



**GENERAL CONDITIONS
FOR CONNECTION TO THE
SP DISTRIBUTION PLC
DISTRIBUTION SYSTEM**

1 July 2021

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APPENDIX A

INTERPRETATION AND DEFINITIONS

A.1. Interpretation

- A.1.1. Headings are for the ease of reference only.
- A.1.2. Any reference to masculine includes the feminine and any reference to singular includes the plural and vice versa.
- A.1.3. Any reference to a statute regulation or order includes any amendment or re-enactment of it.
- A.1.4. The Offer Letter, Appendices and other attachments and acceptance slip shall be read and construed as one document.
- A.1.5. The word 'including' is to be construed without limitation.
- A.1.6. For the avoidance of doubt nothing in this Agreement shall confer on any third party any benefit or the right to enforce any term of this Agreement

A.2. Definitions

In the Offer Letter and Appendices except where the context otherwise requires the following expressions shall have the meanings set opposite them.

"Act" the Electricity Act 1989, including any modification, extension or re-enactment thereof and any subordinate legislation made thereunder.

"Affiliate" of any person is a reference to any holding company or subsidiary or any subsidiary of a holding company of such person, in each case within the meaning of Sections 736, 736A and 736B of the Companies Act 1985 as substituted by Section 144 of the Companies Act 1989.

"Authority " the Gas and Electricity Markets Authority as established by section 1 of the Utilities Act 2000.

"Agreement" the agreement created upon acceptance of the Offer by or on behalf of the Customer and includes all the terms and conditions contained or referred to in the Offer Letter and any attachments.

"Bilateral Agreement" shall have the meaning given to that term in the CUSC.

"CDM Regulations" the Construction (Design and Management) Regulations 1994, including any modification, extension or re-enactment thereof and any subordinate legislation made thereunder

"Commissioned" means that any works have been completed and tested to the extent that they are available for operational use. "Commissioning" shall be construed accordingly.

"Connection" the installation of SP Distribution's equipment on the Premises in such a way that subject to energisation the Customer may give or receive a supply of electricity over the Distribution System. It does not include energisation.

"Connection Agreement" the agreement for connection of the Customer's Installation at the Premises to SP Distribution's electricity Distribution System.

"Connection Charge" the connection charge set out in the Offer Letter and includes where relevant each and any part of such charge and any variation to it.

"Connection Point" the point of connection at which a supply of electricity may flow between the Distribution System and the Customer's Installation. The Connection Point is the same as the Point of Supply but relates to connection as opposed to supply.

"Consents" all or any statutory consents, including planning consents in addition to any other statutory consents, approvals, licences and permissions and all wayleaves, servitudes, leases, rights over land or consents, approvals, licences or permissions of any kind required for the SP Distribution Works or the Customer's Works as SP Distribution may in its sole discretion deem appropriate.

"Customer" the Customer named as such in the heading to the Offer Letter.

"Customer's Installation" any structures, equipment lines appliances or devices (not being SP Distribution's equipment) owned or operated used or to be used by the Customer and connected or to be connected to the Distribution System.

"CUSC" means the Connection and Use of System Code established pursuant to NGET's transmission licence.

"Customer's Construction Programme" has the meaning ascribed to it in the Offer Letter.

"Customer Progression Milestones" has the meaning ascribed to it in the Offer Letter.

"Customer's Works" has the meaning ascribed to it in the Offer Letter.

"Distribution Code" the distribution code referred to in the Distribution Licence.

"Distribution Licence" the distribution licence granted to SP Distribution pursuant to section 6(1) (c) of the Act

"Distribution System" SP Distribution's plc's system for the distribution of electricity as referred to in the Distribution Licence.

"Electric Lines" has the same meaning as set out in Section 64 of the Electricity Act 1989 and also includes control communication and earth wires or similar equipment.

"Energisation" the movement of any switch or the insertion of any fuse or the taking of any other step so as to enable an electric current to flow between the Distribution System and the Customer's Installation at the Connection Point and "Energised" and "Energising" shall be construed accordingly.

"Financial Charges" means all or any of the charges referred to in B.31

"Force Majeure" any event or circumstance which is beyond the reasonable control of either Party and which results in or causes the failure of that Party to perform any of its obligations under this Agreement including act of God, strike, lockout or other industrial disturbance, act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot insurrection, civil commotion, public demonstration, sabotage, act of vandalism, lightning, fire, storm, flood, earthquake, accumulation of snow or ice, lack of water arising from weather or environmental problems, explosion, fault of failure of Plant and Apparatus to the extent that any such event or circumstance could not have been prevented by a Reasonable and Prudent Operator, and also including governmental restraint, any Act of Parliament or other legislation, bye law, and Directive (not being any order, regulations or directive under Sections 32, 33, 34 or 35 of the Act) or the failure of any generator to supply SP

Distribution with electricity or any deficiency in such supply, provided that lack of funds shall not be interpreted as a cause beyond that Party's control.

"GB Transmission System" shall have the meaning given to that term in the CUSC.

"Generating Plant" the generating plant to be installed and owned/operated by the Customer and more particularly specified in the Connection Agreement.

"Grid Code" the code of that name drawn up pursuant to NGET's transmission licence, as from time to time modified in accordance with NGET's transmission licence.

"Large Power Station" shall have the meaning given to that term in the Grid Code.

"Maximum Entry Capacity" the authorised entry capacity stated in the Offer Letter.

"Maximum Exit Capacity" the authorised exit capacity stated in the Offer Letter.

"Minimum Scheme" shall have the meaning given to that term in the Statement.

"Modification Application" shall have the meaning given to that term in the CUSC.

