

**Default Distributor Agreement
template**

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AGREEMENT dated 20[]

PARTIES

Distributor: [insert full legal name of the Distributor and complete the block below]	Trader: [insert full legal name of the Trader and complete the block below]
<p>Distributor's Details:</p> <p>Street Address: [insert]</p> <p>Postal Address: [insert]</p> <p>Address for Notices: [insert]</p> <p>Contact Person's Details:</p> <p>Phone: [insert]</p> <p>Fax: [insert]</p> <p>Website: [insert]</p> <p>Email Address: [insert]</p>	<p>Trader's Details:</p> <p>Street Address: [insert]</p> <p>Postal Address: [insert]</p> <p>Address for Notices: [insert]</p> <p>Contact Person's Details:</p> <p>Phone: [insert]</p> <p>Fax: [insert]</p> <p>Website: [insert]</p> <p>Email Address: [insert]</p>

COMMENCEMENT DATE

[insert date]

SIGNATURES

Signature	Signature
Name of authorised person signing for Distributor	Name of authorised person signing for Trader
Position	Position
Date	Date

INTRODUCTION

- A. The Distributor agrees to provide the Distribution Services to the Trader on the terms and conditions set out in this Agreement.
- B. The Trader agrees to purchase the Distribution Services from the Distributor on the terms and conditions set out in this Agreement.

PART I – AGREEMENT TERM AND SERVICE COMMITMENTS

1. TERM OF AGREEMENT

- 1.1 **Commencement:** This Agreement commences on the date on which it is deemed to commence under Part 12A of the Code (the "Commencement Date").
- 1.2 **Termination:** This Agreement continues until it is terminated under clause 19 or otherwise at law.

2. SUMMARY OF GENERAL OBLIGATIONS

- 2.1 **Purpose of clause:** This clause is intended to provide an overview of each party's obligations under this Agreement, and does not impose any legal obligations on either party.
- 2.2 **Summary of Distributor's general obligations:** In summary, this Agreement requires the Distributor to provide Distribution Services to the Trader as follows:
 - (a) deliver electricity to Service Levels specified in the Service Standards set out in Schedule 1;
 - (b) provide service interruption information under clause 4 and Schedule 5;
 - (c) carry out Load Shedding under clause 4.4;
 - (d) carry out load control as permitted under clause 5, Schedule 1, and Schedule 8;
 - (e) review and determine Loss Factors and help identify the reasons for abnormal trends in Losses in accordance with clause 6;

- (f) allocate Price Categories and Price Options to ICPs under clause 8;
 - (g) consider applications for new connections and changes to capacity for existing connections, and disconnect and decommission ICPs, under clause 17 and Schedule 6; and
 - (h) provide information in accordance with EIEPs under clause 31 and Schedule 3.
- 2.3 **Summary of Trader's general obligations:** In summary, this Agreement requires the Trader to perform obligations as follows:
- (a) pay for Distribution Services and provide billing information under clause 9 and Schedule 2;
 - (b) meet prudential requirements under clause 10;
 - (c) provide service interruption information under clause 4 and Schedule 5;
 - (d) carry out load control as permitted under clause 5, Schedule 1, and Schedule 8;
 - (e) provide information about Loss Factors under clause 6;
 - (f) select Price Options and, if appropriate, request a new Price Category for an ICP under clause 9;
 - (g) process applications for new connections or changes to the capacity of existing connections, and provide information about ICPs to be disconnected and decommissioned, under clause 17 and Schedule 6;
 - (h) have a Customer Agreement with each Customer for the supply of electricity that contains terms that meet the requirements of clause 29, including procuring from each Customer:
 - (i) access to Customer's Premises for the Distributor under clause 11;
 - (ii) non-interference and damage undertakings under clause 12;
 - (iii) an undertaking that Customer Installations will comply with the Distributor's Network Connection Standards under clause 13;
 - (iv) acknowledgement of the possible effects of momentary fluctuations under clause 14; and
 - (v) acknowledgement that the Customer is responsible for Customer Service Lines under clause 15 and tree trimming under clause 16; and
 - (i) provide information in accordance with EIEPs and respond to requests from the Distributor for Customer details under clause 31 and Schedule 3.

3. CONVEYANCE ONLY

- 3.1 **Distributor may enter into Direct Customer Agreement with a Customer:** The Distributor may enter into a Direct Customer Agreement with a Customer at the Customer's written request, provided that any existing Customer Agreement between the Trader and the Customer is not a fixed term agreement.
- 3.2 **Conveyance Only basis:** If a Customer has, or enters into, a Direct Customer Agreement, the Distributor must:
- (a) allow electricity to be conveyed through the Network on a Conveyance Only basis on the applicable terms of this Agreement to allow the Trader to supply electricity to that Customer; and
 - (b) for each relevant ICP, either:
 - (i) in accordance with the requirements of the Code relating to information included in the Registry, update the Registry field that indicates that the Distributor is directly billing the Customer in respect of that ICP; or

- (ii) within 5 Working Days following the commencement of a Direct Customer Agreement, notify the Trader that a Direct Customer Agreement has been entered into in respect of that ICP.
- 3.3 **Valid Direct Customer Agreement:** The Trader must not knowingly supply electricity on a Conveyance Only basis to an ICP unless there is a valid Direct Customer Agreement in force in relation to the ICP.
- 3.4 **Acting consistently with Valid Direct Customer Agreement:** The Trader must not knowingly do or omit to do anything, or cause any person to do or omit to do anything, that is inconsistent with the obligations of the Customer or the Distributor under any Direct Customer Agreement. However, the technical requirements in a Direct Customer Agreement may differ from the technical requirements in relation to Distribution Services set out in this Agreement, if the Distributor has given the Trader reasonable notice of those requirements.
- 3.5 **Termination of Direct Customer Agreement:** The Trader acknowledges that the Distributor will be entitled to terminate any Direct Customer Agreement in accordance with its terms.
- 3.6 **Co-operate to resolve issues:** Without limiting either party's rights or remedies in respect of any breach of this Agreement, if either of the following issues arises, the Distributor and the Trader must co-operate with each other to try to resolve the issue in a manner that on balance delivers the best outcome for all affected parties (including the Customer) but that does not adversely impact on the integrity of the Network:
 - (a) if, in relation to the supply of electricity to any Customer that is a party to a Direct Customer Agreement, the Distributor notifies the Trader that it considers (acting reasonably) that the Trader has done, or is doing, anything that is inconsistent with the Direct Customer Agreement and that may have an impact on the Network or the provision of distribution services by the Distributor to that or any other Customer; or
 - (b) if either the Trader or the Distributor becomes aware that any provisions of a Direct Customer Agreement and any Electricity Supply Agreement would conflict to the extent that a party would be in breach of contract.
- 3.7 **Customer not party to a valid Direct Customer Agreement:** If at any time it is found that a Customer is not being supplied on an Interposed basis in relation to one or more ICPs and is not a party to a valid Direct Customer Agreement in relation to those ICPs, or if any Direct Customer Agreement in relation to particular ICPs expires or is terminated or is about to expire or be terminated, then, without limiting any other right of the Distributor under this Agreement or otherwise:
 - (a) the Distributor may notify the Trader (or any other trader) of the situation and suggest the Trader (or any other trader) take up the opportunity to supply the Customer on an Interposed basis in relation to those ICPs; and
 - (b) if the Distributor gives notice under clause 3.7(a), the Distributor may disconnect the ICPs if, within 20 Working Days of giving that notice, the Distributor has not received notice that the Trader (or any other trader) will immediately commence supplying the Customer on an Interposed basis in relation to those ICPs.

4. SERVICE INTERRUPTIONS

General

- 4.1 **Communication about Service Interruptions:** The parties must comply with the requirements relating to communication about Service Interruptions set out in Schedule 5.
- 4.2 **The Distributor may Publish Service Interruption information:** The Distributor may Publish or disclose to the media or any other person any information relating to any Service Interruption.
- 4.3 **Managing load on the Network during a System Emergency Event:** The Distributor must manage load on the Network during a System Emergency Event in accordance with the Distributor's System Emergency Event management policy set out in Schedule 4, and the Code.
- 4.4 **Load Shedding:** The Distributor may carry out Load Shedding in the following circumstances:
- (a) **Maintenance of Network equipment:** if the Distributor wishes to inspect or effect alterations, maintenance, repairs or additions to any part of the Network, subject to clauses 4.6, 4.8, 4.9, and Schedule 5 as applicable;
 - (b) **Provision of supply within the Service Standards:** as permitted by the Service Standards, if the Customer has elected to receive an interruptible or otherwise non-continuous supply of electricity;
 - (c) **Compliance with instructions from the System Operator:**
 - (i) to comply with a request or instruction received from the System Operator in accordance with the Code; or
 - (ii) if communication with the System Operator has been lost, and the Distributor reasonably believes that, had communication with the System Operator been maintained, the Distributor would have received a request or instruction from the System Operator to shed load in accordance with the Code;
 - (d) **Maintain security and safety:** to maintain the security and safety of the Network in order to:
 - (i) maintain a safe environment, consistent with the Distributor's health and safety policies;
 - (ii) prevent unexpected short term overloading of the Network;
 - (iii) prevent voltage levels rising or falling outside of legal requirements;
 - (iv) manage System Security; and
 - (v) avoid or mitigate damage to the Network or any equipment connected to the Network;
 - (e) **Compliance with the Code:** to comply with the Code or any other legislative requirement; or
 - (f) **Other circumstances:** for any other purpose that, in the Distributor's reasonable opinion, and in accordance with Good Electricity Industry Practice, requires the interruption or reduction of delivery of electricity to any ICP.

Unplanned Service Interruptions

- 4.5 **Party responsible to receive Unplanned Service Interruption calls:** The party responsible for receiving Unplanned Service Interruption calls from Customers and

managing further communication with affected Customers until normal service is restored, as necessary, is identified in Schedule 5.

- 4.6 **Notification of Unplanned Service Interruptions:** After the occurrence of an Unplanned Service Interruption, the Distributor and the Trader must comply with the service interruption communication requirements set out in Schedule 5.
- 4.7 **Customer requests for restoration of Distribution Services:** During any Unplanned Service Interruption, unless the Distributor requests otherwise, the Trader must forward to the Distributor any requests it receives from Customers for the restoration of the Distribution Services as soon as practicable, and the Distributor must acknowledge such receipt unless the Trader requests otherwise.

Planned Service Interruptions

- 4.8 **Distributor to schedule Planned Service Interruptions to minimise disruption:** The Distributor must, as far as is reasonably practicable, schedule Planned Service Interruptions to minimise disruption to customers.
- 4.9 **Distributor to comply with communication policies:** The Distributor must comply with the requirements set out in Schedule 5 in relation to the notification of Planned Service Interruptions.

Restoration of Distribution Services

- 4.10 **Distributor to restore Distribution Services as soon as practicable:** In the case of a Service Interruption, the Distributor must endeavour in accordance with Good Electricity Industry Practice to restore the Distribution Services:
- (a) for Unplanned Service Interruptions, as soon as possible and no later than the timeframes set out in Schedule 1; and
 - (b) for Planned Service Interruptions, as soon as possible and no later than the timeframe set out in the notice for Planned Service Interruptions sent to the Customer.
- 4.11 **Trader's remedy:** Except as provided in clause 9.10, the Trader's only remedy if the Distributor fails to meet the timeframes in clause 4.10 is the payment of a Service Guarantee Payment in accordance with Schedule 1, if applicable.

5. LOAD MANAGEMENT

- 5.1 **Distributor may control load:** Subject to clause 4.3, if the Distributor provides a Price Category or Price Option that provides for a non-continuous level of service by allowing the Distributor to control part or all of the Customer's load (a "Controlled Load Option"), and the Customer elects to take up the Trader's corresponding price option that incorporates the Controlled Load Option, the Distributor may control the relevant part of the Customer's load in accordance with this clause 5, Schedule 1 and Schedule 8.
- 5.2 **Trader may control load:** Subject to clause 5.3, if the Trader offers to a Customer, and the Customer elects to take up, a price option that provides a non-continuous level of service by allowing the Trader to control part of or all of the Customer's load, the Trader may control the relevant part of the Customer's load in accordance with this clause 5 and Schedule 8.
- 5.3 **Control of load by an Entrant if some load is controlled by an Incumbent:** If either party (the "Entrant") seeks to control part of a Customer's load at a Customer's ICP, but the other party (the "Incumbent") has obtained the right to control part of the load at the

same ICP in accordance with clause 5.1 or 5.2 (as the case may be), the Entrant may only control the part of the Customer's load that:

- (a) the Customer has agreed the Entrant may control under an agreement with the Entrant; and
- (b) is separable from, and not already subject to, the Incumbent's right to control part of the Customer's load at the ICP obtained in accordance with clause 5.1 or 5.2 (as the case may be).

5.4 **No interference with or damage to an Incumbent's Load Control System:** The Entrant must ensure that neither it nor its Load Control System interferes with the proper functioning of, or causes damage to, the Incumbent's Load Control System.

5.5 **Remedy if interference or damage:** If the Entrant or any part of the Entrant's Load Control System interferes with, or causes damage to, any part of the Incumbent's Load Control System, the Entrant must, on receiving notice from the Incumbent or on becoming aware of the situation, promptly and at its own cost remove the source of the interference and make good any damage.

5.6 **Trader to make controllable load available to the Distributor for management of system security:** If the Trader has obtained the right to control part of any Customer's load in accordance with clause 5.2, the Trader must:

- (a) within 5 Working Days of having first obtained such a right, notify the Distributor that the Trader has obtained the right;
- (b) unless the Distributor agrees otherwise, and within 60 Working Days of providing the notice under paragraph (a), develop and agree jointly with the Distributor (such agreement not to be unreasonably withheld by either party), a protocol to be used by the parties to this Agreement that:
 - (i) is consistent with the Distributor's System Emergency Event management policy set out in Schedule 4, and the Code;
 - (ii) is for the purpose of coordinating the Trader's controllable load with other emergency response activities undertaken by the Distributor during a System Emergency Event, such purpose having priority during a System Emergency Event over other purposes for which the load might be controlled;
 - (iii) assists the Distributor to comply with requests and instructions issued by the System Operator when managing System Security in accordance with the Code during a System Emergency Event; and
 - (iv) assists the Distributor to manage Network system security during a System Emergency Event;
- (c) during a System Emergency Event, operate its controllable load in accordance with the protocol developed in accordance with paragraph (b); and
- (d) at all times, operate its controllable load as a reasonable and prudent operator in accordance with Good Electricity Industry Practice.

5.7 **Maintenance of Load Control Equipment:** A party providing Load Control Equipment must endeavour in accordance with Good Electricity Industry Practice to ensure that the Load Control Equipment:

- (a) receives and responds to the appropriate load control signals;
- (b) properly controls the appropriate load; and
- (c) is otherwise fit for purpose.

- 5.8 **Maintenance of Load Signalling Equipment:** A party providing Load Signalling Equipment must endeavour in accordance with Good Electricity Industry Practice to ensure that the Load Signalling Equipment:
- (a) sends appropriate load control signals that are capable of being reliably received by all associated Load Control Equipment; and
 - (b) is otherwise fit for purpose.
- 5.9 **Assignment of load control rights:** A party that has obtained the right to control a Customer's load in accordance with clauses 5.1 or 5.2 may assign that right to another party, provided that the rights holder has obtained the right to make such an assignment from the Customer.

6. LOSSES AND LOSS FACTORS

- 6.1 **Trader to provide information to enable calculation of Loss Factors by Distributor:** The Distributor must obtain information from the reconciliation manager for the purpose of calculating Loss Factors. The Trader must provide the Distributor with any additional information that the Distributor may reasonably require to enable the Distributor to calculate Loss Factors within 15 Working Days of the request from the Distributor.
- 6.2 **Calculation of Loss Factors:** Subject to clause 6.7, the Distributor must calculate Loss Factors in accordance with the Loss Factor Guidelines.
- 6.3 **Change of Loss Factors:** If the Distributor wishes to change one or more Loss Category codes or Loss Factors, the Distributor must give the Trader at least 40 Working Days' notice of the proposed change (including the reasons for the proposed change).
- 6.4 **Transparent Loss Factors methodology:** A notice provided to the Trader in accordance with clause 6.3 must include details of the methodology and information used by the Distributor to determine the Loss Factors.
- 6.5 **Non-technical Losses:** The Trader must investigate and minimise, in accordance with Good Electricity Industry Practice, non-technical Losses.
- 6.6 **Distributor to investigate adverse trends in Losses:** If over time Losses trend abnormally away from expected or historical Losses, the Distributor must use reasonable endeavours to identify the cause of the abnormal movement. If the Distributor is unable to identify the cause of the abnormal movement, the Distributor must provide relevant information to all affected traders and must, if requested by the Trader, facilitate a meeting of all affected traders to attempt to resolve the matter.
- 6.7 **Complaints about Loss Factors:** If, at any time, the Trader considers that one or more Loss Factors notified by the Distributor are not appropriate, or that the methodology or information used to calculate the Loss Factor is incorrect, the Trader may make a written complaint to the Distributor. The Distributor must consider the complaint in good faith, and may change the Loss Factors declared in its notice to reflect the Trader's concerns in accordance with clause 6.3. The Distributor must decide whether to make the change and, if applicable, give notice under clause 6.3, no later than 20 Working Days after receipt of the complaint.
- 6.8 **Disputes about Loss Factors:** If the Distributor does not change its notice after having received a complaint from the Trader, the Trader may raise a Dispute with the Distributor for the Loss Factors to be determined in accordance with the Dispute

resolution process in clause 23. If the outcome of the Dispute is that the Distributor changes the Loss Factors declared in the Distributor's notice, and the change leads to a change in the level of revenue received by the Distributor, the Distributor may determine the time from which the change is to apply, which must be no later than 60 Working Days from the date on which the Dispute is finally resolved.

PART II – PAYMENT OBLIGATIONS

7. DISTRIBUTION SERVICES PRICES AND PROCESS FOR CHANGING PRICES

- 7.1 **Distribution Services pricing information:** The Distributor's Pricing Methodology, and a schedule of Price Categories, Price Options (if any), and Prices, are set out in Schedule 7.
- 7.2 **Price changes:** Unless otherwise agreed with the Trader, the Distributor may not change its Prices more than once in any period of 12 consecutive months, unless a change is a material increase to one or more existing Prices and results from a change in:
- (a) a cost that is a pass-through cost or a recoverable cost specified in a determination of an input methodology by the Commerce Commission under Part 4 of the Commerce Act 1986 in respect of the services provided by the Distributor;
 - (b) the Distributor providing new Distribution Services or materially changing existing Distribution Services, provided that any proposed Price change must only apply to ICPs affected by the new or changed Distribution Services; or
 - (c) the law (including any regulations and the Code).
- 7.3 **Price decreases and agreed increases:** Nothing in clause 7.2 prevents the Distributor from decreasing a Price at any time, or from increasing a Price with the agreement of the Trader.
- 7.4 **Process to change Pricing Methodology:** If the Distributor intends to make a change to its Pricing Methodology that will materially affect the Trader or 1 or more Customers, the Distributor must first consult with the Trader about the proposed change. If appropriate, the Distributor may consult jointly with the Trader and all other traders that are affected by the proposed change. Without limiting clause 7.2 and unless the parties agree otherwise, the Distributor must:
- (a) comply with guidelines: comply with the Distribution Pricing Methodology Consultation Guidelines, including by implementing the good consultation practices set out in those guidelines;
 - (b) comply with the Code: comply with any provisions in the Code relating to the pricing of Distribution Services; and
 - (c) Publish final Pricing Methodology: Publish the final Pricing Methodology and the reasons for its decision, no later than the notice period specified in clause 7.5(a).
- 7.5 **Notice of Price changes:** In addition to any notification requirements under clause 7.4, if the Distributor makes or intends to make a Price change, the Distributor must:
- (a) give the Trader 40 Working Days' notice of the Price change, unless the Distributor is required by law to implement the Price change earlier, in which case the Distributor must give as much notice as is reasonably practicable;

- (b) if the Price change will result in an ICP or a group of ICPs being allocated to a different Price Category, without limiting clause 8, the Distributor must give the Trader a mapping table that clearly shows the new Price Category to which each affected ICP or group of ICPs is to be allocated;
- (c) if the Price change is in respect of ICPs that have either a category 1 or category 2 metering installation, the Distributor must notify the Trader of the Price change in accordance with EIEP12.

7.6 Pricing Methodology change and Price change disputes: Once a change to a Pricing Methodology has been finalised in accordance with clause 7.4, or a Price change is notified in accordance with clause 7.5, the Trader may raise a Dispute under clause 23 in respect of the Pricing Methodology or the Price change (as the case may be) only if the Trader considers that the Distributor has not complied with clause 7.3 or 7.4. If a Dispute is raised, the Trader must continue to pay the Distributor's Tax Invoices until the Dispute is resolved.

