevant, are still) met.

9. Point of Connection Acceptance

- 9.1 The Connection Provider may only submit a POC Acceptance Notice for a Proposed Connection to NGED via CIRT (or any other method that NGED may agree from time to time):
- (a) during the POC Acceptance Period; and
 - (b) if a POC Issue Notice has been submitted in accordance with clause 8; and
 - (c) if (i) any Letter of Authority is still subsisting and has not been withdrawn, and (ii) it is not otherwise prohibited from issuing a POC Acceptance Notice in accordance with this Determination of POC EOC Agreement.
- 9.2 The Connection Provider shall submit a POC Acceptance Notice to NGED on each occasion that it requires NGED to Commit any Required Capacity on the Distribution System in relation to a Proposed Connection in accordance with this Determination of POC EOC Agreement and any applicable Standard Technique(s). Each POC Acceptance Notice shall be subject to the POC Terms and Conditions.
- 9.3 Subject to clause 10.3, and provided that the Connection Provider can demonstrate to NGED (acting in its sole discretion) that all of the conditions set out in clause 9.1(a) to

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(c) have been (and where relevant are still) met and, where relevant, any charges have been paid pursuant to clause 10.1, NGED shall issue a Confirmation of Capacity Notice to the Connection Provider within 5 Working Days of receipt of a valid POC Acceptance Notice and, where relevant, payment of any charges pursuant to clauses 10.1(d) or (e), Committing (subject to the POC Terms and Conditions) the Required Capacity.

10. Interactive Connections

10.1 If a Proposed Connection becomes Interactive following Allocation of the Required Capacity by NGED in accordance with clause 8.5:

- (a) NGED shall issue a Notice of Interactivity to the Connection Provider specifying:
 - (i) that the Proposed Connection has become Interactive;
 - (ii) whether the Interactive Proposed Connection is a Conditional Interactive Proposed Connection or an Unconditional Interactive Proposed Connection and the Connection Provider's position in the Interactive Queue;
 - (iii) any changes to the POC Acceptance Period (as set out below), the methods for submitting a POC Acceptance Notice and/or the conditions of NGED Committing the Required Capacity in relation to the Interactive Proposed Connection.
- (b) if there are more than 30 days of the existing POC Acceptance Period remaining from the date of the Notice of Interactivity, the POC Acceptance Period shall be reduced to 30 days from the date of the notice;
- (c) if there are 30 days or less of the existing POC Acceptance Period remaining from the date of the Notice of Interactivity, then that existing acceptance period will continue to apply;
- (d) in respect of any Unconditional Interactive Proposed Connection, in order for NGED to Commit the Required Capacity in relation to a Proposed Connection, and in addition to submitting a POC Acceptance Notice, the Connection Provider must pay (in cleared funds and notwithstanding any other provision of this Determination of POC EOC Agreement or the Framework Agreement or as set out on any invoice) any charges payable by the Connection Provider in respect of such Unconditional Interactive Proposed Connection by the end of the POC Acceptance Period;
- (e) in respect of any Conditional Interactive Proposed Connection, in order for NGED to Commit the Required Capacity in relation to a Proposed Connection, and in addition to submitting a valid POC Acceptance Notice, the Connection Provider must pay (in cleared funds and notwithstanding any other provision of this Determination of POC EOC Agreement or the Framework Agreement or as

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set out on any invoice) any charges payable by the Connection Provider in respect of such Conditional Interactive Proposed Connection within 10 Working Days of NGED's notification to the Connection Provider that it is a Provisionally Successful Applicant.

10.2 The Notice of Interactivity shall specify the methods by which a Connection Provider may submit a POC Acceptance Notice in respect of an Interactive Proposed Connection. If the Notice of Interactivity does not specify that the POC Acceptance Notice can be submitted via CIRT, any purported submission by the Connection Provider of a POC Acceptance Notice in respect of an Interactive Proposed Connection via CIRT shall be deemed to not be valid.

10.3 Where the Interactive Proposed Connection is a Conditional Interactive Proposed Connection, any POC Acceptance Notice submitted by the Connection Provider in accordance with clause 9 shall be deemed to be invalid until and unless NGED has confirmed that the Connection Provider is a Provisionally Successful Applicant. If

(a) one or more Affected Party(s) with Priority in the Interactive Queue accepts their Interactive Terms in accordance with such terms, or requests NGED to Commit capacity in respect of an Interactive proposed connection in accordance with the applicable Interactive Terms; and

(b) due to insufficient capacity upon the Existing Network or Committed Network or other constraints, it is not possible for NGED to accommodate both the Proposed Connection and the connection of the accepting Affected Party(s) or the Affected Party(s) to whom capacity is Committed by NGED,

then the Connection Provider will be an Unsuccessful Applicant.