"NGET" National Grid Electricity Transmission plc a company registered in England with number 2366977 whose registered office is at 1-3 Strand, London, WC2N 5EH.

"Normal Working Hours" mean the hours of 8.30am to 4.30pm of the days Monday to Friday of any week, excluding any public holiday applicable to the location of the Site.

"Offer" the Offer for the new connection as contained in this Offer Letter.

"Offer Letter" the letter to which this Appendix is attached which includes where the context so admits all the Appendices and other attachments.

"Outage" the interruption of the flow of electricity over the Distribution System or GB Transmission System whether planned or unplanned.

"Party" each person for the time being and from time to time party to this Agreement and any successors in title to, or permitted assigns of, such person.

"Planned Outage" the planned interruption of the flow of electricity through the Distribution System or any part of it made by SP Distribution with the consent of SP Distribution Operation Control Centre to de-energise part of the Distribution System so as to ensure the SP Distribution Works can be completed without, in the opinion of SP Distribution's Operation Control Centre affecting the security, safety and operation of the Distribution System or the GB Transmission System.

"Premises" includes any part of any land, building or structure, which the Customer owns or occupies.

"Regulations" the Electricity Safety, Quality and Continuity Regulations 2002 as amended from time to time and the Electricity at Work Regulations 1989.

"Relevant Embedded Small Power Station" shall have the meaning given to that term in the CUSC.

"RPI" the Index of Retail Prices published by the Office of National Statistics and includes any replacement or substituted index.

"Site" means the land and property belonging to the Customer upon which SP Distribution are carrying out physical works.

"SP Distribution plc" a company registered in Scotland with number SC189125 whose registered office is at 320 St. Vincent Street, Glasgow, Scotland, G2 5AD

"SP Distribution Works" has the meaning ascribed to them in the Offer Letter.

"Specialist Surface" means any surface of land which SP Distribution reasonably considers to be a specialist surface.

"Statement" the Statement of Methodology and Charges for Connection to SP Distribution's Distribution System as amended from time to time.

"Statement of Works" shall have the meaning given to that term in the CUSC.

"Substation Accommodation" the accommodation at the Premises (including the substation building and/or outdoor compound, concrete plinth, fencing, drainage fittings and systems, ventilation fittings and systems and/or any other accommodation works) as reasonably required by SP Distribution to house the SP Distribution substation equipment.

"Target Date" means the target date for the completion and Commissioning of the SP Distribution Works as described in the Offer Letter and includes any extension of that period or new date fixed in accordance with the provisions of this Agreement.

"Use of System" use of the Distribution System

"We/us/our" SP Distribution plc.

"You/your" the Customer.

APPENDIX B

GENERAL CONDITIONS

B.1 Variation of Terms

The terms and conditions contained in this Offer Letter (including the Connection Charge) are based on information supplied by the Customer. SP Distribution reserves the right to revise any of the terms and conditions (including the SP Distribution Works, the Connection Charge or any part of it and any dates including the Target Date) specified in this Agreement, should the information change to the extent that SP Distribution considers such revision reasonable and proper, having regard to the change of information.

B.2 Continuing Obligations

When the SP Distribution Works have been completed and Commissioned the Connection Agreement will, except to the extent that any obligations in this Offer Letter remain to be implemented, supersede these terms and conditions but without prejudice to any outstanding liabilities.

B.3 Extra Costs

B.3.1 In the event of the suspension, cancellation or delay of any SP Distribution Works at the Customer's request or a delay caused by matters within the Customer's control and/or as a consequence of the Customer carrying out any development of the Site, any expense or extra costs incurred by SP Distribution shall be charged to and paid for by the Customer but only in so far as is fair and reasonable.

B.3.2 If any matter referred to in B.3.1 causes SP Distribution when excavating street works in a maintainable highway to be delayed in carrying out such works and SP Distribution as a result of such delay incurs any charge and/or fine pursuant to the New Roads and Street Works Act 1991 then the Customer shall reimburse SP Distribution with the amount of any such charge and/or fine.

B.3.3 In the event of unforeseen events, any expenses and/or costs incurred by SP Distribution in relation to the Agreement shall, so far as is fair and reasonable in the circumstances, be charged to and paid for by the Customer.

B.3.4 Any expenses and/or costs incurred by SP Distribution in relation to the Agreement as a result of changes in any licence, regulatory or statutory obligations shall, so far as is fair and reasonable in the circumstances, be charged to and paid for by the Customer.

B.4 Overtime

These terms and conditions have been prepared on the basis of SP Distribution carrying out their works during Normal Working Hours. If SP Distribution has to work outside these hours to meet any dates referred to in this Agreement then the Customer shall permit SP Distribution to have access outside normal working hours and any such additional cost will be the responsibility of SP Distribution. SP Distribution reserve the right to charge additional costs for work undertaken outside these times at the Customer's request or if such additional work has been caused by or arises out of any act, neglect or default of the Customer.

B.5 Payments

- B.5.1 Unless otherwise provided in the Offer Letter, payment of the Connection Charge(s) will be required in accordance with the payment terms in the Offer Letter.
- B.5.2 Unless otherwise provided in the Offer Letter, all other payments due to SP Distribution under the Agreement shall be paid by the Customer within 14 days of the date of issue of each invoice issued by SP Distribution.
- B.5.3 If any payments are not made on or before the due date for payment then, without prejudice to any other right or remedy, subject to SP Distribution giving the Customer written notice to that effect, SP Distribution may stop work until such payment is made to SP Distribution. Any reasonable additional expenses and/or extra costs incurred by SP Distribution from such stoppage, including demobilisation and remobilisation costs, shall be charged to and paid for by the Customer.
- B.5.4 All payments to be made by the Customer under the Agreement shall be made in full on or before the date specified for payment without any set-off or counter claim whatsoever.
- B.5.5 Without prejudice to any other right or remedy, if any payment due under the Agreement is not made on the date for payment, the Customer shall pay interest to SP Distribution at the annual rate of 4% above the base lending rate (or failing the quotation of such rate, at such other reasonable equivalent rate to be decided upon by SP Distribution) of the Royal Bank of Scotland plc for the time being and from the date the payment should have been made up to the date of actual payment. Such interest will be calculated on the daily balance due and unpaid.