7.7 Changes containing an error: If the Trader identifies an error in the Pricing Methodology finalised and Published in accordance with clause 7.4, or an error in a Price change notified in accordance with clause 7.5 that arises from an obvious error in applying the Pricing Methodology, the Trader must bring that error to the Distributor's attention as soon as possible after becoming aware of the error. The Distributor may correct such an error, including an error that it identifies itself, without following the process under clause 7.4 or giving notice under clause 7.5(a) (as the case may be), provided that the correction of the error must not have a material effect on the Trader.

8. ALLOCATING PRICE CATEGORIES AND PRICE OPTIONS TO ICPS

8.1 Distributor allocates Price Category: The Distributor must allocate a Price Category to each ICP on its Network. If there are two or more Price Categories within the Distributor's Pricing Methodology for which an ICP is eligible, the Distributor must, acting reasonably, allocate one of the eligible Price Categories to the ICP. In allocating a Price Category, the Distributor must have regard to:

- (a) the eligibility criteria for each Price Category that are set out in Schedule 7;
- (b) the attributes of the ICP; and
- (c) if known and relevant:
 - (i) the Trader's or Customer's preference for a particular Price Category in respect of which the ICP is eligible;
 - (ii) the meter register configuration(s) of the Metering Equipment and any Load Control Equipment installed for the ICP, which must determine the Price Option or Price Options that apply if more than 1 Price Option is defined for the relevant Price Category;
 - (iii) the ICP's historic demand profile;
 - (iv) the Customer's capacity requirements; and
 - (v) any other factors.

8.2 Trader may request allocation of an alternative eligible Price Category to an ICP: At any time, the Trader may request that the Distributor allocate an alternative Price Category to an ICP, and must provide any information necessary to support its request. If the Distributor, acting reasonably, agrees that the ICP meets the eligibility criteria for the requested alternative Price Category, the Distributor must apply the change (but not

retrospectively, unless it agrees otherwise) and advise its decision to the Trader within 5 Working Days after receipt of notice of the Trader's request. If the Distributor declines the request, it must provide the reasons for its decision.

- 8.3 **Trader to select Price Option to match meter register configuration:** If the Distributor provides options within a Price Category that correspond to alternative eligible meter register configurations ("**Price Options**"), the Trader must select the Price Option that corresponds to the configuration of each meter register installed at the relevant ICP and notify the Distributor of that selection within 10 Working Days after its selection using the appropriate EIEP. If the meter register configuration at an ICP is changed at any time, the Trader must change the Price Option to match the new configuration and notify the Distributor of the change using the appropriate EIEP within 10 Working Days after the change.
- 8.4 **Trader request for reallocation of a Price Category if it considers a Price Category has been Incorrectly Allocated:** Under this clause 8.4 and clauses 8.5 and 8.7, a Price Category is "**Incorrectly Allocated**" to an ICP only if the ICP was ineligible for the Price Category allocated by the Distributor based on the relevant information available to the Distributor at the time it made the allocation. If the Trader reasonably considers that a Price Category was Incorrectly Allocated, the Trader must notify the Distributor of the reasons why it considers that the Price Category was Incorrectly Allocated and identify a Price Category that the Trader considers should have been allocated to the ICP, which must be a Price Category for which the ICP is eligible. The Distributor must advise the Trader within 10 Working Days after receipt of the Trader's notice whether it agrees to allocate the requested Price Category (the "**Corrected Price Category**") to the ICP, such agreement not to be unreasonably withheld, and must provide the reasons for its decision. To avoid doubt, this clause 8.4 does not apply if the Distributor has already provided notice to the Trader that the relevant Price Category is Incorrectly Allocated under clause 8.7.
- 8.5 **Credit following correction:** If the Distributor allocates a Corrected Price Category to an ICP following notice from the Trader given under clause 8.4, the Distributor must:
- (a) commence charging the Trader in accordance with the Price(s) that applies to the Corrected Price Category with immediate effect; and
 - (b) subject to clause 8.6, and by issuing a Credit Note payable in the next monthly billing cycle, credit the Trader with an amount (if positive) equivalent to:
 - (i) the charges paid by the Trader in respect of that ICP in the period from the later of:
 - (A) the Commencement Date;
 - (B) the date the Distributor Incorrectly Allocated the Price Category to that ICP; and
 - (C) the Switch Event Date for that ICP recorded for the Trader, up to the date on which the Distributor allocates a Corrected Price Category to that ICP; less
 - (ii) the charges that would have applied if the Corrected Price Category had been allocated to that ICP during the period referred to in subparagraph (i), provided that the maximum period for which credit will be payable under this clause 8.5 is 15 months, unless otherwise agreed.

- 8.6 **Limitations on credits for Price Category corrections:** Clause 8.5(b) does not apply in respect of an ICP if:
- (a) clause 8.7 applies to the ICP; or
 - (b) within 20 Working Days of the Switch Event Date recorded for the Trader, the Trader has not provided the Distributor with correct or complete information about the ICP or the Customer necessary to determine Price Category eligibility (provided that information was not already known by the Distributor);
 - (c) the Price Category correction was necessary because the Trader provided the Distributor with incorrect or incomplete information in relation to the ICP or the Customer or any other factors in respect of that ICP that were relevant to the allocation of a Price Category; or
 - (d) the initial Price Category was allocated on the basis of incorrect information provided by the Customer or the Customer's representative.
- 8.7 **Distributor's right to change Price Category if it considers a Price Category has been Incorrectly Allocated:** If at any time the Distributor reasonably considers that a Price Category has been Incorrectly Allocated to an ICP:
- (a) the Distributor must notify the Trader accordingly, including notification of the reasons why it considers that the Price Category has been Incorrectly Allocated, and identify the Price Category or Price Categories it considers the ICP is eligible for; and
 - (b) unless the Trader is able to provide evidence to the Distributor's reasonable satisfaction within 10 Working Days of the Distributor's notice that the current Price Category has not been Incorrectly Allocated, the Distributor may allocate the Price Category that it considers appropriate to that ICP (acting reasonably and, if the Distributor identified more than one eligible Price Category in its notice, taking into account the Trader's or the Customer's preferred Price Category as communicated to the Distributor by the Trader), and may commence charging the Trader for Distribution Services in accordance with that Price Category after a further 40 Working Days; and
 - (c) the Distributor must provide to the Trader information relevant to its decision.
- 8.8 **Application of clause 8.7:** Clause 8.7 does not apply if the Trader has already provided notice to the Distributor under clause 8.4 that the relevant Price Category has been Incorrectly Allocated.
- 8.9 **Commencement of charges:** The Trader is liable to pay charges in respect of an ICP from:
- (a) the day the ICP is Energised or Re-energised; or
 - (b) if the Trader is assuming responsibility for the ICP, the later of the Switch Event Date or the date that the ICP is Energised.
- 8.10 **Cessation of charges:** The Trader is not liable to pay charges in respect of an ICP:
- (a) for the day on which an ICP is De-energised (except as a result of a Temporary Disconnection); or
 - (b) from the Switch Event Date, if another trader takes responsibility for the ICP; or
 - (c) from the day which is 2 Working Days after the Distributor receives a notification from the Trader that the Distributor is responsible for completing a Vacant Site Disconnection in respect of the ICP in accordance with Schedule 6.

9. BILLING INFORMATION AND PAYMENT

- 9.1 **Calculating Tax Invoices for Distribution Service charges:** The Trader must provide information to enable the Distributor to calculate Distribution Services charges and prepare Tax Invoices, in accordance with Schedule 2.
- 9.2 **Late, incomplete, or incorrect information:** If the Trader does not provide information to the Distributor in accordance with Schedule 2 by the 5th Working Day after the last day of the month to which the Tax Invoice relates, or any information provided by the Trader is incomplete or materially incorrect, the Distributor may estimate, in accordance with Good Electricity Industry Practice, the Trader's Tax Invoice for Distribution Services.
- 9.3 **Issuing of Tax Invoices:** The Distributor must issue Tax Invoices for Distribution Services as follows:
- (a) the Distributor must invoice the Trader within 10 Working Days after the last day of the month to which the Tax Invoice relates;
 - (b) at the same time as it provides a Tax Invoice, the Distributor must provide to the Trader, in accordance with the relevant EIEP, sufficiently detailed information to enable the Trader to verify the accuracy of the Tax Invoice;
 - (c) if late, incomplete, or incorrect information is provided and the Tax Invoice is estimated in accordance with clause 9.2 on the basis of that information, the Distributor must issue a Credit Note or Debit Note in the month after it receives additional or revised consumption information, at the same time as the Distributor issues a Tax Invoice to the Trader for its Distribution Services charges for that month;
 - (d) if the information received by the Distributor in accordance with Schedule 2 includes revised reconciliation information or additional consumption information, the Distributor must provide a separate Credit Note or Debit Note to the Trader in respect of the revised consumption information ("**Revision Invoice**"), and a Use of Money Adjustment;
 - (e) if a Revision Invoice is required, the Distributor must issue the Revision Invoice in the month after the Distributor receives the revised reconciliation information or additional consumption information, at the same time as the Distributor issues a Tax Invoice to the Trader for its Distribution Services charges for that month; and
 - (f) at the same time it provides a Revision Invoice, the Distributor must provide to the Trader, in accordance with the relevant EIEP, sufficiently detailed information to enable the Trader to verify the accuracy of the Revision Invoice.
- 9.4 **Due date for payment:** The settlement date for each Tax Invoice issued by the Distributor must be the 20th day of the month in which the Tax Invoice is received, or if the 20th day of the month is not a Working Day, the first Working Day after the 20th day. However, if the Distributor fails to send a Tax Invoice to the Trader within 10 Working Days after the last day of the month to which the Tax Invoice relates, the due date for payment is extended by 1 Working Day for each Working Day that the Tax Invoice is late.
- 9.5 **Other invoices:**
- (a) If applicable, the Distributor may issue the Trader with:
 - (i) a Tax Invoice for payment for any other sums due to the Distributor under this Agreement; and

- (ii) a Credit Note for payment of Service Guarantee Payments due to the Trader.
 - (b) If applicable, the Trader may issue the Distributor with a Tax Invoice for Service Guarantee Payments and any other sums due to the Trader under this Agreement.
 - (c) Any Tax Invoice or Credit Note under clause 9.5(a) or (b) must be issued within 10 Working Days of the end of the month to which the Tax Invoice or Credit Note relates.
 - (d) The settlement date for any Tax Invoice issued under clause 9.5(a) or (b) is the 20th day of the month in which the Tax Invoice is received or, if the 20th day of the month is not a Working Day, the first Working Day after the 20th day. If the Distributor or the Trader (as the case may be) fails to send a Tax Invoice to the Trader or the Distributor (as the case may be) within 10 Working Days after the last day of the month to which the Tax Invoice relates, the due date for payment is extended by 1 Working Day for each Working Day that the Tax Invoice is late.
- 9.6 **Interest on late payment:** Subject to clause 9.7, the Trader or the Distributor (as the case may be) must pay any Tax Invoice issued under this clause 9. If any part of a Tax Invoice that is properly due in accordance with this Agreement is not paid by the due date, Default Interest may be charged on the outstanding amount for the period that the Tax Invoice remains unpaid.
- 9.7 **Disputed invoices:** If the Trader or the Distributor disputes a Tax Invoice (which includes a Revision Invoice) issued under this clause 9, the party disputing the invoice ("Disputing Party") must notify the other party ("Non-disputing Party") in writing and provide details as to the reasons why the Disputing Party disputes that invoice within 18 months of the date of the Tax Invoice ("Invoice Dispute"). On receiving an Invoice Dispute notice, the Non-disputing Party must:
- (a) if the Non-disputing Party agrees with the matters set out in the Invoice Dispute notice and:
 - (i) the Disputing Party has not paid the disputed Tax Invoice, promptly issue a Credit Note for the disputed amount, and any remaining amount owed must be paid by the Disputing Party within 6 Working Days of receipt of the Credit Note, but need not pay prior to the time set out in clause 9.4 or 9.5; or
 - (ii) the Disputing Party has paid the disputed invoice, calculate the amount that the Disputing Party has over paid and promptly issue a Credit Note to the Disputing Party for the amount over paid, which must include a Use of Money Adjustment. Any amount owed must be paid by the Non-disputing Party within 6 Working Days of issuing the Credit Note. A Use of Money Adjustment must apply for the period commencing on the date the original Tax Invoice was paid and ending when re-payment is made, but the amount need not be settled prior to the time set out in clauses 9.4 or 9.5; or
 - (b) if the Non-disputing Party disagrees with the matters set out in the Invoice Dispute notice, either party may raise a Dispute in accordance with clause 23 and if the Disputing Party has not paid the disputed Tax Invoice, it must pay the undisputed amount of the disputed Tax Invoice issued in accordance with clauses 9.4 or 9.5; and
 - (c) on the resolution of a Dispute under clause 23, any amount owed must be paid by the relevant party within 6 Working Days. Default Interest is payable for the period commencing on the date the disputed amount would have been due for

payment under this clause 9, and ending when payment is made. To the extent the Tax Invoice is held not to be payable, the Non-disputing Party must issue a Credit Note to the Disputing Party.

- 9.8 **Incorrect invoices:** If it is found at any **time** that a party has been overcharged or undercharged and the party has paid the Tax Invoice (which includes a Revision Invoice) containing such overcharge or undercharge, within 20 Working Days after the error has been discovered and the amount has been agreed between the parties, the party that has been overpaid must refund to the other party the amount of any such overcharge or the party that has underpaid must pay to the other party the amount of any such undercharge, in both cases together with a Use of Money Adjustment on the overcharged or undercharged amount, provided that there will be no right to re-open Tax Invoices if more than 18 months has elapsed since the date of the Tax Invoice.
- 9.9 **No set-off:** Both parties must make the payments required to be made to the other under this Agreement in full without deduction of any nature whether by way of set-off, counterclaim or otherwise except as otherwise set out in clause 9.7 or as may be required by law.
- 9.10 **Refund of charges:** If, as a consequence of a fault on the Network, there is a continuous interruption affecting a Customer's Point of Connection for 24 hours or longer, the Distributor must issue a Credit Note and refund, in the next monthly billing cycle, for the Distribution Services charges paid by the Trader in respect of the ICP or ICPs for that Customer for the number of complete days during which supply was interrupted, provided that the Trader requests that the Distributor refund such charges no later than 60 days after the interruption.

10. PRUDENTIAL REQUIREMENTS

- 10.1 **Trader must satisfy prudential requirements:** If the Distributor has given a notice, whether before or after the commencement of this Agreement, requiring the Trader to comply with either of the prudential requirements specified in clause 10.2, the Trader must comply with the prudential requirements as follows:
- (a) if the Trader is not trading on the Network, the Trader must comply with the prudential requirements before the Trader starts trading on the Network; and
 - (b) if the Trader is trading on the Network, the Trader must comply with the prudential requirements within 10 Working Days after receipt of the Distributor's notice.
- 10.2 The Distributor may require the Trader to comply with either of the following prudential requirements:
- (a) the Trader must maintain an acceptable credit rating; or
 - (b) the Trader must provide and maintain acceptable security by, at the Trader's election:
 - (i) providing the Distributor with a cash deposit of the value specified in clause 10.7 ("**Cash Deposit**"), which the Distributor must hold in a trust account that the Distributor must establish and operate in accordance with clause 10.27;
 - (ii) arranging for a third party with an acceptable credit rating to provide security in a form acceptable to the Distributor, of the value specified in clause 10.7; or

- (iii) providing a combination of the securities listed in subparagraphs (i) and (ii) to the value specified in clause 10.7.
- 10.3 **Acceptable credit rating:** For the purposes of clause 10.1, an acceptable credit rating means that the Trader or the third party (as the case may be):
 - (a) carries a long term credit rating of at least:
 - (i) BBB- (Standard & Poors Rating Group); or
 - (ii) a rating that is equivalent to the rating specified in subparagraph (i) from a rating agency that is an approved rating agency for the purposes of Part 5D of the Reserve Bank of New Zealand Act 1989; and
 - (b) is not subject to a negative watch or any similar arrangement by the agency that gave it the credit rating.
- 10.4 **Trader may elect prudential requirements:** The Trader may elect to comply with the prudential requirements in any of the ways described in clause 10.1 at any time, by complying with clause 10.5.
- 10.5 **Change in prudential requirements complied with:** If the Trader elects to change the way in which it complies with the prudential requirements, the Trader must notify the Distributor of its intention at least 2 Working Days before the change occurring and the parties must comply with clause 10.19. The change will come into effect on the intended date, provided that the Trader has complied with all its obligations under this Agreement, and on confirmation, satisfactory to the Distributor, that an alternative suitable form of security has been provided that satisfies the requirements of clause 10.1.
- 10.6 **Evidence of acceptable credit rating:** The Trader or third party (as the case may be) must provide such evidence that it has maintained an acceptable credit rating as the Distributor or its agent may from time to time reasonably require.
- 10.7 **Value of security:** The value of security required for the purposes of this clause 10 is the Distributor's reasonable estimate of the Distribution Services charges that the Trader will be required to pay to the Distributor in respect of any period of not more than 2 weeks, notified in writing by the Distributor to the Trader. If additional security is required in accordance with clause 10.8 ("**Additional Security**"), the Distributor's notice provided under clause 10.1 must state the amount of the Additional Security.
- 10.8 **Additional security:** The Distributor may, by notice to the Trader, require the Trader to provide Additional Security. The amount of any Additional Security required must be such that the total value of all security required to be provided by the Trader under this Agreement is not more than the Distributor's reasonable estimate of the charges that the Trader will be required to pay to the Distributor under this Agreement in respect of any 2 month period.
- 10.9 **If the Distributor requires the Trader to provide Additional Security:**
 - (a) the Trader may elect the type of security that it provides in accordance with clause 10.2(b); and
 - (b) the parties must comply with clauses 10.17 and 10.19.
- 10.10 **Additional security requirements:** The following provisions apply in respect of any Additional Security provided:
 - (a) if the Additional Security is in the form of a Cash Deposit, the Distributor must pay a charge to the Trader for each day that the Distributor holds the Additional Security at a per annum rate equal to the sum of the Bank Bill Yield Rate for that

day plus 15% on the amount of Additional Security held on that day, and the Additional Security must be held as if it were part of the Cash Deposit under this Agreement;

- (b) if the Additional Security is in the form of security from a third party, the Distributor must pay a charge to the Trader for each day that the Distributor holds the Additional Security at a per annum rate of 3% on the amount of Additional Security held on that day; and
- (c) any money required to be paid by the Distributor to the Trader in accordance with this clause 10.10 must be paid by the Distributor to the Trader on a quarterly basis.

10.11 Estimating the value of security if the Trader is a new trader: If the Trader has not previously entered into a contract with the Distributor for access to the Network, the Distributor must estimate the value of security required under clause 10.7 for the first 6 months of this Agreement, subject to any reassessment of the value under this Agreement, having regard to:

- (a) the Distributor's historical records of the Distribution Service charges in respect of the relevant ICPs; or
- (b) in the absence of such records, a bona fide business plan prepared by the Trader in good faith necessary for the Distributor to determine the value of security that it requires from the Trader.

10.12 Review of the value of security: The Distributor may review, or the Trader may require the Distributor to review, the value of security required to be provided by the Trader at any time.

10.13 Trader to notify Distributor of changes affecting security: Subject to clause 10.15, the Trader must immediately notify the Distributor if any of the following occurs:

- (a) the Trader no longer carries an acceptable credit rating; or
- (b) the Trader has complied with prudential requirements by arranging for a third party to provide security in accordance with clause 10.2(b), and the Trader learns that the third party no longer carries an acceptable credit rating; or
- (c) the Trader has reasonable cause to believe that its financial position is likely to be materially adversely impaired such that its ability to pay for Distribution Services will be affected.

10.14 Confidential Information: Any information provided by the Trader to the Distributor under clause 10.13 will be Confidential Information.

10.15 Public issuers and listed companies: For the purpose of clause 10.13, if the Trader:

- (a) is a "listed issuer" for the purposes of the Financial Markets Conduct Act 2013, the Trader may withhold any information to the extent that, and for so long as, the Trader considers such information to be "inside information" as defined in that Act; or
- (b) is listed on the New Zealand Stock Exchange, the Trader may withhold any information to the extent that the Trader considers such information is "material information" under the NZX Main Board / Debt Market Listing Rules of the New Zealand Stock Exchange.