10.4 If NGED Commits the Required Capacity to an Affected Party in the Interactive Queue other than the Connection Provider:

(a) NGED shall provide written notice to the Connection Provider that the Connection Provider is an Unsuccessful Applicant and that the Required Capacity for the Proposed Connection will not be Committed; and

(b) if the Connection Provider still requires NGED to Allocate or Commit the Required Capacity for the Proposed Connection, then clause 6 shall apply.

11. Site Specific Agreement, Connection Agreement and Reserved Capacity

11.1 Where NGED has issued a Confirmation of Capacity Notice in accordance with clauses 9 or 10, the Connection Provider shall (where required by NGED) enter into a Site Specific Agreement with NGED in relation to the Proposed Connection as soon as practicable after the Confirmation of Capacity Notice is issued. The Site Specific Agreement shall contain a programme of works for the Contestable Connection Works which includes key milestones and dates for achievement of such milestones which shall, as a minimum, include dates for commencement and completion of the Contestable Connection Works (the "**Programme of Works**"). The Connection

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Provider may not commence the Contestable Connection Works until a Site Specific Agreement has been entered into.

- 11.2 The Connection Provider shall not commence the Low Voltage Final Connection Contestable Works or the High Voltage Final Connection Contestable Works unless and until the Customer has, if required by NGED, entered into a new or, where relevant, varied connection agreement with NGED in relation to the connection of the Connection Point to the Distribution System.

IDNO Connection Point Capacity Ramp-Up

- 11.3 Where the Customer's Installation in respect of a Proposed Connection constitutes a distribution network, the Annual Ramp-up Programme shall be incorporated into the new or (as relevant) amended connection agreement entered into between NGED and the Customer.
- 11.4 Unless otherwise agreed, and notwithstanding the planned annual ramp-up set out in a relevant Annual Ramp-up Programme, the 'Maximum Capacity' set out in a connection agreement for the Customer's Installation in respect of a Proposed Connection shall reflect the Installed Capacity as at the date (as relevant) of completion of the [Final Connection Contestable Works] and/or entering into a new or varied connection agreement, plus an amount to cover anticipated Connections over the course of the following year (as can be reasonably demonstrated and taking account of the planned ramp-up as set out in the Annual Ramp-up Programme).
- 11.5 Subject to clause 11.6, the 'Maximum Capacity' set out in the connection agreement for the Customer's Installation in respect of a Proposed Connection shall ramp-up annually on each anniversary of the date (as relevant) of completion of the [Final Connection Contestable Works] and/or entering into a new or varied connection agreement (or such other date as agreed) in accordance with the then current ramp-up schedule set out in the connection agreement.
- 11.6 Prior to the date of any scheduled ramp-up of capacity for the Customer's Installation in respect of a Proposed Connection, NGED may elect to undertake a review of Connections made by the Customer (assessed as against the estimated ramp-up) and the anticipated future build out of Firm Connection Requirements (each as reasonably demonstrated). Following such review, and based on NGED's assessment of the reasonably demonstrated capacity requirements, NGED may determine (in place of the automatic annual ramp-up) to increase the 'Maximum Capacity' (whether in line with the scheduled ramp-up or otherwise and whether immediately or to take effect on the next anniversary) or retain it at the current level, adjust the scheduled ramp-up and/or reduce the total capacity allocated under the connection agreement in respect of such Connection Point (provided that NGED may not reduce this to less than the current 'Maximum Capacity' set out in the connection agreement without the agreement of the Customer).
- 11.7 Following the end of the scheduled ramp-up (as may be amended from time to time) of capacity for the Customer's Installation in respect of a Proposed Connection, NGED may undertake a review of actual load utilised on the distribution network as against

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the final 'Maximum Capacity' set out in the connection agreement. Any unused capacity identified in such review may be released for use by other customers and the relevant 'Maximum Capacity' reduced to an agreed level within the connection agreement.