B.6 Limitation of Liability

- B.6.1 Neither Party shall be liable for any breach of this Agreement directly or indirectly caused by Force Majeure.
- B.6.2 Subject to sub-clause B.6.4 and B.6.6 and save as provided in this sub-clause B.6.2 and sub-clause B.6.3 hereof neither Party ("the Party Liable") nor any of its officers, employees or agents shall be liable to the other Party for loss arising from any breach of this Agreement other than for loss directly resulting from such breach and which at the date hereof was reasonably foreseeable as likely to result in the ordinary course of events from such breach and which resulted from physical damage to the property of the other Party, its officers, employees or agents, provided that the total liability of either Party in respect of all claims for such loss or damage shall not exceed £1,000,000 per incident or series of related incidents;
- B.6.3 Nothing in this Agreement shall exclude or limit the liability of the Party Liable for death or personal injury resulting from the negligence of the Party Liable or any of its officers, employees or agents and the Party Liable shall indemnify and keep indemnified the other Party, its officers, employees or agents from and against all such and any loss or liability which such other Party may suffer or incur by reason of any claim on account of death or personal injury result from the negligence of the Party Liable or any of its officers, employees or agents.

- B.6.4 Subject to sub-clause B.6.6, neither Party, nor its officers, employees or agents shall in any circumstances whatsoever be liable to the other Party for:
- (a) any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill, or
 - (b) any indirect loss or consequential loss or damages, or
 - (c) loss resulting from the liability of such other Party to any other person howsoever and whensoever arising save as provided in sub-clause B.6.3.
- B.6.5 The rights and remedies provided by this Agreement to the Parties are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies express or implied and provided by common law or statute in respect of the subject matter of this Agreement, including without limitation any rights either party may possess in delict which shall include without limitation actions brought in negligence and/or nuisance. Accordingly, each of the Parties hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute, and releases the Party Liable to the same extent from all duties, liabilities, responsibilities or obligations provided by common law or statute in respect of the matters dealt with in this Agreement and undertakes not to enforce any of the same except as expressly provided herein.
- B.6.6 Save as otherwise expressly provided in this Agreement this clause B.6 insofar as it excludes or limits liability shall override any other provision of this Agreement, provided that nothing in this clause B.6 shall exclude or restrict or otherwise prejudice or affect any of:
- (a) the rights, powers, duties and obligations of either Party which are conferred or created by the Act, the Licence, the CDM Regulations, or the Regulations; or
 - (b) the rights, powers, duties and obligations of the Authority or the Secretary of State under the Act, the Licence or otherwise howsoever.
- B.6.7 Each of the sub-clauses of this clause shall:
- (a) be construed as a separate and severable contract term, and if one or more of such Clauses is held to be invalid, unlawful or otherwise unenforceable the other or others of such Clauses shall remain in full force and effect and shall continue to bind the Parties, and
 - (b) survive termination of this Agreement.
- B.6.8 Each of the Parties agrees that the other Party holds the benefit of sub-clauses B.6.2, B.6.3, B.6.4 and B.6.5 for itself and as trustee and agent for its officers, employees and agents.
- B.6.9 For the avoidance of doubt, nothing in this clause B.6 shall prevent or restrict either Party enforcing any obligation (including suing for a debt) owed to it under or pursuant to this Agreement.

B.6.10 Each Party agrees with the other Party to obtain and keep in force and effect at all times a policy or policies of insurance with reputable insurers of good standing covering public liability for injury to persons or damage to property with a policy limit of not less than £5,000,000 per incident or series of related incidents and each Party will pay its own premiums on its own insurance and will provide the other with such reasonable evidence of such insurance as such other Party may reasonably require at any time or from time to time.

B.7 Not applicable

B.8 Customer's Installation

Save where express written representations are made by us, or the work is done by us, neither by inspection, non-rejection or connection or energisation nor in any other way do we give any guarantee or warranty, expressed or implied, as to the adequacy, safety or other characteristic of the Customer's Installation or anything connected to it directly or indirectly (but excluding anything belonging to SP Distribution) or other works and we shall not be responsible for it or them. The Customer must rely on its own skill and judgement in all respects.

B.9 Access

Safe access to the Premises shall be made available to SP Distribution employees, agents and contractors at all times to enable SP Distribution to carry out its works and statutory duties. Any Substation Accommodation accepted by SP Distribution will be fitted with a lock by SP Distribution, after which time only SP Distribution's authorised personnel will be allowed access to that Substation Accommodation. The Customer shall procure that SP Distribution has 24 hour unrestricted access to any Substation Accommodation.

B.10 Indemnity

The Customer shall be responsible for and indemnify SP Distribution against all claims for compensation by third parties in respect of unavoidable damage to gardens, trees, lagoons, pipes, shrubs, plants, tiles, walls, or footpaths on the Premises.

B.11 Damage to or Theft of SP Distribution's Equipment etc

If SP Distribution's apparatus, cables or equipment is damaged, mislaid or stolen from, or electricity is abstracted from, the Premises, whilst the Premises is under control of the Customer or its Contractors, the Customer shall reimburse SP Distribution with the costs of repair or replacement and any associated costs and in the case of electricity abstracted, pay SP Distribution the value of it based on SP Distribution's reasonable estimate.