10.16 Distributor may make enquiries: If the Distributor believes that the Trader should have given notice under clause 10.13 and the Distributor has not received any such notice, the Distributor may enquire of the Trader as to whether it should have given

such notice. Any such enquiry must be in writing and be addressed to the Chief Executive of the Trader. If notice should have been given, the Trader must give notice immediately, or if no notice is required, the Trader must respond to the Distributor in writing within 2 Working Days of receipt of the Distributor's notice under this clause 10.16. Correspondence sent or received by either party under this clause is Confidential Information.

10.17 Change to the value of security: If:

- (a) the Distributor requires that the Trader provide Additional Security in accordance with clause 10.8; or
- (b) following a review of the Trader's security in accordance with clause 10.12; or
- (c) on receipt of information contemplated by clause 10.13 or 10.16; or
- (d) as the result of a failure by the Trader to respond to a request made under clause 10.16 within the timeframe set out in clause 10.16;

the Distributor or the Trader considers that the value of security should be increased or decreased, the Distributor must, acting reasonably, make a decision on what the value of security should be, and immediately notify the Trader of its decision and the grounds for that decision and must include in the notification details of the part of the security that constitutes Additional Security. To avoid doubt, failure by a Trader to respond to a request made under clause 10.16 within the required timeframe constitutes reasonable grounds for a Distributor to change the value of security required to be provided by the Trader.

10.18 Failure to maintain acceptable credit rating: If:

- (a) on receipt of information contemplated by clauses 10.13 or 10.16; or
- (b) as the result of a failure by the Trader to respond to a request made under clause 10.16 within the timeframe set out in clause 10.16,

the Distributor considers, acting reasonably, that the Trader is no longer able to maintain an acceptable credit rating in accordance with clause 10.2(a), and the Distributor still requires the Trader to comply with prudential requirements, the Distributor must notify the Trader of the value of acceptable security required in accordance with clause 10.2(b).

10.19 Distributor or Trader to effect changes in value or type of security: The Distributor or the Trader, as appropriate, must take all actions necessary to satisfy the requirement for the increase or decrease in the value of security or change to the type of security, within 5 Working Days of notification under clause 10.5, 10.17 or 10.18. Refunds of Cash Deposits and reductions of the value of third party security required must be made in accordance with clauses 10.20 or 10.22.

10.20 Refund of Cash Deposit: If the Distributor refunds all or part of a Cash Deposit, it must refund all or part of the Cash Deposit into a bank account nominated by the Trader on the Working Day following the day on which the Distributor decided to, or is required to, refund the Cash Deposit.

10.21 Cash Deposit on Insolvency Event: If an Insolvency Event occurs in relation to the Trader:

- (a) the Trader will not be entitled to a return of the Cash Deposit, other than as set out in clause 10.27(f); and
- (b) if the Trader fails or has failed to pay an amount owing under this Agreement, full beneficial ownership of that amount (plus Default Interest) of the Cash Deposit

(or if the Cash Deposit is less than the amount owing, the full amount of the Cash Deposit) will automatically transfer solely to the Distributor and the Distributor will be entitled to draw down that amount (plus Default Interest), on 2 Working Days' notice to the Trader.

10.22 Reduction of third party security: If the Distributor decreases the value of third party security required in accordance with this Agreement, the Trader may arrange for the issuing of new third party security for the lesser value, in satisfaction of clause 10.2(b)(ii), which will replace the earlier third party security.

10.23 When the Distributor may make a call on security: The Distributor may make a call on security in accordance with clause 10.24 if:

- (a) the Trader has provided acceptable security in accordance with clause 10.2(b);
- (b) the Trader fails to pay an amount due under this Agreement; and
- (c) the amount is not subject to a genuine dispute.

10.24 Calls on security: If this clause applies in accordance with clause 10.23, the Distributor may, on 2 Working Days' notice to the Trader (or immediately in the case of deemed Cash Deposit under clause 10.26), call on the security as follows:

- (a) if the Trader provided a Cash Deposit (which includes a deemed Cash Deposit), full beneficial ownership of the amount owing (plus Default Interest) of the Cash Deposit will automatically transfer solely to the Distributor effective from the expiry of the 2 Working Day notice period or immediately (as applicable) and the Distributor may draw down and apply the amount owed (including Default Interest) from the Cash Deposit;
- (b) if the Trader arranged for a third party to provide security, the Distributor may call on the provider of a third party security to pay the amount owed in accordance with the security; and
- (c) in either case, the Distributor must immediately notify the Trader that it has called on the security.

10.25 Requirement to maintain security: To avoid doubt, if the Distributor draws down some or all of a Cash Deposit held by the Distributor under this Agreement, or calls on the provider of a third party security, the Trader must within 5 Working Days take all steps necessary to ensure that the Trader maintains acceptable security of the value specified in clause 10.7 and the value of any Additional Security required by clause 10.8 (as such may be reviewed by the Distributor in accordance with clause 10.12), as required by clause 10.2(b).

10.26 Third party security may be released: If the provider of third party security makes a payment to the Distributor in order to be released from its obligations under that security, such payment will be deemed to constitute a Cash Deposit provided by the Trader in substitution for the third party security and must be dealt with in accordance with clause 10.27.

10.27 Trust Account Rules: If the Distributor receives a Cash Deposit:

- (a) the Cash Deposit must be held in a trust account in the name of the Trader, to be applied or distributed only on the terms of this Agreement, or as otherwise agreed by the parties;
- (b) the Distributor must establish a trust account with a New Zealand registered bank ("**the Bank**") for the purpose of holding the Cash Deposit ("**Trust Account**");

- (c) the Distributor must obtain acknowledgement from the Bank that the Cash Deposit is held on trust in the Trust Account and that the Bank has no right of set-off or right of combination in relation to the Cash Deposit;
- (d) the Trader must inform the Distributor of the bank(s) that the Trader uses for its banking purposes and if the Trader changes banks;
- (e) the Trust Account must bear interest at the best on call rate reasonably available from time to time from the Bank. The Distributor must pay the Trader the interest earned on the Cash Deposit (except for the amount of the Cash Deposit that is Additional Security, in respect of which a charge should be paid in accordance with clause 10.10) on a quarterly basis net of account fees and any amounts required to be withheld by law, unless the parties agree otherwise;
- (f) if this Agreement is terminated, the Distributor must refund any Cash Deposit (less any amount owed to the Distributor plus any interest not yet paid to the Trader) to the Trader in accordance with clause 10.20, provided that the Trader:
 - (i) is not otherwise in default of this Agreement;
 - (ii) has ceased to be bound by this Agreement; and
 - (iii) has discharged all obligations under this Agreement to the Distributor, including payment of all outstanding amounts under this Agreement; and
- (g) the Distributor must provide the Trader with an annual report in respect of the operation of the Trust Account if requested by the Trader.

10.28 Release of third party security: If this Agreement is terminated, the Distributor must release any third party security, provided that the Trader has met all of the requirements set out in clause 10.27(f).

PART III – OPERATIONAL REQUIREMENTS

11. ACCESS TO THE CUSTOMER'S PREMISES

11.1 Rights of entry onto Customer's Premises: The Trader must, subject to clause 29.1, include in each of its Customer Agreements a requirement that the Customer provide the Distributor and its agents with safe and unobstructed access onto the Customer's Premises for all of the following purposes:

- (a) to inspect, maintain, operate or upgrade (provided that the upgrade does not have any material adverse effect on the relevant Customer or Customer's Premises) the Distributor's Equipment;
- (b) to install, read, maintain or upgrade (provided that the upgrade does not have any material adverse effect on the relevant Customer or Customer's Premises) Metering Equipment;
- (c) to disconnect and reconnect the Customer in accordance with this Agreement;
- (d) to access the Trader's Equipment to verify metering information, including, in the event of termination of this Agreement, to determine any charges outstanding at the time of termination;
- (e) for the safety of persons or property;
- (f) to ensure that the Customer fulfils its obligations in accordance with clause 12.7; and

- (g) to enable the Distributor to gain access to and remove any of the Distributor's Equipment following the termination of the Customer Agreement for the period ending 6 months after the date that termination takes effect.
- 11.2 **Exercise of access rights:** In exercising its access rights under clause 11.1, the Distributor must, except to the extent that the Distributor has any other binding agreement setting out its access rights directly with the Customer:
- (a) comply with sections 23A to 23D, 57 and 159 of the Electricity Act 1992 as though these sections relate to the Distributor's access rights as contemplated under clause 11.1, provided that the Distributor must give written notice to a Customer if the Distributor intends to access the Customer's Premises for any reason (except if the Distributor requires access to carry out a routine inspection or operation of the Distributor's Equipment, or in an emergency situation);
 - (b) ensure that it has appropriate procedures in place for the secure storage, use, and return of any key to and any security information about the Customer's Premises;
 - (c) cause as little disturbance or inconvenience as practicable to the Trader and the Customer (including minimising any direct impact on the Customer's property) and ensure that its personnel:
 - (i) behave in a courteous, considerate and professional manner at all times while on the Customer's Premises;
 - (ii) carry identification that shows they are authorised personnel of the Distributor; and
 - (iii) if practicable, identify themselves to the Customer before entering the Customer's property; and
 - (iv) comply with the Customer's reasonable requirements, practices and procedures as disclosed by the Customer or as generally practised for health and safety, and security requirements.
- 11.3 **Distributor may disconnect:** The Trader must, subject to clause 29.1, include in its Customer Agreement a provision to the effect that if the Customer breaches the provisions of its Customer Agreement that require it to give the Distributor access to the Distributor's Equipment on the Customer's Premises, and the breach is material or persistent, the Distributor may disconnect the Customer's ICP from the Network and access the Customer's Premises to reclaim the Distributor's Equipment, provided that:
- (a) if access was required for a purpose described in clause 11.1(a), (b), (d) or (g), the Distributor or Trader gave the Customer 10 Working Days' notice of access being required (if access is required for a purpose described in clause 11.1(c), (e) or (f), such notice is not required); and
 - (b) if the disconnection is a Temporary Disconnection, the Distributor has complied with the relevant provisions of Schedule 6.
- 11.4 **Costs of disconnection:** The Distributor will not be liable for any loss the Trader may suffer or incur as a result of a disconnection carried out because the Customer has not given the Distributor access in accordance with the relevant Customer Agreement. The Trader must reimburse the Distributor for all of the Distributor's reasonable costs incurred in relation to the disconnection and any reconnection.
- 11.5 **Existing agreement will prevail:** In the event of a conflict between clause 11 and any provision of any existing agreement between the Customer and Distributor with respect to the Distributor's access rights to the Customer's Premises, the provisions of the

existing agreement between the Distributor and Customer will prevail to the extent of such conflict.

12. GENERAL OPERATIONAL REQUIREMENTS

- 12.1 **Interference or damage to Distributor's Equipment by Customers:** The Trader must, subject to clause 29.1, include in each of its Customer Agreements a requirement that, during the term of the Customer Agreement and until the end of the period ending 6 months after the termination of the Customer Agreement, the Customer must not interfere with or damage, and must ensure that its agents and invitees do not interfere with or damage, the Distributor's Equipment without the prior written consent of the Distributor (except to the extent that emergency action has to be taken to protect the health or safety of persons or to prevent damage to property).
- 12.2 **Costs of making good any damage:** The Trader must, subject to clause 29.1, include in each of its Customer Agreements a requirement that, if any of the Distributor's Equipment is damaged by the negligence or wilful act or omission of the Customer or the Customer's agents or invitees, the Customer must pay the cost of making good the damage to the Distributor.
- 12.3 **Interference or damage to Distributor's Equipment by the Trader:** The Trader must ensure that it and its employees, agents and invitees do not interfere with or damage the Distributor's Equipment (including, without limitation, for a period of 6 months after termination of this Agreement) without the prior written consent of the Distributor (except to the extent that emergency action has to be taken to protect the health or safety of persons or to prevent damage to property).
- 12.4 **Costs of making good any damage:** If any of the Distributor's Equipment is damaged by the negligence or wilful act or omission of the Trader or the Trader's employees, agents or invitees, the Trader must pay the cost of making good the damage to the Distributor.
- 12.5 **Interference or damage to Trader's Equipment or Customer's Installations:** The Distributor must ensure that it and its employees, agents and invitees do not interfere with or damage the Trader's Equipment or the Customer's Installation (including, without limitation, for a period of 6 months after termination of this Agreement) without the prior written consent of the Trader or the Customer (as the case may be) (except to the extent that emergency action has to be taken to protect the health or safety of persons or to prevent damage to property).
- 12.6 **Costs of making good any damage:** If the Trader's Equipment or the Customer's Installation is damaged by the negligence or wilful act or omission of the Distributor or the Distributor's employees, agents or invitees, the Distributor must pay the cost of making good the damage to the Trader or the Customer (as the case may be). This clause 12.6 is for the benefit of the Customer and may be enforced by the Customer under the Contracts (Privity) Act 1982.
- 12.7 **Interference with the Network:** The Trader must, subject to clause 29.1, include in each of its Customer Agreements a provision to the effect that the Customer must not:
- (a) inject or attempt to inject any energy into the Network, unless the Customer is also a Distributed Generator and there is a Connection Contract in place between the Distributed Generator and the Distributor; or

- (b) without the prior written agreement of the Distributor, convey or receive or attempt to convey or receive any signal or other form of communication or any other thing (other than energy in accordance with this Agreement and load control signals transmitted by or with the written consent of the Distributor) over the Network or cause or permit any other person to do so.
- 12.8 **Connection of Distributed Generation:** The Distributor and the Trader must comply with their obligations under Part 6 of the Code, in respect of connecting Distributed Generation. The Trader must:
- (a) purchase electricity from Distributed Generation connected to the Network only if the Trader has confirmation from the Distributor that there is a Connection Contract in place between the Distributed Generator and the Distributor; and
 - (b) notify the Distributor if the Trader has reasonable grounds to suspect that a Distributed Generator does not have a Connection Contract with the Distributor and has connected its Distributed Generation directly or indirectly to the Network.
- 12.9 **Notification of interference, damage or theft:** If the Distributor or Trader discovers any interference or damage to the other party's equipment or the Customer's Installation, or evidence of theft of electricity, loss of electricity or interference with the Network, the discovering party must notify the affected party as soon as it is practicable to do so.
- 12.10 **Additional Metering Equipment:** Either party may, at its own cost, install and maintain additional Metering Equipment (whether owned by that party or by a third party) for metering data verification purposes or other purposes, provided that:
- (a) the additional Metering Equipment does not interfere with any other equipment owned or used by the other party; and
 - (b) the party installing the additional Metering Equipment ensures that it is installed and maintained in accordance with Good Electricity Industry Practice.
- 12.11 **Responsibility for damages:** If the party installing or maintaining additional Metering Equipment (the "**First Party**") causes damage to the equipment or invalidates the existing Metering Equipment certification of the other party, the First Party must:
- (a) meet the cost of making good the damage or recertifying the Metering Equipment (including the cost of any fines or penalties imposed under the Code as a result of the damage or invalidation of certification); and
 - (b) if the damage invalidates the existing Metering Equipment certification, and the other party incurs costs because of its use of the Metering Equipment during the period of non-certification, the First Party must reimburse the other party for those costs, except to the extent that the indemnified party knew or ought reasonably to have known that the Metering Equipment was uncertified.
- 12.12 **Safe Housing of Equipment:** The Trader must, subject to clause 29.1, include in each of its Customer Agreements (subject to any written agreement between the Trader and the Distributor) an undertaking by the Customer to provide and maintain, at no cost to the Distributor, suitable space for the safe and secure housing of any of the Distributor's Equipment relating primarily to the connection to the Network of Points of Connection at the Customer's Premises that the Distributor determines is necessary.
- 12.13 **The Network:** The Trader must, subject to clause 29.1, include in each of its Customer Agreements an acknowledgement by the Customer that:
- (a) the Network, including any part of the Network situated on Customer's Premises, is and will remain the sole property of the Distributor; and

- (b) no provision of the Customer Agreement nor the provision of any services by the Distributor in relation to the Network will confer on the Customer or any other person any right of property or other interest in or to any part of the Network or any Distributor's Equipment that is used to provide any such services.

13. NETWORK CONNECTION STANDARDS

13.1 The Distributor must Publish the current version of its Network Connection Standards.

13.2 The Trader must:

- (a) subject to clause 29.1, include in each of its Customer Agreements an undertaking that the Customer must ensure that the Customer Installation complies at all times with Network Connection Standards and all relevant legal requirements; and
- (b) include in each of its Customer Agreements a statement that the Network Connection Standards are Published on the Distributor's website.

13.3 If the Trader becomes aware that a Customer's Installation does not comply with the Network Connection Standards, the Trader must notify the Distributor of the ICP identifier of the Customer's Installation and the details of the non-compliance as soon as reasonably practicable after becoming aware of the non-compliance.

14. MOMENTARY FLUCTUATIONS AND POWER QUALITY

14.1 Subject to clause 29.1, the Trader must:

- (a) include in each of its Customer Agreements an acknowledgement that the Customer recognises that surges or spikes:
 - (i) are momentary fluctuations in voltage or frequency that can occur at any time;
 - (ii) may cause damage to the Customer's sensitive equipment; and
 - (iii) are not treated as interruptions; and
- (b) advise each of its Customers of the steps the Customer should take to protect their sensitive equipment from such surges or spikes, or inform the Customer of where to find information about the steps the Customer should take.

14.2 If a Customer, or the Trader on behalf of a Customer, raises a concern with the Distributor regarding the power quality (i.e. frequency or voltage), reliability or safety of the Customer's supply, the Distributor must investigate those concerns, and, if appropriate, install equipment at the Customer's Point of Connection to measure power quality, and provide the results of such measurements to the Trader. If such installation requires the Distribution Services to be interrupted, the Distributor must restore the Distribution Services as soon as reasonably practicable.

15. CUSTOMER SERVICE LINES

15.1 **Responsibility for Customer Service Lines:** The Trader must, subject to clause 29.1, include in each of its Customer Agreements a statement to the effect that it is the Customer's responsibility to maintain the Customer Service Lines in a safe condition using a suitably qualified person (except if and to the extent that the Distributor is required by law to provide and maintain those lines or the Distributor agrees to maintain the Customer Service Lines).

16. TREE TRIMMING

16.1 Customer Agreements to provide Customer is responsible for tree trimming

required by the regulations: Subject to any written agreement between a Customer and the Distributor, and any statutory provision, the Trader must ensure that each of its Customer Agreements provides that the Customer must comply with its obligations under the Electricity (Hazards from Trees) Regulations 2003 in respect of any trees that the Customer has an interest in that are near the Grid or any line that forms part of the Network.

16.2 Distributor's right and obligations: The Distributor must comply with the Electricity (Hazards from Trees) Regulations 2003.

17. CONNECTIONS, DISCONNECTIONS AND DECOMMISSIONING

17.1 Policies and procedures: The Distributor and the Trader must comply with the provisions of this clause and the policies and procedures set out in Schedule 6 and the relevant provisions of the Code in respect of carrying out:

- (a) new connections to the Network;
- (b) capacity changes to existing connections;
- (c) Temporary Disconnections and associated Reconnections;
- (d) Vacant Site Disconnections and associated Reconnections;
- (e) Decommissioning; and
- (f) connections that incorporate Unmetered Load.

17.2 Information exchange: When exchanging information related to a Network connection, the Distributor and Trader must comply with the relevant EIEPs set out in Schedule 3.

17.3 Warranted Persons: The Distributor and Trader must each ensure that any person that it engages to carry out any activity related to Energising, De-energising, and Decommissioning an ICP that requires work on the Network, or performing any other work on the Network, is a Warranted Person.

17.4 Medically dependent and vulnerable Customers: Despite any other provision in this Agreement (including Schedule 6), if the Trader identifies a Customer as being either a medically dependent customer or a vulnerable customer for the purposes of the Electricity Authority guidelines on arrangements to assist vulnerable and medically dependent customers, the Distributor and Trader must work together in good faith in respect of any proposed Temporary Disconnection of the Customer, and must comply with the notice requirements specified in those guidelines to the fullest extent practicable in the circumstances.

17.5 Updating the Registry with ICP information: If an ICP is created as the result of a new connection to the Network, or an ICP is disconnected, reconnected, or decommissioned, the Distributor and Trader must provide information to the Registry in accordance with the requirements specified in the Code.