- 11.8 Following a review made in accordance with clause 11.7, NGED and the Customer may agree to either retain or decrease the 'Maximum Capacity'. In making such agreement each party shall have regard for the other party's obligations under its own Distribution Licence, in particular a licensee's obligation to permit the development, maintenance, and operation of an efficient, co-ordinated, and economical system for the distribution of electricity and to facilitate competition in the generation and supply of electricity. Any variation to the 'Maximum Capacity' shall be implemented in accordance with the terms of the relevant connection agreement.

Capacity

- 11.9 The Required Capacity and, where relevant, the Reserved Capacity, means the maximum power in kilovolt amperes (kVA) which has been requested by the Connection Provider and which NGED is prepared to make available. NGED accepts no obligation to provide capacity in excess of this. Should additional capacity subsequently be required, the Connection Provider may incur additional connection charges for any reinforcement based on the increase in capacity. Further information is provided in NGED's Statement of Methodology and Charges for Connection.

Reserved Capacity Terms

The following terms apply if, and to the extent that, the Connection Provider's POC Determination Notice specifies any Development Capacity in respect of a Development Scheme:

- 11.10 Notwithstanding any other provision of this Determination of POC EOC Agreement, where NGED is required to make a new connection or augmentation to an existing connection or utilise Reserved Capacity for any other purpose (including any reconfiguration of the Distribution System) in accordance with its obligations under the Act or its distribution licence, or where NGED (acting in its sole discretion) otherwise deems it necessary, it may make use of any Reserved Capacity, provided that any capacity so used shall still be made available under this Determination of POC EOC Agreement. If, as a consequence, reinforcement works are required in order to make such capacity available, NGED shall carry out such reinforcement works at its own expense, but shall be under no obligation to provide such capacity until such time as those reinforcement works are complete.

Reserved Capacity take-up

- 11.11 NGED understands that the intention is for land parcels within the Development Area to be developed and that Reserved Capacity will be drawn-down in accordance with this Determination of POC EOC Agreement to be used for subsequent new Connections or augmentations of existing Connections. Without prejudice to clause 11.10 above, only Connections within the Development Area may make use of

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Reserved Capacity. If the Connection Provider wishes to connect a new connection or augment an existing connection outside of the Development Area by making use of the Reserved Capacity, or authorise such a connection or augmentation by a third party, the Connection Provider will be required to vary the Reserved Capacity for a Development Scheme to release the capacity required by such connection and the Connection Provider or third party will thereafter need to apply to NGED for a connection or augmentation, or submit a POC Determination Notice. Such application or POC Determination Notice shall be treated equally by NGED with any other application or notice that may be received, including as regards any interactivity that may apply, and NGED does not therefore guarantee that any capacity released will be available for use by the Connection Provider or authorised third party.

- 11.12 Where reinforcement works are required in order to provide the full Development Capacity, then such works shall not be carried out until and unless an application to draw-down Reserved Capacity is made in accordance with the following clauses which requires that reinforcement work to be undertaken in order to provide the requested Reserved Capacity (or a proportion thereof) (a "**Triggering Offer**").
- 11.13 Following receipt of an application for a Triggering Offer, NGED shall confirm to the Connection Provider the relevant reinforcement works required to provide the full Development Capacity and the cost of such works, which such costs shall be apportioned between the Connection Provider and NGED in accordance with the apportionment rules contained in NGED's Statement of Methodology and Charges for Connection to our Distribution System which may be found on NGED's website: www.nationalgrid.co.uk. The Connection Provider's contribution toward the cost is calculated using the following formulas (as relevant) to determine the Cost Apportionment Factor (CAF), where the Requested Capacity shall equal the remaining Reserved Capacity as at the date the Triggering Offer application is received:

$$\text{Security CAF} = \frac{\text{Required Capacity} \times 100}{\text{New Network Capacity}}$$

$$\text{Fault Level CAF} = 3 \times \frac{\text{Fault level contribution from connection} \times 100}{\text{New Fault Level Capacity}}$$

The calculated CAF shall only apply to those reinforcement cost up to the high-cost project threshold of £200/kW. All reinforcement costs in excess of this value are charged to the Connection Provider in full.

- 11.14 Following acceptance by the Connection Provider or third party of the Triggering Offer (which may be by way of acceptance of a connection offer or the issue of a Draw-down Confirmation or Confirmation of Capacity Notice by NGED), NGED shall invoice the Connection Provider for its contribution, which such costs shall be payable by the Customer in accordance with the Framework Agreement. For the avoidance of doubt, no reinforcement works costs shall be included within the Triggering Offer or any subsequent draw-down. NGED's obligations under the Triggering Offer and any further draw-down allocating further Reserved Capacity shall be subject to the payment by the Connection Provider of the invoiced reinforcement costs.