B.12 Surveys

If prior to the Customer's Installation being Commissioned, SP Distribution becomes aware that a variation to the SP Distribution Works and/or the Target Date is necessary due to SP Distribution failing to obtain in terms satisfactory to SP Distribution a report following upon any survey of ground conditions or technical investigations in relation to the proposed route for the electric line or cable or the proposed location of the Substation Accommodation (as provided in Schedule 2 of the Offer Letter), then SP Distribution shall be entitled to revise the SP Distribution Works and all dates (including the Target Date) and charges specified or referred to in this Agreement.

B.13 Consents

B.13.1 SP Distribution shall use its reasonable endeavours to obtain or procure the obtaining of all Consents which SP Distribution consider necessary to enable SP Distribution to complete or procure the completion of the SP Distribution Works.

B.13.2 The Customer shall give advice and assistance to SP Distribution to the extent reasonably required by SP Distribution in furtherance of this obligation.

B.13.3 The Customer shall procure the grant to SP Distribution all such wayleaves, servitudes, rights over or interest in land or other Consents required by SP Distribution in order to enable the SP Distribution Works to be completed.

B.13.4 All dates specified or referred to in this Agreement (including the Target Date) are subject to SP Distribution obtaining or procuring the obtaining of the Consents for the SP Distribution Works or the ownership in a form acceptable to SP Distribution within the time required by it to enable the SP Distribution Works to be completed by the Target Date.

B.13.5 Subject to clause B.13.1 in the event that:

- (a) the Consents are not obtained by the required dates; or
- (b) are subject to conditions which SP Distribution find unacceptable and/or which affect the dates; or
- (c) SP Distribution wish to amend the SP Distribution Works to facilitate the grant of the Consents having obtained the consent of the Customer, such consent not to be unreasonably withheld or delayed; or
- (d) any Consents obtained are subsequently terminated, withdrawn or cancelled or SP Distribution is otherwise prevented or delayed from accessing any land to carry out the SP Distribution Works

then SP Distribution shall be entitled to revise the SP Distribution Works and all dates (including the Target Date) and charges specified or referred to in this Agreement.

B.13.6 The Customer shall, subject to the provisions below, pay to SP Distribution:

- (a) all reasonable SP Distribution in-house charges connected with the seeking and acquiring of the Consents; and
- (b) all proper and reasonable out of pocket expenses incurred (including any external legal and/or other fees) and/or paid by SP Distribution or which SP Distribution is legally obliged to pay; and
- (c) all other charges and expenses reasonably and properly incurred by SP Distribution

in seeking and acquiring the Consents with allowance being given for sums (if any) previously paid to SP Distribution for such Consents.

The Customer acknowledges that these expenses or charges may include the cost of seeking and obtaining necessary wayleaves, servitudes, permissions, approvals and Consents and the compulsory acquisition of land and any requisite hearings, inquiries and appeals and the capital cost or annual wayleave payments together with any reasonable legal and surveyors costs of landowners and occupiers in acquiring such wayleaves, servitudes, permissions, approvals or Consents in respect of any electric lines or cables or equipment forming part of the SP Distribution Works.

The Customer shall pay such sums within 28 days of the date of SP Distribution's invoice.

SP Distribution shall provide to the Customer such reasonable evidence of charges and expenses incurred or claimed by SP Distribution as reasonably requested by the Customer. SP Distribution shall give adequate notice and details of all such hearings appeals applications etc. hereunder and shall use reasonable endeavours to keep the Customer informed of all such matters

B.13.7 In the event that SP Distribution is unable to obtain all the Consents for the SP Distribution Works (having used its reasonable endeavours so to do SP Distribution may terminate this Agreement. In event of such termination provisions of clause B.31 of this Appendix shall apply.

B.13.8 SP Distribution shall not be required to exercise any power conferred by Schedules 3 or 4 of the Act. Notwithstanding that, the Customer may request that SP Distribution exercise such powers. Should SP Distribution agree to such a request, the exercise of such powers by SP Distribution shall be undertaken by SP Distribution at the Customer's expense and/or cost.

B.14 Reinstatement of Excavation

SP Distribution will be responsible for re-instating any excavations carried out by it on the Premises in connection with the placing, maintaining or removing of any Electric Lines cables and apparatus associated with the electricity supply and connection and/or the SP Distribution Works. Reinstatement of any excavations will be made good to a similar ground condition that was present prior to excavation, except that SP Distribution will not be responsible for any permanent reinstatement of any Specialist Surfaces on the Customer's Premises.

B.15 Facilities for Cables

The Customer shall, at no expense to SP Distribution, afford to SP Distribution all necessary Consents and facilities in regard to the positioning of new and existing Electric Lines, cables and apparatus within, on or under the Premises and along routes to be approved by SP Distribution and the Customer, such approval not to be unreasonably withheld or delayed.

B.16 Trees etc.

SP Distribution shall be entitled to fell, lop and cut any trees, shrubs or plants on the Premises as may be reasonably necessary.

B.17 Law and Jurisdiction

This Agreement shall be construed in accordance with and governed by Scots Law and the Parties prorogate the non-exclusive jurisdiction of the Courts of Scotland.

B.18 S16A(5) Electricity Act 1989 Notice

If the Customer has given notice requiring a connection under S16A(2) of the Act then this Offer Letter shall constitute a notice under S16A(5) of the Act

B.19 Entire Agreement and Representations

This Agreement shall constitute the entire Agreement between the parties and supersedes all previous Agreements and understandings between the parties relating to the SP Distribution Works.