17.6 Unmetered Load: If the Network includes 1 or more ICPs across which Unmetered Load is shared for which the Trader is responsible:

- (a) the Trader must provide information about each ICP to the Registry in accordance with the requirements specified in the Code; and
- (b) the Distributor must:

- (i) maintain a database of all such ICPs that includes all information necessary to support the Registry;
- (ii) if the Distributor becomes aware of any change to any Unmetered Load, the Distributor must update the database and the Registry and notify the Trader of those changes in accordance with the Code; and
- (iii) if the Trader notifies the Distributor that Unmetered Load is shared between 2 or more Customers, the Distributor must, if requested by the Trader, allocate the Unmetered Load to the appropriate ICP and advise the Trader, and all other affected traders, of the allocation in accordance with the Code; and
- (c) the Trader and the Distributor must align their processes and populate the Registry, including in particular the format of Unmetered Load data populated in the Registry, in accordance with the Electricity Authority's "Guidelines for Unmetered Load Management – Version 2.1" dated 1 November 2010, as updated from time to time.

17.7 Decommissioning subject to continuance of supply obligations: The parties acknowledge that the Distributor's right to Decommission an ICP is subject to subpart 3 of the Act.

PART IV – OTHER RIGHTS

18. BREACHES AND EVENTS OF DEFAULT

18.1 Breach of Agreement: Subject to clause 18.6, if either party (the "**Defaulting Party**") fails to comply with any of its obligations under this Agreement, the other party may notify the Defaulting Party that it is in breach of this Agreement. The Defaulting Party must remedy a breach within the following timeframe:

- (a) in the case of a Serious Financial Breach by the Trader, within 2 Working Days of the date of receipt of such notice;
- (b) in any other case, within 5 Working Days of the date of receipt of such notice.

18.2 Distributor will exercise other remedies for Serious Financial Breaches: If the Trader has provided acceptable security in accordance with clause 10.2(b), and the Trader has committed a Serious Financial Breach of the type described in paragraph (a) of the definition of Serious Financial Breach, the Distributor may give notice to the Trader under clause 18.1 and a notification under clause 18.4, but only if:

- (a) the value of the acceptable security is less than the amount required to remedy the Serious Financial Breach; or
- (b) the Trader has arranged for a third party to provide acceptable security in accordance with clause 10.2(b)(ii) or (iii), and the Distributor has called on the third party to make payment in accordance with clause 10.24(b), and the third party has failed to do so within 2 Working Days after receiving notice from the Distributor to do so.

18.3 Failure to remedy breach is an Event of Default: If the Defaulting Party fails to remedy the breach within the relevant timeframe set out in clause 18.1:

- (a) the breach is an Event of Default for the purposes of this Agreement;
- (b) the other party must use reasonable endeavours to speak with the Chief Executive or another senior executive of the Defaulting Party in relation to the Event of

Default, and to notify him or her of the other party's intention to exercise its rights under this clause 18; and

- (c) the Defaulting Party must continue to do all things necessary to remedy the breach as soon as possible.

18.4 Notification of Events of Default: If the Event of Default is any one of the following:

- (a) a Serious Financial Breach (in the case of the Trader only);
- (b) a material breach of the Defaulting Party's obligations under this Agreement that is not in the process of being remedied to the reasonable satisfaction of the other party; or
- (c) the Defaulting Party has failed on at least two previous occasions within the last 12 months to meet an obligation under this Agreement within the time specified and has received notice of such failures from the other party in accordance with clause 18.1 and, whether each individual failure is in itself material or not, if all such failures taken cumulatively materially adversely affect the other party's rights or the other party's ability to carry out its obligations under this Agreement or, if the Defaulting Party is the Trader, the Distributor's ability to carry out its obligations under any agreement with any other electricity trader,

then no earlier than 1 Working Day after the end of the timeframe set out in clause 18.1, the other party may issue a notice of termination in accordance with clause 19.2 and, if the breach is a Serious Financial Breach by the Trader, the Distributor may notify the Electricity Authority and/or the clearing manager that clause 14.41(h) of the Code applies.

18.5 Breaches that are not Events of Default: If a breach is not an Event of Default, the non-breaching party may:

- (a) refer the matter to Dispute resolution in accordance with clause 23 no earlier than 1 Working Day after the end of the timeframe set out in clause 18.1; and
- (b) exercise any other legal rights available to it.

18.6 Insolvency Event: Despite clause 18.1, if either party is subject to an Insolvency Event, the other party may:

- (a) immediately issue a notice of termination in accordance with clause 19.2;
- (b) exercise any other legal rights available to it; and
- (c) if the Insolvency Event involves a Serious Financial Breach by the Trader, the Distributor may notify the Electricity Authority and/or the clearing manager that clause 14.41(h) of the Code applies.

19. TERMINATION OF AGREEMENT

19.1 Either party may terminate this Agreement: In addition to any other termination right in this Agreement:

- (a) **Termination by agreement:** both parties may agree to terminate this Agreement;
- (b) **Dispute resolution:** either party may terminate this Agreement in accordance with any agreement reached or determination made as a result of the Dispute resolution process set out in clause 23 if the other party has committed a breach that (in the case of the Trader) is not a Serious Financial Breach;
- (c) **Illegality:** either party may terminate this Agreement 1 Working Day after notice is given by either party to the other party terminating this Agreement for the reason that performance of any material provision of this Agreement by either

party has to a material extent become illegal and the parties acting reasonably agree that despite the operation of clause 32.4 it is not practicable for this Agreement to continue;

- (d) **Termination by the Trader if the Trader is not supplying electricity on the Network:** the Trader may terminate this Agreement by giving 5 Working Days' notice to the Distributor if the Trader is not supplying electricity to any Customer through the Network;
- (e) **Termination by the Distributor if the Trader is not supplying electricity on the Network:** the Distributor may terminate this Agreement by giving 5 Working Days' notice following any continuous period of 180 Working Days or more during which the Trader has not supplied any Customers with electricity through the Network; or
- (f) **Force majeure:** either party may terminate this Agreement by giving 10 Working Days' notice to the other party, if:
 - (i) notice of a Force Majeure Event is given by either party to the other under clause 21.3; and
 - (ii) the Force Majeure Event is of such magnitude or duration that it is impracticable or unreasonable for the party giving notice of termination to remain bound by its obligations under this agreement, provided that if the party who wishes to terminate this agreement is the party that gave notice of the Force Majeure Event, the party has complied with clauses 21.3 and 21.4.

19.2 Termination of Agreement for Event of Default or Insolvency Event: In addition to any other termination right in this Agreement, if a party has breached this Agreement and the breach is an Event of Default, or a party has become subject to an Insolvency Event, the other party may (immediately in the case of an Insolvency Event, and not less than 1 Working Day after the end of the timeframe set out in clause 18.1 in the case of an Event of Default) issue a notice of termination to the defaulting party, effective either:

- (a) no less than 5 Working Days after the date of such notice; or
- (b) immediately if the Trader has ceased to supply electricity to all Customers.

19.3 Notice of termination lapses: A notice of termination given under clause 19.2 will lapse if the defaulting party remedies the Event of Default or Insolvency Event (as applicable) prior to the notice of termination becoming effective or the other party withdraws or extends the effective date of its notice.

19.4 Termination not to prejudice rights: Termination of this agreement by either party will be without prejudice to all other rights or remedies of either party, and all rights of that party accrued as at the date of termination.

19.5 Trader remains liable for charges for remaining Customers: If this Agreement is terminated by the Distributor for any reason, the Trader remains liable to pay any charges for Distribution Services that arise in relation to connected Customers that have not been switched to another trader, or whose ICPs have not been disconnected by the Distributor (unless the Distributor has received notice to disconnect the ICPs and has not done so, in which case the Trader will not be liable to pay any charges for Distribution Services in respect of the ICP from the date that is 2 Working Days after the date the Distributor received the notice to disconnect the ICP). The Distributor may charge for such Distribution Services at the prices that apply at the time of termination.

- 19.6 **Obligations to continue until termination:** The parties must continue to meet their responsibilities under this Agreement up to the effective date of termination.
- 19.7 **Events to occur on termination:** On the effective date of termination:
- (a) the parties must have returned or certified the destruction of the other party's Confidential Information; and
 - (b) the Distributor must cease to provide the Distribution Services to the Trader.
- 19.8 **Survival of terms:** Any terms of this Agreement that by their nature extend beyond its expiration or termination remain in effect until fulfilled.

20. CONFIDENTIALITY

- 20.1 **Commitment to preserve confidentiality:** Each party to this Agreement undertakes that it will:
- (a) preserve the confidentiality of, and will not directly or indirectly reveal, report, publish, transfer or disclose the existence of any Confidential Information except as provided for in clause 20.2; and
 - (b) only use Confidential Information for the purposes expressly permitted by this Agreement.
- 20.2 **Disclosure of Confidential Information:** Either party may disclose Confidential Information in any of the following circumstances:
- (a) **By agreement in writing:** if the Trader and Distributor agree in writing to the disclosure of the information;
 - (b) **Provided in this Agreement:** if disclosure is expressly provided for under the terms of this Agreement;
 - (c) **Public domain:** if at the time of receipt by the party the Confidential Information is in the public domain or if, after the time of receipt by either party, the Confidential Information enters the public domain (except where it does so as a result of a breach by either party of its obligations under this clause 20 or a breach by any other person of that person's obligation of confidence);
 - (d) **Required to disclose:** if either party is required to disclose Confidential Information by:
 - (i) law (including the Code), or by any statutory or regulatory body or authority; or
 - (ii) any judicial or other arbitration process; or
 - (iii) the regulations of any stock exchange on which the share capital of either party is from time to time listed or dealt in;
 - (e) **Released to employees, directors, agents or advisors:** if the Confidential Information is released to the employees, directors, agents or advisors of the party, provided that:
 - (i) the information is disseminated only on a "need to know" basis;
 - (ii) recipients of the Confidential Information must be made fully aware of the party's obligations of confidence in relation thereto; and
 - (iii) any copies of the information clearly identify it as Confidential Information;
 - (f) **Released to a bona fide potential purchaser:** if the Confidential Information is released to a bona fide potential purchaser of the business or any part of the business of the Distributor or the Trader, subject to that bona fide potential

purchaser having signed a confidentiality agreement enforceable by the other party in a form that reflects the obligations in the agreement; and

- (g) **Released to a Customer:** if the Confidential Information relates to a Customer, and the Customer has requested the release of the information.

20.3 **Limit for breach:** A party's liability for breach of this clause 20 will not be limited by clause 24.

20.4 **Unauthorised disclosure:** For the avoidance of doubt, a party will be responsible for any unauthorised disclosure of Confidential Information made by that party's employees, directors, agents or advisors and by a bona fide potential purchaser to whom Confidential Information has been disclosed by that party under clause 20.2(f).

21. FORCE MAJEURE

21.1 **Force Majeure Event:** A Force Majeure Event occurs if:

- (a) a party fails to comply with or observe any provision of this Agreement (other than payment of any amount due);
- (b) such failure is caused by:
 - (i) any event or circumstance occasioned by, or in consequence of, any act of God, being an event or circumstance:
 - (A) due to natural causes, directly or indirectly and exclusively without human intervention; and
 - (B) that could not have reasonably been foreseen or, if foreseen, could not reasonably have been resisted;
 - (ii) strikes, lockouts, other industrial disturbances, acts of public enemy, wars, terrorism, blockades, insurrections, riots, epidemics, aircraft or civil disturbances;
 - (iii) the binding order or requirement of any court, any government, any local authority, the Rulings Panel, the Electricity Authority, or the System Operator, which the party could not reasonably have avoided;
 - (iv) the partial or entire failure of supply or availability of electricity to the Network; or
 - (v) any other event or circumstance beyond the control of the party invoking this clause 21.1; and
- (c) the failure did not occur because the party invoking this clause failed to act in accordance with Good Electricity Industry Practice.

21.2 **No liability:** A Force Majeure Event will not give rise to any cause of action or liability based on default of the provision that the party has failed to comply with or observe due to the Force Majeure Event.

21.3 **Notice:** If a party becomes aware that a Force Majeure Event may occur or has occurred, it must:

- (a) notify the other party as soon as reasonably practicable that it is invoking this clause;
- (b) provide the full particulars of the potential or actual Force Majeure Event; and
- (c) provide ongoing updates until the Force Majeure Event is resolved (if applicable).

21.4 **Avoidance and mitigation of effect of Force Majeure Event:** The party invoking clause 21.1 must:

- (a) use all reasonable endeavours to avoid or overcome the Force Majeure Event;

- (b) use all reasonable endeavours to mitigate the effects or the consequences of the Force Majeure Event; and
 - (c) consult with the other party on the performance of the obligations referred to in paragraphs (a) and (b).
- 21.5 **No obligation to settle:** Nothing in clause 21.4(a) is to be construed as requiring a party to settle a strike, lockout or other industrial disturbance by acceding, against its judgement, to the demands of opposing parties.

22. AMENDMENTS TO AGREEMENT

22.1 A change may be made to this Agreement:

- (a) by the written agreement of the parties;
 - (b) if the change is a change to the information referred to in Schedule 7 and the change is made in accordance with clause 7;
 - (c) to avoid doubt, if the change is a change to a Loss Factor made in accordance with clause 6;
 - (d) if the change is required by law, including the Code; and
 - (e) if the change is made in accordance with clause 22.2 and involves:
 - (i) permanent disconnection of all or part of the Network from a GXP; or
 - (ii) the construction of a new GXP that connects to the Network.
- 22.2 **Change to GXPs:** The following procedure will apply to changes contemplated by clause 22.1(e):

- (a) **Notice of Proposal:** the Distributor must notify the Trader that it proposes to:
 - (i) construct and operate, or agree with a Grid Owner to have constructed and operated, a new GXP; or
 - (ii) permanently disconnect the Network from a GXP, such proposed change being a "Proposal";
- (b) **Information about Proposal:** the Distributor must provide the following details in writing to the Trader:
 - (i) the ICPs, groups of ICPs or geographical area(s) that will be affected by the Proposal; and
 - (ii) an estimate of the overall costs of the Proposal and a description of any benefits of the Proposal;
- (c) **Consultation:** the Distributor must consult with the Trader about the Proposal for a reasonable period of time; and
- (d) **Implementation:** at the conclusion of the process set out in clause 22.2(a) to (c), if the Distributor decides to proceed with the Proposal, the Distributor may proceed with the Proposal (including incorporating any changes to the original version of the Proposal arising out of consultation with the Trader or other electricity traders). The Distributor must provide the Trader at least 20 Working Days' notice of the date on which the commissioning of or permanent disconnection from the GXP is expected to be complete, and this Agreement will be deemed to be varied from that date to the extent necessary as a result of the commissioning or permanent disconnection.

23. DISPUTE RESOLUTION PROCEDURE

- 23.1 **Internal dispute resolution processes:** The parties intend that, if possible, any differences between them concerning this Agreement will be resolved amicably by good faith discussion. When a difference or dispute arises in relation to this Agreement, including any question concerning its existence, validity, interpretation, performance, breach or termination ("**Dispute**"), the party claiming the existence of a Dispute may provide notice describing such Dispute to the other party. If notice is provided, representatives of the parties must promptly meet to attempt to resolve the Dispute. Where the Dispute is not resolved by discussion between the parties within 15 Working Days of such notice being given, the matter is to be referred to the Chief Executives (or a person nominated by the Chief Executive) of the parties for resolution.
- 23.2 **Right to refer dispute to mediation:** If the Dispute cannot be resolved by the Chief Executives within 15 Working Days of the matter being referred to them, either party may give a notice to the other requiring that the Dispute be referred to mediation.
- 23.3 **Appointment of mediator:** Within 10 Working Days of receipt of the notice referring the Dispute to mediation, the parties must attempt to agree on the identity of the mediator and, if they cannot agree within that timeframe, the mediator will be appointed by the President (or equivalent) of the New Zealand chapter of LEADR.
- 23.4 **Conduct of mediation:** In consultation with the mediator, the parties must determine a location, timetable and procedure for the mediation or, if the parties cannot agree on these matters within 7 Working Days of the appointment of the mediator these matters will be determined by the mediator.
- 23.5 **Appointment of representative:** Each party must appoint a representative for the purposes of the mediation who must have authority to reach an agreed solution and effect settlement.
- 23.6 **Conduct during mediation:** In all matters relating to the mediation:
- (a) **Act in good faith:** the parties and their representatives must act in good faith and use their best endeavours to ensure the expeditious completion of the mediation procedure;
 - (b) **Without prejudice:** all proceedings and disclosures will be conducted and made without prejudice to the rights and positions of the parties in any subsequent arbitration or other legal proceedings;
 - (c) **Mediator's decisions binding only on conduct of the mediation:** any decision or recommendation of the mediator will not be binding on the parties in respect of any matters whatsoever except with regard to the conduct of the mediation;
 - (d) **Costs of mediation borne equally:** the costs of the mediation, other than the parties' legal costs, will be borne equally by the parties, who will be jointly and severally liable to the mediator in respect of the mediator's fees.
- 23.7 **Arbitration to resolve disputes:** Either party may refer the Dispute to arbitration if the Dispute:
- (a) is not resolved through mediation within 40 Working Days (or such longer period agreed by the parties) of the appointment of a mediator; or
 - (b) is not resolved by negotiation of the Chief Executives (or their representatives) in accordance with clause 23.1 within 15 Working Days of the matter being referred to them and neither party referred the Dispute to mediation.

- 23.8 **Arbitration:** A Dispute referred to arbitration under clause 23.7 must be resolved by a sole arbitrator under the Arbitration Act 1996. The arbitrator's decision will be final and binding on the parties.
- 23.9 **Choice of arbitrator:** The sole arbitrator must be appointed by the parties. If the parties cannot agree on the identity of the arbitrator within 10 Working Days of the referral in clause 23.7, the arbitrator will be appointed by the President of the New Zealand Law Society.
- 23.10 **Court proceedings:** Either party may initiate court proceedings in relation to the Dispute if the Dispute:
- (a) is not resolved through mediation within 40 Working Days (or such longer period agreed by the parties) of the appointment of a mediator; or
 - (b) if neither party referred the Dispute to mediation, the Dispute is not resolved by negotiation of the Chief Executives (or their representatives) in accordance with clause 23.1 within 15 Working Days of the matter being referred to them.
- 23.11 **No connection to previous mediator or previous mediation:** If the Dispute has been referred to mediation, the mediator may not be called by either party as a witness, and no reference may be made to any determination issued by the mediator in respect of the matter in Dispute during any subsequent arbitration or legal action on the matter in Dispute.
- 23.12 **Urgent Relief:** Despite any other provision of this Agreement, each party may take steps to seek urgent injunctive or equitable relief before an appropriate court.

24. LIABILITY

- 24.1 **Payments of charges:** Nothing in this clause 24 will operate to limit the liability of either party to pay all charges and other sums due under this Agreement.
- 24.2 **Direct damage:** Except in respect of liability under clauses 20, 24.9, 25 and 27, each party (and its officers, employees and agents) will be liable under or in connection with this Agreement (whether in contract, tort (including negligence) or otherwise) to the other party for only direct damage to the physical property of any person ("**Direct Damage**") that results from a breach of this Agreement, negligence, or failure to exercise Good Electricity Industry Practice.
- 24.3 **Consequential loss excluded:** Except in respect of liability under clauses 20, 24.9, 25 and 27, neither party (nor any of their respective officers, employees or agents) will be liable under or in connection with this Agreement (whether in contract, tort (including negligence) or otherwise) to the other party for:
- (a) any loss of profit, loss of revenue, loss of use, loss of opportunity, loss of contract, or loss of goodwill of any person;
 - (b) any indirect or consequential loss (including, but not limited to, incidental or special damages);
 - (c) any loss resulting from liability of a party to another person (except any liability for Direct Damage that arises under clause 24.2); or
 - (d) any loss resulting from loss or corruption of, or damage to, any electronically-stored or electronically-transmitted data or software.
- 24.4 **No liability in tort, contract etc:** Except as expressly provided in clauses 20, 24, 25, and 27 the Distributor's liability to the Trader and the Trader's liability to the Distributor, whether in tort (including negligence), contract, breach of statutory duty,

equity, or otherwise arising from the relationship between them and of any nature whatsoever relating to the subject matter of this Agreement is excluded to the fullest extent permitted by law.

24.5 **Distributor not liable:** Except as provided in clause 24.9, the Distributor will not be liable for:

- (a) any momentary fluctuations in the voltage or frequency of electricity conveyed or nonconformity with harmonic voltage and current levels; or
- (b) any failure to convey electricity to the extent that:
 - (i) such failure arises from any act or omission of any Customer or other person excluding the Distributor and its officers, employees or agents;
 - (ii) such failure arises from:
 - (A) a failure to convey or reduction of injection or supply of electricity into the Network; or
 - (B) an interruption in the conveyance of electricity in the Network, if the failure or interruption was requested by the System Operator or was done under a nationally or regionally coordinated response to a shortage of electricity;
 - (iii) such failure arises from any defect or abnormal conditions in or about any Customer's Premises;
 - (iv) the Distributor was taking any action in accordance with this Agreement including clause 4.4;
 - (v) such failure arises from any act or omission of the System Operator, a Generator, or a Grid Owner, unless and to the extent that the Distributor has obtained a service guarantee from the System Operator or Grid Owner and the System Operator or Grid Owner has paid the Distributor under the relevant service guarantee, in which case the Distributor will be liable to the Trader only to the extent of the Trader's proportionate share of such payment having regard to all other traders and all customers affected by the relevant event, as determined by the Distributor (acting reasonably); or
 - (vi) such failure arises because the Distributor is prevented from making necessary repairs (for example by police at an accident scene), except to the extent that the failure is caused or contributed to by the Distributor not acting in accordance with this Agreement; or
- (c) any failure to perform any obligation under this Agreement caused by the Trader's failure to comply with this Agreement, except to the extent that the failure is caused or contributed to by the Distributor not acting in accordance with this Agreement.