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Requests to draw-down Reserved Capacity

- 11.15 Where neither the Connection Provider nor a third party has issued an application to NGED in accordance with clauses 11.16 or 11.17 below by the Draw-down Date, then NGED may notify the Connection Provider at any time thereafter that it shall no longer continue to hold the Reserved Capacity that has not, at the relevant time, been drawn-down by the Connection Provider or a third party in accordance with clause 11.18 for the benefit of the Connection Provider, or will only continue to hold such Reserved Capacity subject to the agreement by the Connection Provider of a variation required by NGED to the schedule of Draw-down Dates.
- 11.16 Subject to the clauses above, on or before a relevant Draw-down Date for a Development Scheme phase, the Connection Provider may issue an application to NGED (by providing such notice and information as required by NGED) to draw-down Reserved Capacity (or a proportion thereof) for a phase (as detailed in the schedule of phase details and Draw-down Dates) Where a new Connection is required, such application may take the form of submission of a new POC Determination Notice under and in accordance with this Determination of POC EOC Agreement, or submission of an application to NGED for a connection offer. Where an augmentation to an existing Connection is required, the Connection Provider may submit to NGED an application for a connection offer or a Draw-down Request. Following receipt of such connection offer application, POC Determination Notice or Draw-down Request including the Detailed Information and any additional information required by NGED, and provided that no other application has been received in respect of the same phase and Reserved Capacity, NGED shall issue a connection offer, make available (subject to, and in accordance with, the provisions of this Determination of POC EOC Agreement) any POC Data requested in a POC Determination Notice, or issue a Draw-down Confirmation to the Connection Provider in respect of the Firm Connection Requirements in the relevant phase.
- 11.17 Subject to the clauses above, if:
- (a) on or before a relevant Draw-down Date, a third party submits an application to NGED (by providing such notice and information as required by NGED) to draw-down Reserved Capacity (or a proportion thereof) for a phase (as detailed in the schedule of phase details and Draw-down Dates); and
 - (b) submits a letter of authority signed by the Connection Provider confirming (without conditions) the Connection Provider's consent for any Reserved Capacity to be used for a Connection on the terms requested by a third party (including, without limitation, the capacity applied for) in respect of such application; then;
 - (c) following receipt of such application including the Detailed Information and any additional information required by NGED, and provided that no other application has been received in respect of the same phase and Reserved Capacity, NGED shall issue terms to the third party in respect of the Firm Connection Requirements in the relevant phase.

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- 11.18 Upon acceptance of the new connection offer by the Connection Provider or a third party or the issue of a Draw-down Confirmation or Confirmation of Capacity Notice by NGED, the maximum import capacity and/or maximum export capacity set out in such offer, or which the Draw-down Confirmation or Confirmation of Capacity Notice relates to, in respect of new Firm Connection Requirements in the relevant phase shall be deducted from the Reserved Capacity.
- 11.19 The Connection Provider hereby consents to NGED providing the Connection Provider contact details to a third party up to the final Draw-down Date where:
- (a) the third party submits an application to NGED for a new / augmented Connection within the Development Area; and
 - (b) Reserved Capacity is available.

12. Defects and Liability

- 12.1 Without prejudice to clause 21 of the Framework Agreement and associated definitions in relation to Contestable Connection Works, if any POC Defect becomes apparent at any time until the end of the POC Defect Correction Period, NGED will notify the Connection Provider in writing as soon as practicable and may in its absolute discretion elect:
- (a) to issue a notice to the Connection Provider to rectify the POC Defect at no cost to NGED; or
 - (b) to rectify the POC Defect itself.
- 12.2 The Connection Provider shall indemnify NGED against all costs incurred or suffered by NGED in remedying any POC Defect in connection with the Determination of POC discovered at any time until the end of the Defects Correction Period, unless such POC Defect arises directly as a result of any breach by NGED of this Determination of POC EOC Agreement.
- 12.3 NGED shall be entitled to charge the Connection Provider for the costs of any inspection carried out by NGED in respect of the Determination of POC by the Connection Provider which reveals any POC Defect, and for any subsequent inspection that may be required in order to verify that any POC Defects have been remedied.
- 12.4 Subject to Clause 23.6 of the Framework Agreement, and without prejudice to any other rights or remedies of NGED under this Determination of POC EOC Agreement the Connection Provider shall indemnify NGED and keep NGED indemnified fully and on demand against all claims, demands, actions, proceedings, damages, liabilities, losses, costs (including all associated 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 NGED arising out of or in connection with:

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- (a) the carrying out or the purported carrying out of the Determination of POC;
- (b) any claim by a Regulatory Body due to any default by the Connection Provider arising from or in connection with the Determination of POC; or
- (c) any breach by the Connection Provider of clauses 15, 16 and 17.