The Customer acknowledges and confirms that it has not accepted the terms and conditions in the Offer Letter in reliance wholly or partly on any statement or representation made on behalf of SP Distribution save insofar as such statement or representation is expressly set out in the Offer Letter and appendices.

B.20 Assignment and Sub-contracting

B.20.1 The rights, powers, duties and obligations of the Customer under the Agreement are personal to the Customer and the Customer may not assign the benefit or burden of the Agreement whether in whole or in part without the prior written consent of SP Distribution which shall not be unreasonably withheld.

B.20.2 SP Distribution shall be entitled (without the consent of the Customer) to assign its rights and/or obligations in terms of, arising from or under this Agreement (in whole or in part) where such assignment is to an Affiliate of SP Distribution and the Affiliate is or will be entitled in terms of a licence granted under the Act to perform the obligations of SP Distribution, in terms of or arising from this Agreement to the extent thereby assigned.

B.20.3 Subject to the provisions of sub-clauses B.20.1 and B.20.2 above, neither Party shall be entitled to sub-contract or delegate the performance of any of its obligations or duties arising under this Agreement (including those arising under the Distribution Code) without the prior written consent of the other which consent shall not be unreasonably delayed or withheld. For the avoidance of doubt, any such sub-contracting or delegation shall not relieve the Party who sub-contracts for liability to the other for the performance of the obligations or duties so sub-contracted or delegated.

B.21 Force Majeure

If either Party shall be unable to carry out any of its obligations hereunder due to a circumstance of Force Majeure, this Agreement shall remain in effect but save as otherwise provided herein both Parties' obligations other than any obligation as to payment of charges shall be suspended without liability for a period equal to the circumstance of Force Majeure Provided that;

- (a) the non-performing Party gives to the other Party as soon as reasonably practicable notice describing the circumstance of Force Majeure, including the nature of the occurrence and its expected duration, and continues where reasonably practicable to furnish regular reports with respect thereto during the period of Force Majeure,
- (b) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure,
- (c) no obligations of either Party that accrued before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure, and
- (d) the non-performing Party uses all reasonable efforts to remedy its inability to perform as quickly as possible.

B.22 Not Applicable

B.23 Delays

B.23.1 If SP Distribution shall be delayed in carrying out the SP Distribution Works by reason of any act, default or omission of the Customer or its servants, agents, contractors or sub-contractors or in the event of Force Majeure, then provided SP Distribution notifies the Customer in writing of such act, default, omission or Force Majeure, within 28 days of it becoming aware that there will definitely be a delay together with (if possible) an estimate of the proposed delay SP Distribution shall be entitled to such extension of the Target Date as SP Distribution considers fair and reasonable.

B.23.2 The completion of the SP Distribution Works by the Target Date is dependent upon SP Distribution being able to obtain Planned Outages of the relevant parts of the Distribution System.

In the event that SP Distribution is unable to obtain such Planned Outages having acted reasonably in endeavouring to obtain such Planned Outages in sufficient time to permit SP Distribution to complete the SP Distribution Works within the requisite time scales, then SP Distribution shall be entitled to revise the Target Date but so far only as SP Distribution considers is fair and reasonable.

B.23.3 If there is a delay in obtaining Consents the Target Date may also be extended in the manner provided in this Agreement.

B.23.4 Notwithstanding that there may be a delay in making Connections or electricity supplies available in the interests of safety and security of supply, SP Distribution cannot lay electricity cables at the Site until the Customer provides the Site cleared of all obstructions, with final ground levels established and permanent road kerbs installed, where that is reasonably required by SP Distribution for all such electricity cables and in general the Site is in all respects ready to receive those electricity cables without the risk of them being disturbed or damaged. SP Distribution will not be liable for any delay referred to in this B.23.4.

B.24 Not Applicable

B.25 VAT

All costs and payments under this Agreement are stated exclusive of value added tax and the Customer shall pay to SP Distribution value added tax at the rate for the time being in force.

B.26 Not Applicable

B.27 Not Applicable

B.28 Right of Termination

B.28.1 In the event that the Customer's Works are not completed twelve months after the Target Date, as specified in the Offer Letter, (otherwise than as a result of any material breach by SP Distribution of its obligations under this Agreement) SP Distribution may terminate this Agreement by giving the Customer at least 4 weeks written notice to this effect.

B.28.2 In the event that the SP Distribution Works are not completed twelve months after the Target Date, as specified in the Offer Letter, (otherwise than as a result of any material breach by SP Distribution of its obligations under this Agreement) SP Distribution may terminate this Agreement by giving the Customer at least 4 weeks written notice to this effect.

- B.28.3 In the event that SP Distribution Works are not commenced twelve months after the date of the Agreement (otherwise than as a result of any material breach by SP Distribution of its obligations under this Agreement), SP Distribution may terminate this Agreement by giving the Customer at least 4 weeks written notice to this effect.
- B.28.4 In the event that the Customer fails to make the payments due in accordance with the Offer Letter SP Distribution may terminate this Agreement by giving the Customer at least 4 weeks' written notice to that effect.
- B.28.5 In the Event of Default in accordance with B.30.1, SP Distribution may terminate this Agreement in accordance with Clause B.30.2.
- B.28.6 In the event that (in SP Distribution's reasonable opinion) the Customer has not satisfactorily progressed either of the Customer Progression Milestones or the Customer's Construction Programme to enable SP Distribution to achieve the Target Date then SP Distribution may terminate this Agreement by giving the Customer 4 weeks' notice to that effect.
- B.28.7 Upon termination of this Agreement under any of the provisions of this Clause B.28 then the provisions of Clause B.31 shall apply.
- B.28.8 Termination of the Agreement shall not affect any rights of the Parties accruing up to the date of termination.