24.6 **Trader not liable:** The Trader will not be liable for:

- (a) any failure to perform any obligation under this Agreement caused by the Distributor's failure to comply with this Agreement; or
- (b) any failure to perform any obligation under this Agreement arising from any defect or abnormal conditions in the Network,

except to the extent that the failure is caused or contributed to by the Trader not acting in accordance with this Agreement.

24.7 **Limitation of liability:** Subject to clauses 24.1 and 24.8, but despite any other provision of this Agreement, the maximum total liability of each party under or in

connection with this Agreement (whether in contract, tort (including negligence) or otherwise) for any single event or series of connected events will not in any circumstances exceed the lesser of \$10,000 for each ICP on the Network at which the Trader supplied electricity on the day of the event, or \$2,000,000.

24.8 Exclusion: Clause 24.7:

- (a) does not limit a party's liability under clauses 20, 24.9, 25 or 27;
- (b) is subject to any contrary requirements of the Dispute Resolution Scheme; and
- (c) does not apply to loss incurred by the Distributor if:
 - (i) the loss was caused by a Customer failing to comply with the Distributor's Network Connection Standards;
 - (ii) the Trader is required by this Agreement to include in each of its Customer Agreements a provision requiring the Customer to comply with those Network Connection Standards; and
 - (iii) the Customer Agreement between the Trader and the Customer did not include such a provision.

24.9 Consumer Guarantees Act: The following provisions apply:

- (a) subject to clause 29.1, the Trader must, to the fullest extent permitted by law and including if the Customer is acquiring or holds itself out as acquiring electricity for the purpose of a business, exclude from each of its Customer Agreements (which includes a contract between the Trader and a purchaser of electricity that is not an end user) all warranties, guarantees or obligations:
 - (i) imposed on the Distributor by the Consumer Guarantees Act 1993 or any other law concerning the services to be provided by the Distributor under this Agreement ("Distributor Warranties"); and
 - (ii) imposed on the Trader by the Consumer Guarantees Act 1993 concerning the supply of electricity by the Trader under the Customer Agreement ("Trader Warranties");
- (b) if the Customer on-supplies electricity to an end-user the Trader must, as a condition of any Customer Agreement, require the Customer to include provisions in all agreements between the Customer and an end-user, excluding all Distributor Warranties and Trader Warranties to the fullest extent permitted by law, including if the end-user is acquiring, or holds itself as acquiring, electricity for the purposes of a business; and
- (c) to avoid doubt, nothing in this clause 24.9 affects the rights of any Customer under the Consumer Guarantees Act 1993 that cannot be excluded by law, nor does it preclude the Trader from offering in its Customer Agreements its own warranties, guarantees or obligations pertaining to distribution services.

24.10 Distributor liabilities and Customer agreements: The Trader must, subject to clause 29.1, include in each of its Customer Agreements clear and unambiguous clauses to the effect that:

- (a) the Customer must indemnify the Distributor against any direct loss or damage caused or contributed to by the fraud of, dishonesty of or wilful breach of the Customer Agreement by the Customer or any of its officers, employees, agents or invitees arising out of, or in connection with, the Distribution Services provided under this Agreement; and

- (b) to the extent permitted by law, the Distributor will have no liability to the Customer in contract, tort (including negligence) or otherwise in respect of the supply of electricity to the Customer under the Customer Agreement.

24.11 **Benefits to extend:** Each party agrees that its obligations under this clause 24 and clauses 25 to 28 (and clause 29.3 in respect of the Trader) constitute promises conferring benefits on each party's officers, employees and agents that are intended to create, in respect of the benefit, an obligation enforceable by those officers, employees and agents and accordingly, the provisions of the Contracts (Privity) Act 1982 apply to its promises under this clause 24.

25. INDEMNITY

25.1 **Distributor indemnity:** The Distributor indemnifies the Trader as follows.

If:

- (a) there has been a failure of the acceptable quality guarantee in the Consumer Guarantees Act 1993 in the supply of electricity to a Customer by the Trader (a "Failure");
 - (b) the Failure was wholly or partially the result of an event, circumstance, or condition associated with the Network;
 - (c) the Failure was not a result of the Distributor complying with a rule or an order with which it was legally obliged to comply;
 - (d) the Failure was not a result of action taken by the System Operator under the Act;
 - (e) the Customer obtains a remedy under Part 2 of the Consumer Guarantees Act 1993 in relation to the Failure against the Trader; and
 - (f) that remedy is a cost to the Trader (a "**Remedy Cost**"),
- the Distributor indemnifies the Trader for the Remedy Cost ("**Distributor's Indemnity**").

25.2 **Amount payable limited:** The amount of the Distributor's liability under the Distributor's Indemnity is limited to the proportion of the Remedy Cost that is attributable to the event, circumstance, or condition associated with the Network.

25.3 However:

- (a) if the Distributor pays compensation to a Customer ("**Payment A**") in respect of a service provided directly by the Distributor to the Customer; and
- (b) the Trader incurs Remedy Costs in relation to the Customer for a failure of acceptable quality that arose from the same event, circumstance, or condition that led to the payment of Payment A,

then the amount that the Trader would otherwise recover from the Distributor in respect of that Customer will be reduced by the amount of Payment A.

26. CLAIMS UNDER THE DISTRIBUTOR'S INDEMNITY

26.1 **Claim against Trader:** If a Customer makes a claim against the Trader in relation to which the Trader wishes to be indemnified by the Distributor under the Distributor's Indemnity (a "Claim"), the Trader must:

- (a) give written notice of the Claim to the Distributor as soon as reasonably practicable after the Trader determines that it wishes to be indemnified by the Distributor, specifying the nature of the Claim in reasonable detail;

- (b) make available to the Distributor all information that the Trader holds in relation to the Claim that is reasonably required by the Distributor; and
 - (c) subject to clause 26.4(b), not make any determination, admission, settlement or compromise in respect of the Claim without first consulting the Distributor in respect of the Claim.
- 26.2 **Distributor may take actions in respect of a Claim:** If the Distributor is notified of a potential Claim, the Distributor may:
- (a) communicate directly with the relevant Customer in relation to the Claim; and
 - (b) assume management and defence of the Claim.
- 26.3 **Distributor must advise Trader:** The Distributor must advise the Trader as soon as practicable after being notified of the Claim whether or not the Distributor intends to assume the management and defence of the Claim.
- 26.4 **Management and defence of Claim:** If the Distributor assumes the management and defence of the Claim:
- (a) the Distributor may, subject to the terms of this Agreement, determine the conduct of the Claim; and
 - (b) the Trader may advise the relevant Customer and the Dispute Resolution Scheme that the Distributor is dealing with the Claim.
- 26.5 **Conduct:** The party that conducts the management and defence of the Claim must ensure that:
- (a) the other party is kept informed on a timely basis of any developments in relation to the Claim; and
 - (b) the other party and its legal counsel (to the extent applicable) are consulted in a timely manner before the party managing and defending the Claim takes any significant steps in relation to the Claim, so that the reputation of the other party is not unfairly harmed.
- 26.6 **Distributor to notify Trader if asserting Indemnity is not applicable:** If, in respect of any Claim in respect of which the Distributor has assumed the management and defence, the Distributor intends to assert that the Distributor's Indemnity does not apply, the Distributor must promptly notify the Trader accordingly. In that event, the Trader may resume the conduct of the management and defence of the Claim.
- 26.7 **Payment arrangements:** The following payment arrangements apply:
- (a) the Trader may require the Distributor to pay to the Trader the out-of-pocket costs incurred by the Trader in managing and defending or settling the Claim, at not less than monthly intervals, on presentation of documents supporting the claim for payment, as and when those costs are incurred by the Trader; and
 - (b) subject to clause 26.8, the Distributor must promptly pay the Trader the amounts due under the Distributor's Indemnity, following the Distributor's liability:
 - (i) being agreed by the Distributor with the Trader; or
 - (ii) being determined by the Dispute Resolution Scheme; or
 - (iii) otherwise being finally determined in accordance with this Agreement.
- 26.8 **Early Payment Amount:** If the Trader becomes legally obliged to pay a Remedy Cost to the Customer before the Distributor's liability to pay to the Trader an amount equal to that Remedy Cost being agreed or finally determined under clause 26.7(b), the Distributor must promptly pay to the Trader an amount equal to that Remedy Cost even

though the Distributor's liability to make such payment has not been agreed or finally determined ("**Early Payment Amount**"), provided that:

- (a) the Trader has used reasonable endeavours to avoid incurring such Remedy Cost and it would be unreasonable in the circumstances for the Trader not to pay such Remedy Cost to the Customer at that time;
- (b) the Distributor is not required to pay an Early Payment Amount if and to the extent that, following such payment, the aggregate amount paid by the Distributor to the Trader in respect of the Early Payment Amount and all Early Payment Amounts previously paid would exceed the lesser of \$1,000,000 and the Distributor's reasonable estimate of the Distribution Services charges payable by the Trader to the Distributor in respect of any period not more than 2 months. For the purpose of calculating the Early Payment Amount, any Early Payment Amount previously paid must be disregarded if, at the time of the calculation, the Distributor's liability to pay the Trader for the Remedy Cost to which the Early Payment Amount relates has been agreed or finally determined as contemplated in clause 26.7(b) (\$1,000,000 being the maximum amount that the Trader is entitled to receive in respect of Early Payment Amounts if the liability of the Distributor to the Trader to pay Remedy Costs to which such Early Payment Amounts relates is not at that time certain); and
- (c) the Trader must promptly repay amounts paid by the Distributor to the Trader (including under clause 26.7(a)) in respect of any liability to or on behalf of the Trader under clause 26.7(a) to the extent that:
 - (i) the Claim is or becomes a claim for which the Trader is not entitled to be indemnified under clause 25.1;
 - (ii) a court of competent jurisdiction determines that the Trader is not entitled to be indemnified by the Distributor for the Claim;
 - (iii) the Trader receives payment under a contract of insurance in respect of the Claim, or the insurer pays, discharges or satisfies the Claim directly and the Trader is not obliged to refund the payment to the insurer as a result of the payment by the Distributor under the Distributor's Indemnity;
 - (iv) the Trader receives payment from a person other than the Distributor in respect of the Claim, or that person pays, discharges or satisfies the Claim directly; or
 - (v) it is established in relation to the Claim that the Trader did not perform an obligation referred to in this clause 26 and the Distributor's liability is or would have been reduced if the obligation had been performed.

26.9 Owner to be paid for property damage: If the Distributor is liable to pay the Trader any amount in accordance with this clause in respect of property damage that is not related to the property of the Trader, the Trader must pass through the amount received by it from the Distributor in relation to that property damage to the owner of the affected property (whether or not that person is a Customer). The Distributor may, with the prior written consent of the Trader (such consent not to be unreasonably withheld), pay such amount directly to the property owner instead of to the Trader. In such circumstances, the Trader must provide the Distributor with the information required to enable the Distributor to make payment, and the Distributor must inform the Trader as soon as reasonably practicable after making such payment.

26.10 **Dispute resolution:** Any dispute between the Distributor and the Trader relating to the allocation of liability under the Distributor's Indemnity must be dealt with by each party in accordance with the Dispute Resolution Scheme or, if the dispute is not accepted by the Electricity and Gas Complaints Commissioner, the parties must deal with the dispute in accordance with clause 23.

26.11 **Right not prejudiced:** Despite clause 26.6, any adjudication of a Claim in respect of which the parties have not agreed and it has not otherwise been determined as to whether the Distributor Indemnity applies will not prejudice the right of the Trader or the Distributor (as applicable) to assert that the Distributor's Indemnity does, or does not, apply.

26.12 **Application of clauses:** Clauses 26.2 to 26.8, do not apply if a complaint has been made to the Dispute Resolution Scheme under section 95 of the Act.

27. FURTHER INDEMNITY

27.1 **The Distributor will be indemnified:** Subject to clause 28, the Trader indemnifies and holds harmless the Distributor and will keep the Distributor indemnified and held harmless from and against any direct loss or damage (including legal costs on a solicitor/own client basis) suffered, or incurred by the Distributor arising out of or in connection with:

- (a) any claim by any person with whom the Trader has a contractual relationship in relation to the provision of services or the conveyance of electricity on the Network to the extent that the claim arises out of or could not have been made but for:
 - (i) any breach by the Trader of any of its obligations under this Agreement;
 - (ii) the disconnection by the Trader, or disconnection requested by the Trader, of any Customer's Premises in accordance with this Agreement;
 - (iii) the termination of this Agreement by the Trader, except when the termination is the result of a breach by the Distributor;
 - (iv) any failure by the Trader to perform any obligation under any agreement between the Trader and any Generator or Customer or other third party;
 - (v) any failure by the Trader to comply with its obligations required by law or regulation; or
 - (vi) any action undertaken by the Distributor under or in connection with this Agreement at the request of the Trader; and
- (b) any recovery activity of the Distributor in respect of any unpaid charges or interest payable under this Agreement.

27.2 **The Trader will be indemnified:** Subject to clause 28, the Distributor indemnifies and holds harmless the Trader and will keep the Trader indemnified and held harmless from and against any direct loss or damage (including legal costs on a solicitor/own client basis), suffered, or incurred by the Trader arising out of or in connection with:

- (a) any claim by any person with whom the Distributor or Trader has a contractual relationship in relation to the provision of services or conveyance of electricity to the extent that claim arises out of or could not have been made but for:
 - (i) any breach by the Distributor of its obligations under this Agreement;
 - (ii) the disconnection by the Distributor of any Customer's Premises in accordance with this Agreement;

- (iii) the termination of this Agreement by the Distributor, except when the termination is the result of a breach by the Trader;
 - (iv) any failure by the Distributor to perform any obligation under any agreement between the Distributor and the System Operator or any other third party;
 - (v) any failure by the Distributor to comply with its obligations required by law or regulation; or
 - (vi) any action undertaken by the Trader under or in connection with this Agreement at the request of the Distributor; and
- (b) any recovery activity of the Trader in respect of any unpaid charges or interest payable under this Agreement.

28. CONDUCT OF CLAIMS

- 28.1 **Third Party Claim:** This clause applies if a party with a right of indemnity under clause 27 ("**Indemnified Party**") seeks or may seek to be indemnified by the other party ("**Indemnifying Party**") under clause 27 in respect of a claim by any person of the kind described in clause 27.1(a) or 27.2(a) ("**Third Party Claim**").
- 28.2 **Indemnified Party to give Notice of Third Party Claim:** The Indemnified Party must give notice of the Third Party Claim (including reasonable details) to the Indemnifying Party and ensure that the Indemnified Party does not make any payment or admission of liability in respect of the Third Party Claim.
- 28.3 **Indemnifying Party may act in relation to Third Party Claim:** The Indemnifying Party may, at its election, in the name of the Indemnified Party, but only after consultation with the Indemnified Party and so that the reputation of the Indemnified Party is not unfairly harmed, conduct all negotiations and defend any proceedings relating to the Third Party Claim. For this purpose, the Indemnified Party must make available to the Indemnifying Party all such information, books and records, and co-operate (including making available employees as witnesses) as the Indemnifying Party may reasonably require for the purpose.
- 28.4 **Indemnified Party to keep Indemnifying Party informed:** If and for so long as the Indemnifying Party does not assume the defence of the Third Party Claim, the Indemnified Party must:
- (a) keep the Indemnifying Party fully informed of the Indemnified Party's progress in defending the Indemnified Claim and of any related proceedings; and
 - (b) at the Indemnifying Party's request, consult with, and take account of the reasonable views of, the Indemnifying Party so far as reasonably possible in the relevant Indemnified Party's defence of the Third Party Claim and any related proceedings.
- 28.5 **Third Party Claim not to be settled without consent:** The Indemnified Party must not, without the prior written consent of the Indemnifying Party, settle the Third Party Claim.
- 28.6 **Indemnifying Party to be reimbursed:** If the Indemnified Party recovers from any third party any amount to which a payment made by the Indemnifying Party to the Indemnified Party under this Agreement relates, the Indemnified Party must procure that the amount so recovered by the Indemnified Party (net of the cost of recovery, but

not exceeding the amount paid by the Indemnifying Party) will be reimbursed without delay to the Indemnifying Party.

29. CUSTOMER AGREEMENTS

29.1 Trader to include provisions in Customer Agreements: The following clauses apply in respect of the Trader's Customer Agreements:

- (a) in respect of each Customer Agreement that has been entered into prior to the Commencement Date:
 - (i) at the next review date, or, if the Trader is able to unilaterally vary the Customer Agreement, within 12 months after the Commencement Date (whichever is earlier), the Trader must issue a unilateral variation to the Customer Agreement to include provisions that have substantially the same effect as the provisions required to be included in the Customer Agreement by this Agreement, and those provisions must be expressed to be for the benefit of the Distributor and enforceable by the Distributor in accordance with section 4 of the Contracts (Privity) Act 1982; or
 - (ii) if the Trader is unable to unilaterally vary one or more Customer Agreements as set out in subparagraph (i), the Trader must:
 - (A) use all reasonable endeavours to obtain at the next review of each Customer Agreement, or within 12 months, whichever is earlier, the agreement of the Customer to enter into a variation of the Customer Agreement to include the provisions required to be included in the Customer Agreement by this Agreement, and those provisions must be expressed to be for the benefit of the Distributor and enforceable by the Distributor under section 4 of the Contracts (Privity) Act 1982; and
 - (B) promptly provide notice to the Distributor if it is unable to obtain the agreement of the Customer required in subparagraph (A); or
- (b) in respect of each Customer Agreement that has been entered into after the Commencement Date, include the provisions required to be included in the Customer Agreement by this Agreement, and those provisions must be expressed to be for the benefit of the Distributor and enforceable by the Distributor in accordance with section 4 of the Contracts (Privity) Act 1982.

29.2 Changes to Customer Agreements during term: If this Agreement is changed in accordance with clause 22.1(d) and the change results in the addition of a new provision to this Agreement that requires the Trader to include a new provision in its Customer Agreements, the Trader must take such steps as are necessary to comply with that provision.

29.3 Trader to indemnify Distributor: Subject to clause 24, the Trader indemnifies the Distributor against any direct loss or damage incurred by the Distributor as a result of the Trader's failure to meet its obligations in accordance with clause 29.1.

30. NOTICES

30.1 Delivery of Notices: Any notice given under this Agreement must be in writing and will be deemed to be validly given if personally delivered, posted or sent by facsimile

transmission or email to the address for notice set out on the execution page of this agreement or to such other address as that party may notify from time to time.

30.2 **Deemed receipt:** Any notice given under this Agreement will be deemed to have been received:

- (a) in the case of personal delivery, when delivered;
- (b) in the case of facsimile transmission, when sent, provided that the sender has a facsimile confirmation receipt recording successful transmission;
- (c) in the case of posting, 2 Working Days following the date of posting; and
- (d) in the case of email, when actually received in readable form by the recipient, provided that a delivery failure notice has not been received by the sender, in which case the notice will be deemed not to have been sent.

30.3 **Deemed receipt after 5pm or on a day that is not a Working Day:** Any notice given in accordance with clause 30.2 that is personally delivered or sent by facsimile or email after 5pm on a Working Day or on any day that is not a Working Day will be deemed to have been received on the next Working Day.

31. ELECTRICITY INFORMATION EXCHANGE PROTOCOLS

31.1 **Protocols for exchanging information:** The Distributor and the Trader must, when exchanging information to which an EIEP listed in Schedule 3 relates, comply with that EIEP.

31.2 **Customer information:** The Trader must on reasonable written request from the Distributor, and within a reasonable timeframe, provide the Distributor with such Customer information as is reasonably available to the Trader and necessary to enable the Distributor to fulfil its obligations in accordance with this Agreement. The information must be treated by the Distributor as Confidential Information and the Distributor expressly acknowledges and agrees that it is not authorised to, and must not, use such information in any way or form other than as permitted by this clause 31.2.