12.5 NGED shall have no liability whatsoever, arising in contract, tort (including negligence) or breach of statutory duty, and the Connection Provider shall indemnify NGED and keep NGED indemnified fully and on demand against all claims, demands, actions, proceedings, damages, liabilities, losses, costs (including all associated legal costs) expenses and fines which are attributable to any act, omission, default, delay, negligence or breach of statutory duty made or brought against or suffered by NGED arising out of or in connection with:

- (a) any defect, malfunction or otherwise in the Customer's Installation or any other works carried out by or on behalf of the Customer or the Connection Provider in respect of a Proposed Connection;
- (b) any defects in the Contestable Connection Works and/or the Distribution System which are as a result of the Customer's Installation or any other works carried out by or on behalf of the Customer or the Connection Provider in respect of a Proposed Connection.

12.6 The provisions of this clause 12 shall survive termination.

13. Termination

13.1 Without prejudice to any right or remedy either party may have against the other for breach or non-performance of this Determination of POC EOC Agreement, either party may, with immediate effect by notice in writing to the other, terminate this Determination of POC EOC Agreement on or at any time after the happening of any of the following events:

- (a) the Connection Provider fails in any material respect to conform or comply with any of its obligations under this Determination of POC EOC Agreement, and (if such failure is capable of remedy) it is not remedied to the reasonable satisfaction of NGED within 30 days of the Connection Provider receiving notice from NGED of the occurrence thereof and requiring the same to be remedied;
- (b) on the occurrence of any one or more of the events set out in sub-clauses 33.3(b) to 33.3(h) of the Framework Agreement;
- (c) on the party for any reason whatsoever being substantially prevented from performing or becoming unable to perform its obligations.

13.2 NGED may by notice in writing immediately terminate this Determination of POC EOC Agreement if:

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- (a) any event occurs, or circumstances arise which, in the reasonable opinion of NGED, make it no longer commercially desirable for NGED to continue with the Determination of POC EOC Agreement; or
- (b) NGED consider termination necessary due to any change in legislation or the conditions of NGED's distribution licence granted pursuant to Section 6(1) (c) of the Act or any other legislative requirements.

13.3 Without prejudice to clauses 13.1 and 13.2, NGED may by notice in writing immediately terminate this Determination of POC EOC Agreement or suspend the licence granted under this Determination of POC EOC Agreement at any time:

- (a) if required to do so by Ofgem;
- (b) if NGED reasonably believes there are no longer valid reasons for the Connection Provider's continued access to the Data; or
- (c) if the Connection Provider commits any act which brings any company in the NGED Group into disrepute or which in NGED's reasonable opinion is prejudicial to its interests.

14. Consequences of termination

14.1 All rights and obligations of the parties shall cease to have effect immediately upon termination of this Determination of POC EOC Agreement except that termination shall not affect:

- (a) the accrued rights and obligations of the parties at the date of termination; and
- (b) the continued existence and the validity of the rights and obligations of the parties which are expressly or impliedly to survive termination.

14.2 Where this Determination of POC EOC Agreement expires or terminates for any reason it shall no longer be deemed incorporated into the Framework Agreement.

15. Data Intellectual Property Ownership

15.1 The Connection Provider acknowledges that:

- (a) all Intellectual Property Rights in the Data shall at all times remain the property of NGED or its licensors;
- (b) no licence or any proprietary right in the Data shall be granted to the Connection Provider other than as expressly set out in this Determination of POC EOC Agreement for the Permitted Use; and
- (c) NGED or its licensors has or have made and will continue to make substantial investment in the obtaining, verification, selection, co-ordination, development, presentation and supply of the Data.