B.29 Variations of Works

- B.29.1 If at any time prior to the Target Date it is necessary, or SP Distribution in its reasonable discretion wishes to make any alteration, addition, omission or amendment to any SP Distribution Works then SP Distribution shall notify the Customer in writing and this Agreement shall be amended to reflect such change provided that:
- (a) SP Distribution shall nevertheless be required to provide the Maximum Entry Capacity and the Maximum Exit Capacity required by the Customer under the provisions of this Agreement; and
 - (b) SP Distribution may alter the Connection Charge payable by the Customer to take account of any such change in the SP Distribution Works, but only if any such alteration, addition, omission or amendment arises as a result of any act, neglect or default of the Customer or its servants, agents, contractors or sub-contractors or as a result of Force Majeure.
- B.29.2 If the Customer wishes to amend and/or vary the Customer's Installation, the phasing of the development or the layout of the development to be carried out by the Customer at the Site to an extent which may affect SP Distribution's Works or change the number of Connections or capacity required the Customer shall give written notice to that effect to SP Distribution with such details and information required by SP Distribution.
- B.29.3 Following SP Distribution's receipt of notice referred to in B.29.2, SP Distribution may amend and/or vary SP Distribution's Works, the Target Date, and also the Connection Charge(s) by giving the Customer written notice to that effect. SP Distribution shall also charge the Customer an amount that is reasonable for processing any such amendment or variation referred to in B.29.2.

B.30 Events of Default

- B.30.1 In addition to but without prejudice to the whole other rights and remedies of SP Distribution under and in terms of this Agreement in the event that:

(a) the Customer shall fail to pay (other than inadvertent error in funds transmission which

is discovered by SP Distribution and corrected within 2 days thereafter) any amount properly due and owing from it pursuant to the terms of this Agreement, including the terms of the Offer Letter, and such default continues unremedied and not disputed in good faith and upon reasonable grounds at the expiry of a period of 10 days immediately following receipt by the Customer of written notice from SP Distribution of such non-payment, or

- (b) the Customer shall fail in any material respect to perform or comply with any of its obligations under this Agreement and such failure is not remedied to the reasonable satisfaction of SP Distribution within 28 days of written notification to the Customer by SP Distribution of the occurrence thereof and requiring the same to be remedied, or
- (c)
 - (1) an order of the Court is made or an effective resolution passed for the insolvent winding up or dissolution of the Customer, or
 - (2) a receiver (which expression shall include an administrative receiver within the meaning of Section 29 of the Insolvency Act 1986) of the whole or any material part of the assets or undertaking of the Customer is appointed, or
 - (3) an administration order under Section 8 of the Insolvency Act 1986 is made or a voluntary arrangement is proposed under Section 1 of that Act in respect of the Customer, or
 - (4) the Customer enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by SP Distribution), or
 - (5) the Customer is unable to pay its debts (within the meaning of Section 123(1) or (2) of the Insolvency Act 1986), or
- (d) the Customer puts SP Distribution in a position such that SP Distribution's ability to comply with its obligations and duties under all applicable laws, the Licence, the Grid Code or Distribution Code is adversely affected, or
- (e) the Customer is an individual or a firm and the Customer ceases to pay its debts as and when they fall due, or is sequestrated, or signs a trust deed for behalf of its creditors, or makes any other composition or arrangement with or for its creditors, or
- (f) the Customer fails to take such steps as may be reasonable to enable SP Distribution to comply with any Order or Provisional Order of the Authority under the Act, or
- (g) in accordance with any of the other provisions of this Agreement an Event of Default has been deemed to have occurred or SP Distribution is entitled to hold that an Event of Default has occurred,

such event shall become an Event of Default.

B.30.2 Once SP Distribution has given notice of an event of default pursuant to this clause this Agreement shall terminate and without prejudice to any other provisions of this Agreement clause B.31 shall apply.

B.30.3 Upon termination of this Agreement the Customer shall pay (without prejudice to any other provisions of this Agreement) to SP Distribution all sums then due and payable or accrued due under this Agreement

B.30.4 The termination of this Agreement for whatever reason or cause whatsoever shall be without prejudice to any rights or obligations which may have accrued or become due between SP Distribution and the Customer prior to or on the date of the termination and any provisions rights or obligations stated to take effect on or after termination shall remain in full force and effect.

B.31 1. Termination Payments and Financial Charges

B.31 1.1 If this Agreement is terminated for any reason whatsoever (other than as a result of a material breach by SP Distribution of its obligations under this Agreement) the Customer shall be liable to pay to SP Distribution a sum equal to SP Distribution's estimate of the Financial Charges. The Customer shall pay such sums within 14 days of the date of SP Distribution's invoice.

B.31 1.2 As soon as reasonably practicable SP Distribution will provide the Customer with a certified statement of the actual charges having been incurred or paid and/or having been contractually committed to be incurred. This statement, save in the case of manifest error, will be final and binding on the parties,

If the Financial Charges set out in the statement are greater than the payments made by the Customer in respect of the estimate of the Financial Charges the Customer shall within 14 days of the date of the statement and invoice prepared by SP Distribution pay to SP Distribution the additional payment due by the Customer together with interest calculated thereon on a daily basis at Royal Bank of Scotland plc base rate for the time being and from time to time from the date of the previous payment(s) of sums equal to SP Distribution's estimate of Financial Charges to the date of the said statement and invoice for Financial Charges.

If the Financial Charges are less than the payments made by the Customer in respect of SP Distribution's estimate of the Financial Charges then SP Distribution shall forthwith pay to the Customer the excess payable together with interest on a daily basis at Royal Bank of Scotland plc base rate for the time being and from time to time from the date of payment of estimated sums to the date of reimbursement by SP Distribution of the excess paid.