31.3 **Auditing information provided:** To enable either party (the "**Verifier**") to verify the accuracy of information provided to it by the other party (the "**Provider**"), the Provider must allow the Verifier and its agents reasonable access to the Provider's books and records (including, if the Trader is the Provider, of metering or consumption data) (the "**Records**") to the extent that those Records relate to the obligations of the Provider under this Agreement. Access to such Records must be given at all reasonable times providing the Verifier has given the Provider at least 10 Working Days' prior notice.

31.4 **Limitations on the Verifier:** In relation to its review of the Records under clause 31.3, the Verifier must not:

- (a) use the information obtained for any purpose other than verifying the accuracy of information provided by the Provider under this Agreement; and
- (b) engage as its agent any person that is in competition with the Provider, any person who is related to a person in competition with the Provider or any employee, director, agent of such persons. For the purposes of this clause 31.4(b) a person is related to another person if it is a related company (as that term is defined in section 2(3) of the Companies Act 1993) of that other person.

31.5 **Independent Auditor:** If:

- (a) the provider is the Distributor and, acting reasonably, gives notice that the Records contain information about other industry participants that cannot

reasonably be severed from the information relating to the Trader or that the information is commercially sensitive; or

- (b) the provider is the Trader and, acting reasonably, gives notice that the Records contain information about other Industry participants that cannot reasonably be severed from information relating to the Distributor or that the information is commercially sensitive,

then the Distributor or the Trader, as appropriate, must permit an independent auditor (the "**Auditor**") appointed by the other party to review the Records and the other party must not itself directly review any of the Records. The Distributor or the Trader, as appropriate, must not unreasonably object to the Auditor appointed by the other party. In the event that the Distributor or the Trader, as appropriate, reasonably objects to the identity of the Auditor, the parties must request the President of the Institute of Chartered Accountants (or a nominee) to appoint a person to act as the Auditor. The party that is permitted by this clause 31.5 to appoint an Auditor must pay the Auditor's costs, unless the Auditor discovers a material inaccuracy in the Records in which case the other party must pay the Auditor's costs. The terms of appointment of the Auditor must require the Auditor to keep the Records confidential.

31.6 **Provider must co-operate:** The Provider must co-operate with the Verifier or the Auditor (as the case may be) in its review of the Provider's Records under clause 31.3 and must ensure that the Records are readily accessible and readable.

31.7 **Non-compliance:** If a review of the Provider's Records under clause 31.4 or 31.6 identifies any material inaccuracy in the Records provided by the Provider to the Verifier under this Agreement, the Provider must:

- (a) as soon as possible, agree with the Verifier the remedial action to be taken and take such steps (including providing the Verifier or its agent (including the Auditor) with access to the Records and other relevant information following the remedial action being taken) as are necessary to enable the Verifier to satisfy itself that the Records and other information provided by the Provider to the Verifier under this Agreement are materially accurate and that any deficiencies in the Provider's systems, processes, and controls that gave rise to the material inaccuracy have been adequately addressed; and
- (b) bear the reasonable costs of the Verifier and its agent (including the Auditor) incurred in relation to the exercise of its rights under this clause.

32. MISCELLANEOUS

32.1 **No Waiver:** Unless a party has signed an express written waiver of a right under this Agreement, no delay or failure to exercise a right under this Agreement prevents the exercise of that or any other right on that or any other occasion. A written waiver applies only to the right and to the occasion specified by it.

32.2 **Entire agreement:** This Agreement records the entire agreement, and prevails over any earlier agreement concerning its subject.

32.3 **No assignment:** Neither party may assign any benefit or burden under or in relation to this Agreement without the prior written consent of the other party, such consent not to be unreasonably delayed or withheld. For the purposes of this clause 32.3, unless a party is listed on the New Zealand Stock Exchange, a change in control of a party will be deemed to be an assignment.

32.4 **Severance:** Any unlawful provision in this Agreement will be severed, and the remaining provisions enforceable, but only if the severance does not materially affect the purpose of, or frustrate, this agreement.

33. INTERPRETATION

33.1 **Interpretation:** Unless the context otherwise requires or specifically otherwise stated:

- (a) headings are to be ignored;
- (b) "including" and similar words do not imply any limitation;
- (c) references to any form of law is to New Zealand law, including as amended or re-enacted;
- (d) if a party comprises more than one person, each of those person's liabilities are joint and several;
- (e) references to a party or a person includes any form of entity and their respective successors, assigns and representatives;
- (f) every right, power and remedy of a party remains unrestricted and may be exercised without prejudice to each other at any time;
- (g) all amounts payable under this Agreement are in New Zealand dollars and exclude GST and every other tax and duty, but if GST is payable on any amount it will be added to that amount and will be payable at the time the amount itself is payable, and unless otherwise stated;
- (h) New Zealand time and dates apply;
- (i) any word or expression cognate with a definition in this Agreement has a meaning corresponding or construed to the definition;
- (j) references to sections, clauses, Schedules, annexes or other identifiers are to those in this Agreement unless otherwise identified; and
- (k) references to a document or agreement includes it as varied or replaced.

33.2 **Definitions:** In this Agreement, unless the context otherwise requires:

"**Act**" means the Electricity Industry Act 2010;

"**Additional Security**" has the meaning given in clause 10.8;

"**Agreement**" means this distribution agreement, including each Schedule and any other attachment or document incorporated by reference;

"**Bank Bill Yield Rate**" means:

- (a) the daily bank bill yield rate (rounded upwards to 2 decimal places) published on the wholesale interest rates page of the website of the Reserve Bank of New Zealand (or its successor or equivalent page) on a day as being the daily bank bill yield for bank bills having a tenor of 90 days; or
- (b) for any date for which such a rate is not available, the bank bill yield rate is deemed to be the bank bill yield rate determined in accordance with paragraph (a) on the last day that such a rate was available;

"**Cash Deposit**" has the meaning given in clause 10.2;

"**Channel**" means a code that operates the Load Control Equipment;

"**Chief Executive**" means the chief executive officer of the relevant party to this Agreement;

"**Code**" means the Electricity Industry Participation Code 2010 made under the Act;

"**Commencement Date**" means the date specified in clause 1.1;

"Confidential Information" means all data and other information of a confidential nature provided by one party to the other under the terms of this Agreement or otherwise that is identified by the party providing the information as being confidential, or should reasonably be expected by the other party to be confidential, but excludes:

- (a) information known to the recipient prior to the date it was provided to it by the first party and not obtained directly or indirectly from the first party;
- (b) information obtained bona fide from another person who is in lawful possession of the information and did not acquire the information directly or indirectly from the first party under an obligation of confidence; and
- (c) the existence and terms of this Agreement;

"Connection Contract" means a contract under which Distributed Generation is connected to the Network entered into by the Distributor and a Distributed Generator in accordance with Part 6 of the Code, and, for the purposes of this Agreement, the Distributor and a Distributed Generator are deemed to have entered into a Connection Contract if the regulated terms in Part 6 of the Code apply;

"Controlled Load Option" has the meaning given in clause 5.1;

"Conveyance Only" means a situation in which the Trader contracts with the Customer for the supply of electricity only in relation to an ICP and the Distributor does not provide Distribution Services to the Trader in respect of that ICP;

"Credit Note" has the meaning given in the GST Act;

"Customer" means a person who purchases electricity from the Trader that is delivered via the Network;

"Customer Agreement" means an agreement between the Trader and the Customer that includes the supply of electricity and distribution services;

"Customer Service Lines" means the lines used or intended to be used for the conveyance of electricity between the Customer's Point of Connection and the Customer's Premises;

"Customer's Installation" means an Electrical Installation and includes Distributed Generation, if Distributed Generation is connected to a Customer's Installation;

"Customer's Premises" means the land and buildings owned or occupied by a Customer, and any land over which the Customer has an easement or right to pass electricity, including:

- (a) the land within the boundary within which the electricity is consumed;
- (b) the whole of the property, if the property is occupied wholly or partially by tenants or licensees of the owner or occupier; and
- (c) the whole of the property that has been subdivided under the Unit Titles Act 1972;

"Debit Note" has the meaning given in the GST Act;

"Decommission" means the decommissioning of an ICP in accordance with Part 11 of the Code so that the ICP is permanently disconnected from the Network, and the Registry status has been altered to "decommissioned" (but excludes a Vacant Site Disconnection);

"De-energise" means the operation of any isolator, circuit breaker, or switch or the removal of any fuse or link so that no electricity can flow through a Point of Connection on the Network;

"Default Interest" means interest on the amount payable at the Default Interest Rate from the due date for payment until the date of payment of that amount to the relevant party accruing on a daily basis and compounded monthly;

"Default Interest Rate" means the Interest Rate plus 5%;

"Direct Customer Agreement" means an agreement between the Distributor and a Customer for the provision of distribution services and, unless otherwise agreed with the Trader, includes the direct billing of lines charges to the Customer and responsibility for associated debt;

"Direct Damage" has the meaning given in clause 24.2;

"Disclosure Requirements" means the disclosure requirements under any determination issued by the Commerce Commission in accordance with Part 4 of the Commerce Act 1986 relating to electricity distribution;

"Dispute" has the meaning given in clause 23.1;

"Dispute Resolution Scheme" means the Electricity and Gas Complaints Commission or such other dispute resolution scheme approved or provided for in accordance with section 95 of the Act;

"Distributed Generation" means generating plant equipment collectively used for generating electricity that is connected, or proposed to be connected, but does not include:

- (a) generating plant connected and operated by a distributor for the purpose of maintaining or restoring the provision of electricity to part or all of the distributor's distribution network:
 - (i) as a result of a planned distribution network outage; or
 - (ii) as a result of an unplanned distribution network outage; or
 - (iii) during a period when the distribution network capacity would otherwise be exceeded on part or all of the distribution network; or
- (b) generating plant that is only momentarily synchronised with the distribution network for the purpose of switching operations to start or stop the generating plant.

"Distributed Generator" means a person who owns or operates, or intends to own or operate, Distributed Generation;

"Distribution Services" means the provision, maintenance and operation of the Network for the conveyance of electricity to Customers;

"Distributor" means the party identified as such in this Agreement;

"Distributor's Equipment" means the Fittings and Metering Equipment owned by the Distributor, the Distributor's agent, or any other third party with whom the Distributor has contracted with for the use by the Distributor of the party's Fittings or Metering Equipment that are from time to time installed in, over or on Customer's Premises;

"Distribution Pricing Methodology Consultation Guidelines" means the guidelines relating to consulting on distributor tariff structure changes issued by the Electricity Authority and updated from time to time;

"EIEP" means an electricity information exchange protocol approved by the Electricity Authority and published in accordance with the Code;

"Electrical Installation" means:

- (a) all Fittings that form part of a system for conveying electricity at any point from the Customer's Point of Connection to any point from which electricity conveyed through that system may be consumed; and
- (b) includes any Fittings that are used, or designed or intended for use, by any person, in or in connection with the generation of electricity for that person's use and not for supply to any other person; but
- (c) does not include any appliance that uses, or is designed or intended to use, electricity, whether or not it also uses, or is designed or intended to use, any other form of energy;

"**Electricity Authority**" has the meaning given in section 5 of the Act;

"**Electricity Supply Agreement**" means an agreement between the Trader and a Customer for the supply of electricity only;

"**Energise**" means the operation of an isolator, circuit breaker, or switch, or the placing of a fuse or link, so that electricity can flow through a Point of Connection on the Network;

"**Entrant**" has the meaning given in clause 5.3;

"**Event of Default**" has the meaning given in clause 18.3(a);

"**Fitting**" means everything used, designed or intended for use, in or in connection with the generation, conversion, transformation, conveyance or use of electricity;

"**Force Majeure Event**" has the meaning given in clause 21.1;

"**Generator**" means any person that owns a machine that generates electricity that is connected to a network, including a Distributed Generator;

"**Good Electricity Industry Practice**" means:

- (a) in the case of the Distributor, the exercise of that degree of skill, diligence, prudence, foresight and economic management that would reasonably be expected from a skilled and experienced electricity network owner engaged in New Zealand in the distribution of electricity under conditions comparable to those applicable to the Network consistent with applicable law, safety and environmental protection. The determination of comparable conditions is to take into account factors such as the relative size, duty, age and technological status of the Network and the applicable law; and
- (b) in the case of the Trader, the exercise of that degree of skill, diligence, prudence, foresight and economic management that would reasonably be expected from a skilled and experienced electricity trader engaged in New Zealand in the same type of undertaking under comparable conditions consistent with applicable law, safety and environmental protection;

"**Grid**" means the system of transmission lines, substations and other works, including the HVDC link used to connect grid injection points and GXPs to convey electricity throughout the North Island and the South Island of New Zealand;

"**GXP**" means any Point of Connection on the Grid:

- (a) at which electricity predominantly flows out of the Grid; or
- (b) determined as being such in accordance with the Code;

"**Grid Owner**" means a person who owns or operates any part of the Grid;

"**GST**" means goods and services tax payable under the GST Act;

"**GST Act**" means the Goods and Services Tax Act 1985;

"**ICP**" means an installation control point being one of the following:

- (a) a Point of Connection at which a Customer's Installation is connected to the Network;
- (b) a Point of Connection between the Network and an embedded network;
- (c) a Point of Connection between the Network and shared Unmetered Load;

"**Incumbent**" has the meaning given in clause 5.3;

"**Industry**" means those parties involved in the generation, transmission, distribution and retailing of electricity in New Zealand;

"**Insolvency Event**" means a party:

- (a) has had a receiver, administrator or statutory manager appointed to or in respect of the whole or any substantial part of its undertaking, property or assets;
- (b) is deemed or presumed (in accordance with law) to be unable to pay its debts as they fall due, becomes or is deemed (in accordance with law) to be insolvent, or is in fact unable to pay its debts as they fall due, or proposes or makes a compromise, or an arrangement or composition with or for the benefit of its creditors or fails to comply with a statutory demand under section 289 of the Companies Act 1993; or
- (c) is removed from the register of companies (otherwise than as a consequence of an amalgamation) or an effective resolution is passed for its liquidation;

"**Interest Rate**" means, on any given day, the rate (expressed as a percentage per annum and rounded up to nearest fourth decimal place) displayed on the Reuter's screen page BKBM (or its successor page) at or about 10.45 a.m. on that day, as the bid rate for three month bank accepted bills of exchange or, if no such rate is displayed or that page is not available, the average (expressed as a percentage per annum and rounded up to the nearest fourth decimal place) of the bid rates for three-month bank accepted bills of exchange quoted at or about 10.45 a.m. on that day by each of the entities listed on that Reuter's screen page when the rate was last displayed or, as the case may be, that page was last available;

"**Interposed**" means in relation to a Customer, that the Distributor provides Distribution Services to the Trader and the Trader contracts with the Customer for the supply of those services;

"**Load Control Equipment**" means the equipment (which may include, but is not limited to, ripple receivers and relays) that is from time to time installed in, over or on Customer's Premises for the purpose of receiving signals sent by Load Signalling Equipment and switching on and off, or otherwise controlling, controllable load;

"**Load Control System**" means a control and communications system for controlling parts of a Customer's load and consisting of Load Signalling Equipment and Load Control Equipment;

"**Load Signalling Equipment**" means the equipment (which may include, but is not limited to, ripple injection plant) for the purpose of sending control signals to Load Control Equipment;

"**Load Shedding**" means the act of reducing or interrupting the delivery of electricity to one or more ICPs;

"**Losses**" means, for a particular period, the difference between the sum of all electricity injected into a network and the sum of all electricity measured or estimated as having exited that network;

"Loss Category" means the code in the Registry, and in the schedule of Loss Category codes and Loss Factors published by the Distributor, which enables traders to identify the Loss Factor(s) applicable to an ICP on the Network at any point in time;

"Loss Factor" means the scaling factor determined in accordance with clause 7 and applied by the reconciliation manager to volumes of electricity measured or estimated in respect of ICPs on the Network, in order to reflect the impact of the ICP on Losses within the Network;

"Loss Factor Guidelines" means the guidelines relating to the calculation and use of Loss Factors for reconciliation purposes issued by the Electricity Authority and updated from time to time;

"Metering Equipment" means any apparatus for the purpose of measuring the quantity of electricity transported through an ICP along with associated communication facilities to enable the transfer of metering information;

"Network" means the Distributor's lines, substations and associated equipment used to convey electricity between:

- (a) two NSPs; or
- (b) an NSP and an ICP;

"Network Connection Standards" means the Distributor's written technical and safety standards for connection of an Electrical Installation to the Network that are issued by the Distributor and updated from time to time, and include:

- (a) a list of all referenced regulations and industry standards relevant to the provision of the Distribution Services; and
- (b) all externally referenced publications, such as website links in those regulations and standards;

"Network Supply Point" or **"NSP"** means any Point of Connection between:

- (a) the Network and the Grid; or
- (b) the Network and another distribution network; or
- (c) the Network and an embedded network; or
- (d) the Network and Distributed Generation;

"Planned Service Interruption" means a Service Interruption that has been scheduled to occur in accordance with Schedule 5;

"Point of Connection" means the point at which electricity may flow into or out of the Network;

"Price" means a fixed or variable rate within a Price Category that determines the Distribution Services charges that apply to an ICP;

"Price Category" means the price category and associated eligibility criteria set out in Schedule 7 that determine the Price(s) that apply to an ICP;

"Price Options" has the meaning given in clause 8.3;

"Pricing Methodology" means the policy and methodology set out in Schedule 7, being the Distributor's policies and processes relating to setting Prices for Distribution Services;

"Publish" means to disclose information by making the information freely and publicly available on the Distributor's website and notifying the Trader that the information has been disclosed on the website;

"Re-energise" means to Energise an ICP after it has been De-energised;

"**Registry**" means the central database of ICP information maintained in accordance with the Code to assist switching and reconciliation;

"**Revision Invoice**" has the meaning given in clause 9.3.

"**Rulings Panel**" has the meaning given to it in section 5 of the Act;

"**Serious Financial Breach**" means:

- (a) a failure by the Trader to pay an amount due and owing that exceeds the greater of \$100,000 or 20% of the actual charges payable by the Trader for the previous month, unless the amount is genuinely disputed by the Trader in accordance with clause 9.7; or
- (b) a material breach of clause 10 by the Trader;

"**Service Guarantee Payment**" means any payment or other benefit that one party provides to the other party if it fails to meet a Service Standard for which a guarantee payment is required to be paid if that Service Standard not be met;

"**Service Interruption**" means the cessation of electricity supply to an ICP for a period of 1 minute or longer, other than by reason of De-energisation of that ICP:

- (a) for breach of the Customer Agreement by the Customer; or
- (b) as a result of a request from the Trader or the relevant Customer for a Temporary Disconnection; or
- (c) as a result of a request from the Trader for a Vacant Site Disconnection; or
- (d) for the purpose of De-energising a Customer Installation that does not comply with the Network Connection Standards; or
- (e) to Decommission the ICP.

"**Service Level**" means the magnitude of a Service Measure;

"**Service Measure**" means the characteristics or features of a Service Standard as set out in Schedule 1;

"**Service Standards**" means the set of Service Measures, Service Levels, conditions and Service Guarantee Payments as set out in Schedule 1;

"**Switch Event Date**" means the date recorded in the Registry as being the date on which a trader assumes responsibility for an ICP;

"**System Emergency Event**" means a grid emergency in accordance with the definition of that term in Part 1 of the Code and, in respect of the Network, any emergency situation in which:

- (a) public safety is at risk;
- (b) there is a risk of significant damage to any part of the Network;
- (c) the Distributor is unable to maintain Network voltage levels within statutory requirements; or
- (d) an Unplanned Service Interruption affecting part or all of the Network is imminent or has occurred.