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- 15.2 The Connection Provider assigns to NGED, and shall assign to it, with full title guarantee all Intellectual Property Rights in any development of the Data it may create (including the POC Design), except in the Derived Data, by way of future assignment.
- 15.3 The Intellectual Property Rights assigned to NGED under clause 15.2 shall be deemed to be included in the licence granted under clause 4 from the date when such rights arise.
- 15.4 The Connection Provider hereby grants to NGED an irrevocable, non-exclusive, perpetual and royalty-free licence to use the Derived Data.
- 15.5 The Connection Provider shall execute such documents and take such steps as NGED may reasonably require to fulfil the provisions of this clause.
- 15.6 The provisions of this clause 15 are without prejudice to any provisions in the Framework Agreement in relation to Intellectual Property Rights (as that term is defined in the Framework Agreement) other than in respect of Data, including clauses 7.2 and 27 of the Framework Agreement.
- 15.7 The provisions of this clause 15 shall survive termination.

16 Data Protection

- 16.1 For the purposes of this clause, the terms "**personal data**", "**processing**", "**processor**", "**controller**" and "**data subject**" shall have the meanings set out in the UK GDPR.
- 16.2 Each party shall comply with the provisions and obligations imposed on it by the Data Protection Legislation when processing personal data in connection with this Determination of POC EOC Agreement.
- 16.3 To the extent that the parties are deemed to be joint controllers or separate controllers in common in respect of personal data processed in accordance with this Determination of POC EOC Agreement, each party shall:
- (a) implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk of processing;
 - (b) maintain a record of all categories of processing activities it undertakes and a record of any data breach, being (i) any unauthorised loss, corruption, damage, destruction, alteration, disclosure or access to any personal data; (ii) any unauthorised or unlawful processing of personal data; and / or (iii) any breach of Data Protection Legislation;
 - (c) so far as is possible comply with the principle of data minimisation;
 - (d) ensure that access to personal data is limited to those who need to have access and that any personnel requiring access to personal data are informed of the confidential nature of the personal data and are subject to an appropriate obligation of confidentiality;

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- (e) promptly notify the other party of any written request by a data subject to either party for access to the data subject's personal data, and liaise to ensure that the request is addressed in accordance with the controller's obligations under the Data Protection Legislation; and
- (f) work with the other party to agree an appropriate fair processing notice accurately depicting the relationship between the parties, and how such fair processing notice will be provided to the relevant data subjects.

16.3 To the extent that this Determination of POC EOC Agreement requires a party to process personal data on behalf of the other, the parties shall enter into, and such processing shall be governed by, a written contract that is compliant with Data Protection Legislation.

16.4 The provisions of this clause 15 shall survive termination.

17. Audit

17.1 The Connection Provider shall permit NGED to carry out an audit to verify that the Connection Provider is complying with this Determination of POC EOC Agreement in relation to its use of the Data on condition that NGED:

- (a) gives reasonable notice of any such audit and conducts such audit during normal working hours;
- (b) observes the Connection Provider's security and confidentiality procedures in relation to the protection of confidential information concerning any clients or customers of the Connection Provider;
- (c) complies with the Connection Provider's reasonable regulations governing security and health and safety as have been notified to it in advance; and
- (d) takes reasonable steps to minimise disruption to the Connection Provider's business or activities during such audit.

18. No Warranty

18.1 All warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.

18.2 Without limiting the effect of clause 18.1 and notwithstanding any other provision of this Determination of POC EOC Agreement, NGED does not warrant that the Data is accurate, complete, reliable, useful, fit for purpose or timely.

19. Costs and expenses

Each party shall bear its own costs and expenses incurred in the preparation, execution and implementation of this Determination of POC EOC Agreement.

20. Entire Agreement

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Following the Determination of POC EOC Commencement Date the entire agreement clause in the Framework Agreement shall be deemed (without affecting any previously agreed variations which are still in force) to be varied for the duration of this Determination of POC EOC Agreement to include reference to this Determination of POC EOC Agreement forming part of the Framework Agreement. For the duration of this Determination of POC EOC Agreement this Determination of POC EOC Agreement shall be read and construed together with the Framework Agreement. In the event of any conflict between this Determination of POC EOC Agreement and the Framework Agreement, the terms of this Determination of POC EOC Agreement shall prevail over the conflicting terms of the Framework Agreement solely in respect of the subject matter of this Determination of POC EOC Agreement.

This Determination of POC EOC Agreement has been signed on the date stated as the "Date of this Agreement" on page 1 of this Determination of POC EOC Agreement.

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Appendix 1

POC Terms and Conditions