B.31 1.3 Any payment under these provisions shall take into account any payments already made by the Customer under the provisions of this Agreement.

B.31 1.4 For the avoidance of doubt this clause shall survive termination of this Agreement and will remain in full force and effect until all payments payable to SP Distribution have been made in full.

B.31 2. Financial Charges

The Financial Charges being the amount (which will include on-costs) payable by the Customer on termination of this Agreement (howsoever terminated) will be the aggregate from time to time and for the time being of:

B.31 2.1 all SP Distribution's reasonable charges for time spent by SP Distribution's engineers and other staff in relation to this Agreement;

- B.31 2.2 fees expenses and costs (including the cost of the purchase of any equipment forming part of SP Distribution Works) of whatever nature reasonably and properly incurred or due SP Distribution in respect of any of SP Distribution Works carried out prior to the date of termination;
- B.31 2.3 fees, expenses, damages, payments, costs and charges of any kind whatsoever properly paid by SP Distribution in respect of or howsoever arising from the termination by it or any third party of any contract (including for the avoidance of doubt all or any amounts paid by SP Distribution to any contractor or sub-contractor in respect of any contract or sub-contract placed by SP Distribution for the SP Distribution Works or any part of them) for or relating in any way to the carrying out of the SP Distribution Works;
- B.31 2.4 all reasonable, costs, charges and expenses incurred in seeking and/or obtaining any Consents
- B.31 2.5 all costs, charges and expenses reasonably and properly incurred by SP Distribution in relation to carrying out the SP Distribution Works; and
- B.31 2.6 interest on all such amounts from the date they were paid by SP Distribution to the date of SP Distribution's invoice at 4% over the Royal Bank of Scotland plc base rate from time to time and for the time being.

B.32 Notices

Any notices, demands, certificates or other written communication required to be given or sent under this Agreement shall be given or sent in the manner provided in Clause 24 of the Connection Agreement.

B.33 Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party except when such waiver is given in writing.

No delay by omission of either party in exercising any right, power or privilege or remedy under this Agreement shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof.

Any single or partial exercise of any right, power, privilege or remedy shall not preclude any other future exercise thereof or the exercise of any other right, power, privilege or remedy.

B.34 Severance

If any provision of this Agreement is held by a Court or other competent Authority to be unlawful, void or unenforceable, it shall be deemed to be deleted from this Agreement and shall be of no force and effect and this Agreement shall remain in full force and effect as if such provision had not originally been contained in this Agreement. In the event of any such deletion the Parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in place of the provision so deleted.

B.35 Interactive offers

If during the period for acceptance of this Offer ("the First Offer") SP Distribution makes an offer to any person pursuant to the provisions of the Distribution Licence for a new connection or for the modification of an existing connection ("the Second Offer") which if accepted would affect the terms of the First Offer, SP Distribution shall:

- (i) at the time of making the Second Offer:

- (a) inform the recipient(s) of both the First Offer(s) and Second Offer(s) in writing that there is another offer outstanding which may affect them; and
 - (b) be entitled to make the First Offer(s) and Second Offer(s) conditional upon the other outstanding offers not having been or being accepted; and
- (ii) in the event of any of the outstanding offers being accepted be entitled to vary the terms of either offer

If SP Distribution is entitled to vary the terms of an offer in accordance with the above provisions it may withdraw the current Offer and make such varied offer as soon as possible and (save where the Authority consents to a longer period) in any event within 3 months of becoming so entitled.

B.36 Variations to be agreed in writing

Except where SP Distribution is permitted to make variations pursuant to any right or provisions to this effect in this Agreement, no variations to this Agreement shall be effective unless made in writing and signed by or on behalf of both Parties.

B.37 Dispute Resolution

The dispute resolution procedure in Clause [21] of the draft Connection Agreement shall apply as if repeated in full in this Agreement.

B.38 Confidentiality

B.38.1 Subject to B.38.2, each Party shall treat as confidential and shall not disclose to any other person any of the commercial, technical and/or contractual provisions of the Agreement or any commercial, technical or other confidential information relating to the business of the other Party which is disclosed to and/or acquired by that Party subject to this duty of confidentiality during the course of the Agreement.

B.38.2 B.38.1 shall not apply to:

- (a) any disclosure which is necessary for the proper performance of the Agreement;
- (b) any disclosure which is required by law (including any order of a Court of competent jurisdiction) or by the Authority or energywatch;
- (c) any disclosure to a Party's professional advisers provided always that such professional advisers are bound by duties of confidentiality;
- (d) any disclosure by SP Distribution to one of SP Distribution's Affiliates provided that the same level of confidentiality as set out in B.38 shall apply;
- (e) any disclosure which is agreed by the Parties in advance of disclosure; and/or
- (f) any information which is already in the public domain.

APPENDIX C

CONNECTION CONDITIONS

C.1 Connection Agreement

A Connection Agreement in accordance with the draft Connection Agreement attached to this Offer Letter must be signed by both Parties before the Customer's Installation can be connected to the Distribution System and energised.

C.2 Not Applicable

C.3 Connection/Energisation of Generating Plant

C.3.1 We are not obliged to permit connection of the Customer's Installation (including the Generating Plant) directly or indirectly to the Distribution System unless we are satisfied such Generating Plant will not cause danger to or undue interference with our Distribution System or supply to others.

C.3.2 The Customer will provide and make off the Customer's cable terminations for SP Distribution to make the final connections onto SP Distribution's metering switchgear. The Customer will provide the cable and arrange the jointing at the remote ends at the Customer's cost.