"**System Operator**" has the meaning given to it in section 5 of the Act;

"**System Operator Services**" means co-ordination services for the control, dispatch and security functions necessary to operate the transmission system;

"**System Security**" means the security and quality objectives set out in Part 8 of the Code;

"**Tax Invoice**" means a valid tax invoice as specified by section 24 of the GST Act;

"**Temporary Disconnection**" means an ICP is De-energised but there is no change to the status of the ICP in the Registry;

"**Trader**" means the party identified as such in this Agreement;

"**Trader's Equipment**" means the Fittings and/or Metering Equipment owned by the Trader, the Trader's agent or any other third party with whom the Trader has contracted with for the use by the Trader of such third party's Fittings or Metering Equipment, which are from time to time installed in, over, or on Customer's Premises;

"**Transmission Interruption**" means a failure of a service provided by a Grid Owner to meet the service standards agreed between the Distributor and that Grid Owner;

"**Trust Account Rules**" means the rules relating to the establishment and operation of a trust account established and operated by the Distributor in accordance with clause 10.23;

"**Unmetered Load**" means electricity consumed on the Network that is not directly recorded using Metering Equipment, but is calculated or estimated in accordance with the Code;

"**Unplanned Service Interruption**" means any Service Interruption where events or circumstances prevent the timely communication of prior warning or notice to the Trader or any affected Customer;

"**Use of Money Adjustment**" means an amount payable at the Interest Rate plus 2% from the date of payment to the date of repayment (in the case of a Credit Note or other repayment) or from the due date of the original invoice to the date of payment (in the case of a Debit Note or other payment) accruing on a daily basis and compounded at the end of every month;

"**Vacant Site**" means a property that has become vacant;

"**Vacant Site Disconnection**" means the De-energisation of an ICP that occurs when the property at which the ICP is located has become vacant, and the Trader has changed the status in the Registry to "Inactive";

"**Warranted**" means pre-qualified to the Distributor's reasonable standards and authorised by the Distributor to carry out the particular work on or in relation to the Network;

"**Warranted Person**" means a person who is Warranted or who is employed by a person who is Warranted; and

"**Working Day**" means every day except Saturdays, Sundays and days that are statutory holidays in the city specified for each party's address for notices identified in the Parties section of this Agreement.

PART V – SCHEDULES

SCHEDULE 1 – SERVICE STANDARDS

Introduction

- S1.1 If the Trader becomes aware of or suspects a breach of the Service Standards by the Distributor, the Trader must give the Distributor notice of the reasons why it suspects that there has been a breach.
- S1.2 If the Distributor breaches a Service Level, it must notify the Trader as soon as possible and no later than 10 Working Days after becoming aware of the breach. The notification must include:
- (a) the ICP identifier(s) or the Network locality affected by the breach; and
 - (b) the reason for the breach.
- S1.3 If the Distributor breaches a Service Level that is subject to a Service Guarantee Payment, it must notify the Trader as soon as possible and no later than 10 Working Days after becoming aware of the breach. The notification must include:
- (a) the ICP identifier of each ICP affected and the Service Guarantee Payment owed by ICP and in total (if applicable);
 - (b) the reason for the breach; and
 - (c) a Credit Note or order number (if the Trader requires a Tax Invoice from the Distributor for the amount payable in respect of the breach, the Distributor must send the Tax Invoice in the next payment cycle).
- S1.4 If the Distributor makes a Service Guarantee Payment in respect of an ICP, the Trader must pass that payment on to the relevant Customer or Customers but may deduct an amount that reflects its reasonable cost of administering the payment.
- S1.5 The parties acknowledge that the Service Guarantee Payments are set at a level to provide reasonable compensation to affected Customers in respect of the Distributor's failure to meet the relevant Service Level, and are not a penalty.

Operational Terms

- S1.6 *This section must include a table that sets out the Service Standards that the Distributor must meet when providing Distribution Services by specifying Service Measures for each of the following:*
- (a) *for each Price Category and Price Option, the time periods in which electricity supply is normally available to Customers;*
 - (b) *target levels of power quality, including measures related to:*
 - (i) *the voltage and frequency of the electricity supply; and*
 - (ii) *the Distributor's process and target timeframes for investigating Customer complaints related to power quality; and*
 - (iii) *the expected frequency of occurrence of Planned Service Interruptions and Unplanned Service Interruptions, which may be categorised by Customer category (such as residential, non-residential etc) and Network locality (such as urban, rural, remote rural etc);*
 - (c) *timeframes for restoring electricity supply following Unplanned Service Interruptions, which may be categorised by Customer category and Network locality; and*
 - (d) *notifications to the Trader and Customers about Planned Service Interruptions.*
- S1.7 *For each Service Measure specified in accordance with clause S1.5, this section must*

specify:

- (a) *the Service Level that applies to the Service Measure;*
- (b) *any conditions that apply to the Service Measure; and*
- (c) *the Service Guarantee Payment for the Service Measure, if any.*

S1.8 *An example of a table that may comply with the requirements set out in clauses S1.6 and S1.7 is shown in Table 1.*

Table 1 – Service Standards

SERVICE MEASURE	SERVICE LEVEL	CONDITIONS
1. UNCONTROLLED ELECTRICITY SUPPLY CATEGORY		
1.1 24 hour Continuous Supply: Time period when electricity supply is available	Supply must, in normal supply circumstances, be continuously available 24 hours each day.	If a Customer has elected to receive 24 hour Continuous Supply and is charged on the basis of the relevant uncontrolled supply Price Category or Price Option in accordance with Schedule 7, the Distributor must maintain continuous electricity supply in accordance with this Agreement. Eligibility requirements for this category of electricity supply, including Metering Equipment requirements, are specified in Schedule 7.
2. CONTROLLED ELECTRICITY SUPPLY CATEGORIES		
2.1 19 hour Controlled Supply: Time period when electricity supply is available	Supply must, in normal supply circumstances, be available for a minimum of 19 hours each day.	If a Customer has elected to receive 19 hour Controlled Supply and is charged on the basis of the relevant Controlled Supply Price Category or Price Option in accordance with Schedule 7, the Distributor may control the relevant part of the Customer's load for a maximum period of 5 hours on any day. The Customer's controlled appliances must be connected (and remain connected) to a load control relay that operates as specified in Schedule 7. Metering Equipment requirements for this category of supply are specified in Schedule 7.
2.2 Controlled Night Supply with afternoon boost: Time period when electricity supply is available	Supply must, in normal supply circumstances, be available in the following time periods: <ul style="list-style-type: none"> • 11 pm to 7 am • 1 pm to 3 pm. At other times the supply is De-energised.	If a Customer has elected to receive supply only within the specified time periods and be charged on the basis of the relevant controlled supply Price Category or Price Option in accordance with Schedule 7, the Distributor must provide the appropriate load control signals to switch the supply. The controlled appliances must be connected (and remain connected) to a load control relay that operates in response to the load control signal, as specified in Schedule 7. Metering Equipment requirements for this category of supply are specified in Schedule 7.

<p>2.3 Controlled Supply for Street Lights: Time period when electricity supply is available</p>	<p>Supply to street light circuits must, in normal supply circumstances, be continuously available during the hours of darkness every day.</p>	<p>If the Customer has elected to receive a streetlight controlled supply and is charged on the basis of the relevant controlled supply Price Category or Price Option in accordance with Schedule 7, the Distributor must provide appropriate load control signals to switch the supply. Street lights must be connected (and remain connected) to a load control relay that is programmed to receive load control signals in accordance with the method(s) specified in Schedule 7. The hours of supply must be set and controlled in accordance with the Customer's requirements.</p>
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SERVICE MEASURE	SERVICE LEVEL	CONDITIONS	SERVICE GUARANTEE PAYMENT
<p>3. SERVICE INTERRUPTIONS</p>			
<p>3.1 Time period for restoration of supply: Unplanned Service Interruptions</p>	<p>The Distributor must: Urban: restore supply within 3 hours following notification of an Urban Unplanned Service Interruption; Rural: restore supply within 6 hours following notification of a Rural Unplanned Service Interruption; and Remote Rural: restore supply within 12 hours following notification of a Remote Rural Unplanned Service Interruption.</p>	<p>For the purpose of this Service Measure: Urban means [Distributor to define geographically]; Rural means [Distributor to define geographically]; and Remote Rural means [Distributor to define geographically].</p>	<p>\$50 in respect of each ICP up to 60 A per phase directly affected by the Unplanned Service Interruption, plus a further \$50 for each complete 24hr period in excess of the time limit, subject to the general limit of liability. \$150 in respect of each ICP greater than 60 A per phase directly affected by the Unplanned Service Interruption, plus a</p>

SERVICE MEASURE	SERVICE LEVEL	CONDITIONS	SERVICE GUARANTEE PAYMENT
			<i>further \$150 for each complete 24hr period in excess of the time limit, subject to the general limit of liability.</i>
3.2 Frequency of Service Interruptions	<i>Urban: No more than 4 per annum recorded by the Distributor or reported by the Customer; Rural: No more than 10 per annum recorded by the Distributor or reported by the Customer; and Remote Rural: No more than 20 per annum recorded by the Distributor or reported by the Customer.</i>	<i>The Service Measure includes Service Interruptions caused, or contributed to, by Transmission Interruptions.</i>	
4. POWER QUALITY			
4.1 Frequency of voltage sags	<i>Urban: No more than 30 per annum recorded by the Distributor or reported by 1 or more Customers; Rural: No more than 40 per annum recorded by the Distributor or reported by 1 or more Customers; and Remote rural: No more than 50 per annum recorded by the Distributor or reported by 1 or</i>	<i>A voltage sag occurs when the supply voltage falls below 90% of the nominal supply voltage other than in the case of a momentary fluctuation. If no suitable means of measurement of voltage is permanently available (such as by advanced metering functionality), supply voltage must only be measured in response to a Customer complaint. Includes voltage sags caused, or contributed to, by Transmission Interruptions.</i>	

SERVICE MEASURE	SERVICE LEVEL	CONDITIONS	SERVICE GUARANTEE PAYMENT
	<i>more Customers.</i>		
4.2 Steady state supply voltage range	<i>Maintain voltage within $\pm 6\%$ of nominal voltage at each point of supply.</i>	<i>Excludes momentary fluctuations. If no suitable means of measurement is permanently available (such as by advanced metering functionality), supply voltage must only be measured in response to a Customer complaint. Includes voltage excursions caused, or contributed to, by Transmission Interruptions.</i>	
5. INVESTIGATIONS OF CUSTOMER COMPLAINTS			
5.1 Power quality, reliability and safety investigations	<i>The Distributor must, no later than 5 Working Days after receiving notification from the Trader or a Customer of a complaint about power quality, supply reliability or safety, investigate the complaint and respond to the Trader and/or Customer as appropriate. The response must indicate the Distributor's findings related to the complaint and, if a problem is confirmed, the Distributor's proposed remedy. If the investigation cannot be completed within 5 Working Days, the Distributor must provide within 7 Working Days an estimate of the</i>	<i>For the purpose of this Service Measure, a power quality problem includes a problem relating to momentary voltage fluctuations, flicker, voltage harmonics, voltage phase imbalance, and voltage sags. However, in any event, the Distributor must complete its investigation and provide information to the Trader so that the Trader can offer a resolution to the Customer within the timelines set out in the Dispute Resolution Scheme. The Distributor must remedy any problems under its control in a timely manner, in accordance with Good Electricity Industry Practice.</i>	<i>\$50 for exceeding any timeframe specified in the Service Level.</i>

<i>SERVICE MEASURE</i>	<i>SERVICE LEVEL</i>	<i>CONDITIONS</i>	<i>SERVICE GUARANTEE PAYMENT</i>
	<i>time it will take to complete such an investigation and the reason for requiring extra time.</i>		

SCHEDULE 2 – BILLING INFORMATION

Operational Terms

S2.1 *This Schedule 2 must set out:*

- (a) *the information that must be provided by the Trader to the Distributor so that the Distributor can calculate Distribution Services charges and prepare Tax Invoices;*
- (b) *the formats, procedures and timeframes for providing the information; and*
- (c) *how the Distributor calculates Distribution Services charges.*

S2.2 *The clauses to be included in this Schedule 2 must provide that when exchanging information to which EIEP1, EIEP2, or EIEP3 applies, the Distributor and the Trader will comply with the relevant EIEP.*

S2.3 *Examples of clauses that may comply with the requirements set out in clauses S2.1 and S2.2, and notes explaining the situations in which the clauses could be used, are set out in clause S2.4.*

S2.4 Calculating Tax Invoices for Distribution Service charges:

Note: This clause is appropriate for ICP-priced Distribution Services. This clause assumes that the Distributor will create the Tax Invoice. A different clause is required if a buyer-created invoice is required by the Distributor.

The Trader must provide consumption information to the Distributor, and the Distributor must calculate Distribution Services charges payable by the Trader, in accordance with the following:

- (a) *the Trader must provide to the Distributor all information that the Distributor reasonably requires to enable it to calculate the Distribution Services charges payable by the Trader to the Distributor in accordance with EIEP1, EIEP2 and EIEP3;*
- (b) *the Trader must provide the information by 5:00pm on the 5th Working Day after the last day of each month;*
- (c) *the parties acknowledge that the Distributor’s Pricing Methodology is based on the Distributor receiving consumption volume information from the Trader using:*

Note: Select from the following alternative clauses as relevant to the circumstances.

- (i) *[the [as-billed] [incremental normalised] [replacement normalised] [incremental replacement normalised] reporting methodology, as that methodology is defined in EIEP1;]*
- (ii) *[summary consumption information as described in EIEP2; and]*
- (iii) *[information in respect of half-hour metered ICPs as described in EIEP3; and]*
- (d) *the Distributor must calculate the charges based on the Prices that apply to each chargeable quantity to which the Tax Invoice relates.*

Note: include this additional sentence if relevant.

[In respect of [replacement normalised] [incremental replacement normalised] consumption information, the Trader must provide revised consumption information to the Distributor no later than 5 Working Days after the end of the month in which revised submission information was provided by the Trader to the reconciliation manager, and the Distributor must issue a Credit Note or Debit Note to the Trader reflecting the revised consumption information.]]

Note: This clause is appropriate for GXP-priced Distribution Services.

[The Trader must provide consumption information to the Distributor, and the Distributor must obtain reconciliation information from the reconciliation manager and calculate Distribution Services charges payable by the Trader, in accordance with the following:

- (a) the Distributor must arrange for the reconciliation manager to provide the Distributor with reconciliation information attributable to the Trader and other relevant information that, subject to paragraph (b), the Distributor reasonably requires to enable it to calculate its Tax Invoice for Distribution Services charges payable by Trader. The Trader must, if necessary, advise the reconciliation manager that the Trader agrees to the Distributor obtaining its reconciliation information;*
- (b) the Trader must provide to the Distributor, no later than 5 Working Days after the end of each month, any information additional to that obtainable by the Distributor from the reconciliation manager that the Distributor reasonably requires to enable it to calculate its Tax Invoice for Distribution Services charges payable by Trader. Such information must be provided in accordance with the relevant EIEP; and*
- (c) the Distributor must calculate the charges based on the Prices that apply to each ICP to which the Tax Invoice relates.]*

SCHEDULE 3 – ELECTRICITY INFORMATION EXCHANGE PROTOCOLS

S3.1 The Distributor and the Trader must comply with the following EIEPs when exchanging information to which the relevant EIEP applies:

- (a) EIEP1 – Detail ICP billing and volume information;
- (b) EIEP2 – Aggregated volume information;
- (c) EIEP3 – Half hour metering information;
- (d) EIEP12 – Tariff rate change information; and
- (e) any other EIEP publicised by the Authority under the Code with which the Distributor and Trader are required to comply.

Operational Terms

S3.2 *This clause must set out each EIEP with which the Distributor and Trader must comply when exchanging information to which the relevant EIEP applies, in addition to the EIEPs specified in clause S3.1.*

S3.3 *An example clause that may comply with the requirement set out in clause S3.2 is set out in clause S3.4.*

S3.4 *In addition to the EIEPs specified in clause S3.1, the Distributor and the Trader must comply with the following EIEPs when exchanging information to which the relevant EIEP relates:*

- (a) *EIEP4 – Customer information;*
- (b) *EIEP5 – Service interruptions;*
- (c) *EIEP6 – Fault notification and service requests;*
- (d) *EIEP7 – General installation status change;*
- (e) *EIEP8 – Notification of network price category and tariff change;*
- (f) *EIEP9 – Customer location address change notification; and*
- (g) *EIEP11 – New connections information.*

SCHEDULE 4 – SYSTEM EMERGENCY EVENT MANAGEMENT

Operational Terms

S4.1 *This Schedule 4 must set out the Distributor’s System Emergency Event management policy, which is a policy for managing load on the Network during a System Emergency Event.*

S4.2 *The policy must include the Distributor’s priorities, including if relevant, priorities specific to Customer categories and Network localities, for:*

- (a) *Load Shedding;*
- (b) *the use of any controllable load available to the Distributor in accordance with clause 5; and*
- (c) *the restoration of load.*

SCHEDULE 5 – SERVICE INTERRUPTION COMMUNICATION REQUIREMENTS

Operational Terms

Unplanned Service Interruptions

S5.1 *This section must set out:*

- (a) *the information that the Distributor must provide to the Trader if the Distributor becomes aware of 1 or more Unplanned Service Interruptions caused by an area Network fault (being a Network fault that affects a group of customers within an area) or a System Emergency Event, including identifying the affected area or areas and the expected time for restoration of electricity supply in each area;*
- (b) *requirements related to provision by the Distributor of updated information about the status of Unplanned Service Interruptions, including:*
 - (i) *if the Distributor expects that previously advised restoration times will change; and*
 - (ii) *confirmation of areas restored and areas that remain without electricity supply;*
- (c) *whether the Trader or the Distributor is responsible for receiving and managing Unplanned Service Interruption calls from Customers and managing further communication with affected Customers until electricity supplies are restored, and the parties' obligations to exchange information; and*
- (d) *the situations that would trigger the Distributor's public and media communications processes and the communications channels and methods the Distributor uses when communicating with the public and media.*

S5.2 *Examples of clauses that may comply with the requirements in clause S5.1 are set out in clauses S5.3 to S5.12.*

S5.3 *The Distributor must provide the Trader with information about an Unplanned Service Interruption affecting 20 or more Customers that enables the Trader to respond in an informed manner to calls from affected Customers.*

S5.4 *The Distributor must provide information under clause S5.3 as soon as reasonably practicable after first becoming aware of the Unplanned Service Interruption and:*

- (a) *for Unplanned Service Interruptions that occur in staffed control room hours, no later than 10 minutes after the Distributor becomes aware of the interruption; and*
- (b) *for Unplanned Service Interruptions that occur in on-call control room hours, no later than 40 minutes after the Distributor becomes aware of the interruption.*

S5.5 *The information provided under clause S5.3 must:*

- (a) *be provided by electronic file transfer in accordance with EIEP5; and*
- (b) *include, if known, a description of the reason for the interruption, the area affected, and an expected time for restoration.*

S5.6 *Unless otherwise agreed, the Distributor must, within 10 minutes of new information about an Unplanned Service Interruption becoming available and at intervals of no longer than 60 minutes, provide the Trader with an update of the status of the Unplanned Service Interruption, until a firm restoration time has been advised by the Distributor to the Trader.*

S5.7 *If the expected restoration time advised by the Distributor to the Trader is likely to be exceeded, the Distributor must endeavour to inform the Trader of the new expected restoration time at least 10 minutes before the expected restoration time elapses.*

- S5.8 *Unless otherwise agreed, no later than 10 minutes after a full or partial restoration of supply, the Distributor must provide the Trader with details of the areas restored.*
- S5.9 *The Trader must, within 10 minutes of receiving information relating to a possible Unplanned Service Interruption, log the call with the Distributor by electronic file transfer in accordance with EIEP5, or by any other information exchange method agreed by the parties. The Distributor must advise the Trader if the Trader should stop logging calls.*
- S5.10 *The Trader may provide the Distributor's contact details to the Customer rather than taking details and logging the call with the Distributor.*
- S5.11 *The Distributor must implement its public and media communication process in the following situations:*
- (a) *a significant Unplanned Service Interruption that exceeds, or is expected to exceed, 30 minutes in duration, and that affects (without limitation):*
 - (i) *more than 1,000 customers;*
 - (ii) *a central business district;*
 - (iii) *an industrial area;*
 - (iv) *supply to critical facilities such as hospitals, pumping stations, dairy farms;*
or
 - (v) *the Network to such an extent that a disaster recovery plan should be triggered by a severe storm or natural disaster;*
 - (b) *a Civil Defence emergency has been initiated (in such situation communication may be via Civil Defence Headquarters);*
 - (c) *any other major event that has a material adverse effect on the delivery of Distribution Services; or*
 - (d) *if the Distributor is contacted by media for comment regarding an Unplanned Service Interruption.*
- S5.12 *The Distributor notes that it may use any or all of the following means of communication, as the circumstances require:*
- (a) *media releases and interviews; and*
 - (b) *status information and updates on the Distributor's:*
 - (i) *automated telephone information service;*
 - (ii) *website;*
 - (iii) *smartphone app;*
 - (iv) *Facebook page; and*
 - (v) *Twitter account.*

Planned Service Interruptions

- S5.13 *This section must set out the parties' obligations and the process that must be followed to notify Customers if the Distributor wishes to undertake a Planned Service Interruption.*
- S5.14 *If the Trader is the party that must notify Customers of a Planned Service Interruption, this section must set out:*
- (a) *the information the Distributor must provide to the Trader if the Distributor wishes to undertake a Planned Service Interruption, which must include:*
 - (i) *the ICP identifiers of the affected ICPs;*
 - (ii) *the minimum period of notice of the Planned Service Interruption that the Distributor must give to the Trader; and*
-

- (iii) *the information exchange format and procedure with which the parties must comply;*
- (b) *the process and timeframes the Trader must comply with when notifying affected Customers for which it is responsible of the Planned Service Interruption;*
- (c) *a process for the Trader to request an alternative date and time for the Planned Service Interruption and for the Distributor to consider such requests; and*
- (d) *the steps the Distributor must take if it intends to undertake a Planned Service Interruption on an urgent basis; and*
- (e) *whether or not the Distributor must meet the reasonable costs incurred by the Trader in notifying Customers of Planned Service Interruptions.*

S5.15 *If the Distributor is the party that must notify Customers of a Planned Service Interruption, this section must set out:*

- (a) *the process the Distributor must follow to obtain Customer information held by the Trader that is necessary to enable the Distributor to provide notifications about Planned Service Interruptions;*
- (b) *the information the Distributor must provide to Customers affected by the Planned Service Interruption and the minimum notice period that the Distributor must give Customers of a Planned Service Interruption; and*
- (c) *the information the Distributor must provide to the Trader about the Planned Service Interruption, including the:*
 - (i) *affected ICP identifiers;*
 - (ii) *amount of notice given to Customers; and*
 - (iii) *the information exchange format and procedure with which the parties must comply.*

S5.16 *Examples of clauses that may comply with the requirements in clause S5.15 to S5.15 are set out in clauses S5.17 to S5.25.*

Note: The two clauses below reflect common arrangements. If a hybrid arrangement operates (eg, Trader notifies normally but Distributor's contractor notifies directly affected customers for small jobs, say < 20 ICPs) suitable additional clauses must be added.