The Customer must agree with SP Distribution, the cable sizes, cable terminations and clamps for connection to the Company's metering switchgear, prior to ordering any equipment.

C.4 Phase Balance and Power Factor

The Generating Plant output and connected load must be balanced over the three phases and across the circuits, complying with Engineering Recommendation P29 (Planning Limits for Voltage Unbalance).

The vector sum of the real and reactive power should not exceed the kVA limit as specified.

C.5 Distribution Code, etc

C.5.1 Both parties shall comply with their respective obligations as in the Distribution Code.

C.5.2 A single connection will be provided at 33,000 Volts and your attention is drawn to the provisions of the Distribution Code under which we are required to prepare and agree with you a responsibility schedule and an operation diagram showing the agreed ownership and operational boundaries. We also refer you to the Electricity at Work Regulations 1989 and the need to ensure that high voltage equipment is operated by competent persons.

C.5.3 Other relevant regulations include the Electricity Safety, Quality and Continuity Regulations 2002

C.6 Emergency trip facilities

An individual emergency trip facility will be provided adjacent to the Connection Point metering panel for connection. This will enable you to disconnect your own incoming high voltage supply in an emergency. (SP Distribution will be required to re-set this trip facility and re-energise the supply).

C.7 Variations in Voltage and Frequency

On occasions incidents outside our control may cause variations in the voltage and frequency referred to above. This may affect the normal operation of sensitive electronic equipment. If there are any problems, we should be contacted on the published telephone number. The site generation real and reactive power flows will be controlled to maintain the 33kV system voltage at Generating Plant Substation within the range plus 6% to minus 6%.

C.8 Disturbance on our Distribution System

The Generating Plant output and connected load must not cause disturbances on our Distribution System and it is essential that your load characteristics comply with the requirements of Engineering Recommendations G5/4-1 (Limits for Harmonics), P13/1 (Electric motors - Starting Conditions) and P28 (Planning Limits for Voltage Fluctuations). You must submit full details of any load which might cause disturbances, before connection of the Customer's Installation (including the Generating Plant) whether covered by these guidance documents or not, for our consideration. Further information is available on request.

C.9 Protection Relays

It will be necessary for you to contact this office in order to discuss the settings on the protection relays. Protection arrangements and details will be made available on request.

C.10 Generation

Any installation for generation must comply with the requirements of the Electricity Safety, Quality and Continuity Regulations 2002 and the principles of Engineering Recommendation G59/2-1 and G75/1 issued by the Energy Networks Association and with the requirements embodied in G5/4-1 and P28 at the connection point. Precise methods of protection and mode or restriction of operation (e.g. Voltage regulation) to be agreed subsequently between the Customer and SP Distribution and written into the Connection Agreement.

C.11 Energise the Connection Point

SP Distribution shall not be obliged to permit connection of the Customer's Installation to the Distribution System nor to energise the Connection Point unless all payments due under this Agreement at that time have been made.

C.12 Substation

You are required to provide the Substation Accommodation civil works in a position approved by us (in the indicative position shown in Appendix D) and in accordance with our guidance drawings and specifications which will be submitted to you. All builders working drawings must be submitted to us for comment before the commencement of any civil works.

You are also required to ensure that the land upon which the Substation Accommodation will be constructed is free from any environmental hazards contamination or pollution and also free from any conducting media including mains drains, sewers, pipes, wires or cables which would prevent or restrict or interfere with the operation of the substation equipment or impose any financial obligations or burdens on SP Distribution. The Customer shall be responsible for any works or costs required to comply with the obligations and conditions contained in this clause.

The following conditions also apply:-

- C12.1 The Substation Accommodation must be provided by you at your cost on land you own or lease and hold good title to the reasonable satisfaction of SP Distribution's solicitors and you must obtain all Consents of any kind necessary to allow such provision (including any Consents to enable a valid substation Lease to be granted).
- C12.2 You must complete the Substation Accommodation civil works:-
- (a) in a good and workmanlike manner in accordance with good sound working practices and you must obtain at your expense all necessary Consents required (including planning permission and building regulation approval);
 - (b) in accordance with all requisite Consents (including planning permission and building regulation approval);
 - (c) in accordance with the builders working drawings submitted to and approved by us (such approval not to be unreasonably withheld or delayed) and to our reasonable satisfaction; and
 - (d) in accordance with all statutory requirement and subordinate legislation relating in any way to the Substation Accommodation or the construction of it including the Construction and Design Management regulations.
- C12.3 No plant or equipment will be installed in the Substation Accommodation by us or our contractors until we have notified you in writing that the building work (including the construction of the access road) associated with the construction of the Substation Accommodation has been completed to the reasonable satisfaction of our building surveyor and ownership and access rights have been secured by SP Distribution.
- C12.4 You shall make available a main and a back-up 100 amp, 3 phase, 400/230V 50Hz AC electricity supply within the Substation Accommodation and install, maintain and provide these services together with any other services reasonably required by us. These low voltage supplies must be made available on handover of the Substation Accommodation and the Customer is responsible for the ongoing provision of these supplies. The supplies shall be from secure sources (stand-by generators are not acceptable) to support battery chargers supplying protection, SCADA, and telecommunications equipment.
- C12.5 Where SP Distribution gives any approval under the provisions of this Agreement such approval shall be given solely for the purpose of this Agreement and save where express written representations are made SP Distribution does not give any warranty or guarantee express or implied as the matter the subject of the approval and the Customer must rely on its own skill and judgement as regards such matters.

SP Distribution will provide the Customer with details of SP Distribution's requirements for the Substation Accommodation to assist with the Customer's obligations under this Offer Letter including the planning application.