Option A – Trader to notify Customers

S5.17 *The Distributor must provide the Trader with notice of a Planned Service Interruption in accordance with the relevant EIEP at least 10 Working Days prior to the date on which the Planned Service Interruption is scheduled, including the ICP identifiers that the Distributor's information system indicates will be affected by the Planned Service Interruption. On receipt of such notice, the Trader must promptly notify affected Customers for which it is responsible of the Planned Service Interruption.*

S5.18 *The Trader may no later than 2 Working Days after receipt of such notice, notify the Distributor of any Customers who would be adversely affected by the interruption and request an alternative date and/or time for the Planned Service Interruption.*

S5.19 *If the Distributor receives a request from the Trader for an alternative date and/or time for the Planned Service Interruption, the Distributor must consider in good faith the request and may, in its sole discretion, change the time and/or date of the Planned Service Interruption. If the Distributor makes such a change, the Distributor must provide the Trader with notice of the new date and/or time at least 7 Working Days before the original date of the Planned Service Interruption.*

S5.20 *If a Planned Service Interruption is necessary on a more urgent basis for reasons of*

emergency repairs, the Distributor must provide the Trader with a notice of the Planned Service Interruption in accordance with clause S5.16 as soon as reasonably practicable.

S5.21 If the Planned Service Interruption will affect all customers supplied from a Network Supply Point, the Distributor may, in addition to providing the notices required in clauses S5.17, S5.19 and S5.20, arrange for public notification through a local newspaper, or other effective method, on behalf of all traders.

S5.22 The Distributor must meet the reasonable costs incurred by the Trader in notifying Customers of Planned Service Interruptions.

Option B – Distributor to notify Customers

S5.23 If required, and subject to clause 31.2, the Trader must provide Customer contact information to the Distributor on a monthly basis. The information must be provided in accordance with EIEP4.

S5.24 For all Planned Service Interruptions, the Distributor must provide each of the Customers it identifies as being affected with a notice specifying the time and date of the Planned Service Interruption and the reason for the interruption at least 4 Working Days before the date on which the Planned Service Interruption is scheduled.

Note: the timeframe in clause S5.24 may need to be longer than 4 Working Days if, for example, the Trader elects to provide its own written/telephone notification to medically dependent customers that would be affected by the Planned Service Interruption.

S5.25 The Distributor must provide the Trader with notice of the Planned Service Interruption in accordance with EIEP5 at least 4 Working Days before the Planned Service Interruption is scheduled to occur.

SCHEDULE 6 – CONNECTION POLICIES

Operational Terms

S6.1 *This Schedule 6 must set out the parties' obligations and the processes that must be followed related to the management of Network connections.*

S6.2 *This Schedule 6 must set out comprehensive processes for facilitating:*

- (a) *new connections to the Network;*
- (b) *capacity changes to existing connections;*
- (c) *Temporary Disconnections and associated Reconnections;*
- (d) *Vacant Site Disconnections and associated Reconnections; and*
- (e) *Decommissioning.*

S6.3 *Examples of clauses that may comply with the requirements set out in clause S6.1 and S6.2 are set out in clauses S6.4 to S6.30.*

Introduction

S6.4 *This Schedule sets out the processes that the Distributor and Trader must follow in respect of facilitating:*

- (a) *new connections to the Network;*
- (b) *capacity changes to existing connections;*
- (c) *Temporary Disconnections and associated Reconnections;*
- (d) *Vacant Site Disconnections and associated Reconnections; and*
- (e) *Decommissioning.*

Process for new connections or changes in capacity

S6.5 *The Distributor may receive applications from:*

- (a) *the owner of a premises not currently connected to the Network or the owner's agent that is or intends to be a Customer (the "Requesting Party"), or the Trader on behalf of a Requesting Party, for a new connection to be created; and*
- (b) *a Customer (the "Requesting Party"), or the Trader on behalf of a Requesting Party, for an increase or decrease in the capacity of an existing connection.*

S6.6 *The Distributor must undertake an impact assessment to determine whether the capacity required for the connection is already available or whether a Network upgrade is required. If, acting reasonably, the Distributor considers that a Network upgrade is required, or that other works are required, the Distributor must advise the Requesting Party of the terms on which the Distributor is prepared to undertake the necessary works. If the application is declined the Distributor must provide the reasons for its decision.*

S6.7 *If the Distributor and Requesting Party agree on terms under which the Distributor will supply a new connection or change the capacity of an existing connection, the Distributor must advise the Trader of the following no later than 2 Working Days after agreement was reached (provided that the Distributor knows that the Requesting Party is a Customer):*

- (a) *the ICP identifier for the new connection;*
- (b) *the NSP to which the ICP is or will be connected;*
- (c) *the allocated Price Category, provided that if the ICP is eligible for more than one Price Category, the Trader may advise the Distributor of its preferred Price Category in accordance with clause 8.2; and*
- (d) *if the ICP is a new ICP, that the ICP is ready to be electrically connected.*

S6.8 *The Distributor or the Trader (if authorised by the Distributor) must arrange for the ICP to be electrically connected to the Network by a Warranted Person once approval has been granted by the Distributor. The party that undertakes the electrical connection to the Network must, unless otherwise agreed, notify the other party within 2 Working Days of the ICP being electrically connected.*

Timeframe for electrically connecting standard new connections

S6.9 *A standard new connection must be electrically connected to the Network within 2 Working Days following a request by the Trader's if:*

- (a) all necessary equipment is in place;*
- (b) Network upgrades or extensions are not required; and*
- (c) all other necessary requirements are met.*

S6.10 *The timeframe for electrically connecting an ICP that does not meet the requirements set out in clause S6.9 must be agreed by the parties.*

Temporary Disconnections and associated reconnections

Note: Clauses S6.11 – S6.25 provide that either party may carry out Temporary Disconnections in specified circumstances.

Clause 17.3 provides that only a Warranted Person may undertake connection or disconnection work that requires access to any Distributor's Equipment (such as a pole or pillar fuse or isolation link). This would not prevent a Trader from undertaking a Temporary Disconnection using a method that does not involve access to the Network (eg, using suitable advanced Metering Equipment functionality, removing conductors from meter terminals and resealing the meter, or locking open a suitable isolation device located within the Customer's Premises).

S6.11 *The parties agree that Temporary Disconnection of an ICP at which the Trader supplies electricity may be carried out by the Trader in the following circumstances:*

- (a) if in an emergency it is necessary to avoid endangering persons or property;*
- (b) for credit reasons; or*
- (c) if requested by the Customer, for safety or other reasons.*

S6.12 *The Trader must, subject to clause 29.1, ensure that each of its Customer Agreements provides that the Distributor may perform a Temporary Disconnection in relation to a Customer's ICP in the following circumstances:*

- (a) it is necessary to avoid endangering persons or property;*
- (b) there has been an occurrence, or there are circumstances, that may adversely affect the proper working of the Network or the Grid;*
- (c) in the circumstances set out in clause 3.7;*
- (d) in accordance with clause 11.3;*
- (e) if a Customer does any of the things prohibited under clauses 12.1 or 12.7, or fails to do any of the things required of it as contemplated in clause 13; or*
- (f) on termination of this Agreement.*

S6.13 *Subject to clause 17.4 (which relates to medically dependent and vulnerable Customers), if the Distributor intends to perform a Temporary Disconnection under clause S6.12, the Distributor must give the Trader notice of the Temporary Disconnection as follows:*

- (a) the Distributor must give the Trader at least 5 Working Days' notice of disconnection if the Distributor intends to perform a Temporary Disconnection because:*

- (i) *the Customer failed to provide the Distributor with access in accordance with its Customer Agreement; or*
- (ii) *the Customer damaged or interfered the Distributor's Equipment or Network; or*
- (b) *the Distributor must give the Trader at least 10 Working Days' notice of disconnection if the Distributor intends to perform a Temporary Disconnection because the Customer failed to do any of the things required of it as contemplated in clause 11.*

S6.14 *The notice of Temporary Disconnection provided by the Distributor to the Trader under clause S6.13 must specify:*

- (a) *the ICP identifier of the relevant Customer;*
- (b) *the particulars of the Customer breach;*
- (c) *the remedy required if disconnection is to be avoided; and*
- (d) *the date on which disconnection will occur if the breach is not previously remedied to the Distributor's reasonable satisfaction.*

S6.15 *On receipt of a notice under clause S6.13, the Trader must promptly forward a physical notice to the relevant Customer and include mail, email and telephone contact details that the Customer may use to contact the Trader about the matter. The Trader must promptly forward to the Distributor any response received from the Customer and the Distributor must consider in good faith all such responses it receives. The Trader and the Distributor must work together to ensure that communications are co-ordinated and promptly communicated to the relevant party.*

S6.16 *Subject to clause 17.4 (which relates to medically dependent and vulnerable Customers):*

- (a) *if the Distributor intends to perform a Temporary Disconnection under clause S6.12(f), the grounds for the Temporary Disconnection are not being reasonably Disputed by the Trader, and the Distributor has taken reasonable steps to avoid the need for a Temporary Disconnection, the Distributor must give each Customer:*
 - (i) *at least 9 Working Days' notice of warning of disconnection before any disconnection, such notice to include the reason for the Temporary Disconnection and be sent to each Customer's last address provided to the Distributor by the Trader, or if no address has been provided as the Trader has no Customer at that ICP, the notice must be sent to the Customer's address on the Registry, and the Distributor must provide information about the Temporary Disconnection by way of general advertisement and publication on the Distributor's website;*
 - (ii) *a final warning not less than 48 hours nor more than 7 days before the disconnection. The final warning must provide the timeframes for disconnection. This must be a separate notice to the one provided at least 9 Working Days before disconnection;*
 - (iii) *if disconnection is not completed within the timeframes notified, the Distributor must issue another final warning not less than 48 hours nor more than 7 days before disconnection:*
- (b) *if the Distributor intends to perform a Temporary Disconnection as contemplated by clause S6.12(a) or S6.12(b), the Distributor must use its best endeavours to*

give each Customer as much prior notice as reasonably practicable, but in any event must notify each Customer no later than 2 days after the Temporary Disconnection.

S6.17 The party that performs a Temporary Disconnection in respect of a Customer must (unless otherwise agreed) notify the other party of that fact no later than 2 Working Days after the Temporary Disconnection. To avoid doubt, the status of the ICP in the Registry must be changed by the party undertaking the Temporary Disconnection to "inactive" only if the Temporary Disconnection remains in effect for more than 5 Working Days.

S6.18 If either party has performed a Temporary Disconnection in respect of a Customer's ICP, the party that performed the Temporary Disconnection must take reasonable steps to arrange restoration of supply to the ICP as soon as reasonably practicable and in any case no longer than 3 Working Days after conditions for reconnection have been satisfied.

Vacant Site Disconnections and associated reconnections

S6.19 The Trader may undertake a Vacant Site Disconnection of an ICP if:

- (a) the Trader is recorded as the trader for the ICP in the Registry;*
- (b) the ICP has an "active" status in the Registry; and*
- (c) in respect of that ICP, no Customer Agreement exists with the Trader.*

S6.20 The Trader must undertake a Vacant Site Disconnection of an ICP without delay if the ICP meets the criteria set out in clause S6.19 and the ICP has been inactive for at least 30 Working Days.

Note: Clauses S6.19 and S6.20 assume that the Distributor does not have an interest in the energisation status of any ICP. If it does, additional provisions will be needed.

The second sentence of clause S6.21 is written to ensure proof of compliance with the requirements of regulation 74(3) of the Electricity (Safety) Regulations 2010.

S6.21 The Trader may reconnect an ICP that is subject to a Vacant Site Disconnection if it wishes to supply electricity to that ICP. If the ICP has not been electrically connected for more than 6 months, the Trader must either request an inspection from the Distributor (if the Distributor provides this service) or advise the Customer to procure its own safety inspection using a person authorised to certify mains work. A copy of the certificate issued following such an inspection must either be provided to the Distributor, or held by the Trader at the Trader's offices for the later inspection by the Distributor, before the ICP is Re-energised.

S6.22 The Trader must ensure that Vacant Site Disconnections and associated reconnections are carried out in accordance with the Distributor's reasonable operational work practices for managing vacant sites. If a Vacant Site Disconnection or the associated reconnection requires access to any Network equipment or Distributor's Equipment, it must be carried out by a Warranted Person.

S6.23 The Trader may give the Distributor notice that the Distributor is responsible for completing the Vacant Site Disconnection for an ICP if:

- (a) the Trader wishes to carry out a Vacant Site Disconnection for the ICP;*
- (b) the Distributor has not provided an exclusive and accessible isolation device for that ICP; and*
- (c) the Trader has not been able to complete a Vacant Site Disconnection in accordance with Good Electricity Industry Practice for that ICP after 2 separate*

site visits for that purpose by a Warranted Person, including by seeking to disconnect at the ICP at the meter(s).

S6.24 *If the Trader gives the Distributor notice under clause S6.23:*

- (a) the Distributor must endeavour in accordance with Good Electricity Industry Practice to complete the Vacant Site Disconnection;*
- (b) the Distributor must investigate provision of an accessible isolation device for the ICP but is not required to install such a device if it considers in its opinion that it would be impractical or unreasonably costly to do so; and*
- (c) the Trader must continue to use reasonable endeavours to seek to gain access to the ICP meter to meet its obligations under the Code.*

S6.25 *The party performing the disconnection or reconnection must, unless otherwise agreed, notify the other party within 2 Working Days after completion of the work.*

Decommissioning an ICP

S6.26 *A Distributor may Decommission an ICP in the following circumstances, provided that the requirements of section 105 of the Act and Part 11 of the Code are met:*

- (a) the Distributor is advised by a Customer, landowner or the Trader that electricity is no longer required at the ICP;*
- (b) it is necessary to Decommission the ICP because public safety is at risk;*
- (c) the Registry notifies the Distributor that the ICP has the status of "Inactive", with the reason given "De-energised – ready for decommissioning", the ICP has been De-energised and the Trader has attempted to recover any Metering Equipment; or*
- (d) if the Distributor has not supplied Distribution Services in respect of the ICP for 6 months or more.*

S6.27 *If a Distributor intends to Decommission and clauses S6.26(a) or (d) apply, the Distributor must, unless advised by the Trader, notify the Trader before Decommissioning the ICP to enable the Trader to arrange for removal of the Metering Equipment (if appropriate) and update the Registry.*

S6.28 *A party Decommissioning an ICP must do so by removing all or part of the Customer Service Line to the ICP, or if a shared Customer Service Line forms part of the supply, by isolating and removing the load side cable from the main switch at the meter board and removing any associated Metering Equipment. In all circumstances, the property must be left electrically safe.*

S6.29 *The party performing the Decommissioning must notify the other party within 2 Working Days of the Decommissioning having been completed.*

S6.30 *If an ICP has the status of "Decommissioned" on the Registry, the ICP identifier must not be used again and the process for new connections must be followed if supply is required again at the property.*

SCHEDULE 7 – PRICING

S7.1 The Distributor must ensure that the pricing information Published in accordance with this Schedule 7 is available:

- (a) in a standard downloadable electronic document format (such as the PDF format), in a form that permits electronic search and copy functions; and
- (b) in a manner that clearly sets out all changes from the previous version (eg, by providing both clean and change-highlighted versions).

Operational Terms

S7.2 *This Schedule 7 must set out references to the Distributor's Published information that provides comprehensive policy and detail of the Distributor's current:*

- (a) *Pricing Methodology;*
- (b) *Price Categories, and the eligibility criteria for each Price Category;*
- (c) *Price Options (if any); and*
- (d) *Prices.*

SCHEDULE 8 – LOAD MANAGEMENT

Use of controllable load

S8.1 A party may use a Load Control System for the following purposes, provided that it has obtained the right to control the load in accordance with clause 5.1 or 5.2:

- (a) **System Security:** managing System Security in accordance with the Code and Good Electricity Industry Practice;
- (b) **Network management:**
 - (i) managing Network system security;
 - (ii) reducing transmission charges; and
 - (iii) optimising Network investment;
- (c) **Market participation:**
 - (i) managing wholesale electricity purchase cost risk (eg, by time-shifting consumption); and
 - (ii) providing ancillary services under the Code.

Operational Terms

S8.2 *If relevant, this section must set out the rights and obligations of the parties in respect of coordination of split ownership Load Control Systems.*

S8.3 *An example of a clause that may comply with the requirements set out in clause S8.2 is set out in clause S8.4.*

Coordination of split ownership Load Control Systems

Note: Coordination is required if the Load Signalling Equipment and Load Control Equipment in a Load Control System is provided by more than one party. For legacy Load Control Systems in New Zealand, this normally involves the Distributor providing the Load Signalling Equipment and the Trader providing the Load Control Equipment.

S8.4 *If the Trader provides Load Control Equipment that forms part of the Distributor's Load Control System, the following provisions apply:*

- (a) *The Distributor must provide the Trader with details of the technical characteristics of the Load Control Equipment appropriate for use with the Distributor's Load Signalling Equipment in each Network area.*
- (b) *If the Distributor has obtained a load control right in accordance with clause 5.1, the Trader must ensure that Load Control Equipment is installed that reliably receives the Distributor's load control signals and controls the relevant load. If the Distributor's specific Controlled Load Option makes it necessary for the Trader to install additional Metering Equipment that separately measures and records controlled load electricity consumption, the Trader must install the Metering Equipment (provided that the parties acknowledge that such installation does not give the Distributor the right to change the eligibility criteria for Price Categories or Price Options in a manner that would require a mass change to existing metering installations).*
- (c) *If the Distributor seeks to change the operating characteristics (including the signalling frequency or protocol) of its Load Signalling Equipment, it must first negotiate in good faith with the Trader to agree suitable terms for the upgrade of the Trader's Load Control Equipment. If agreement is not reached, the Distributor may, at its discretion, elect to procure and install, at its own cost,*

suitable Load Control Equipment.

- (d) *The Distributor may periodically, but not more than once in any 12 month period, undertake an audit of Load Control Equipment performance within a Network area of its choice. The audit must assess the proper functioning of the Load Control Equipment for a randomly selected sample of ICPs to which the Trader supplies electricity. The sampling technique must be consistent with the methodology outlined in Part 10 of the Code that applies to selecting samples of meters.*
- (e) *If the audit finds that Load Control Equipment for which the Trader is responsible is not functional in respect of a number that is greater than 5% of the sample, the Distributor and Trader must, within 40 Working Days of the Distributor notifying the Trader of the results of the audit, meet and agree a programme of work including scope and timeframe within which the non-functioning Load Control Equipment must be identified and either replaced or repaired. The Trader must pay the reasonable costs of any inspection (including the initial audit) and repair work identified.*
- (f) *If the audit reveals that the proper functioning of Load Control Equipment is caused by low signal levels or faults on a pilot wire network that are the responsibility of the Distributor, such failures must be excluded from the audit results.*
- (g) *If the audit finds that Load Control Equipment for which the Trader is responsible is functional for 95% or more of the ICPs sampled, the cost of the audit must be paid by the Distributor, but the Trader must remedy all defects found in respect of non-functional Load Control Equipment for which the Trader is responsible.*