

Default Distributor Agreement template

Consultation draft — 26 January 2016

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PARTIES

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

COMMENCEMENT DATE:

[insert date]

SIGNATURES:

Signature

Signature

Name of authorised person signing for Distributor

Name of authorised person signing for

~~Retailer~~Trader

Position

Position

Date

Date

DDA drafting note: In this template:

- *Practise/drafting notes that were inserted in the Model Use-of-System Agreement (MUoSA) have been deleted.*
- *Some schedules previously included in the MUoSA have been deleted, and as a consequence the schedules have been reordered into a more logical order.*
- *All references to "the Retailer" have been replaced with references to "the Trader", as "trader" is the term used in the Code.*
- *All references to "the Services" have been replaced with references to "Distribution Services", which is a more accurate description of the services being provided.*
- *All references to "Consumers" have been replaced with references to "Customers". In addition, references to "Consumer Contracts" have been replaced with references to "Customer Agreements".*
- *References to a "tariff" (eg "Tariff Categories", "Tariff Options") have been replaced with references to a "price", which the Authority considers is a clearer way to describe the prices charged by Distributors. Similar amendments have been made to Part 12A of the Code.*
- *The term "agreement" is now defined (so "Agreement" is capitalised).*

- *The term "must" rather than "will" is used in the Agreement, to indicate that an obligation is imposed on a party.*

INTRODUCTION

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

~~SECTION A – CORE TERMS~~ PART I – AGREEMENT TERM AND SERVICE COMMITMENTS

1. TERM OF AGREEMENT

1.1 Commencement~~Term~~: This ~~a~~Agreement commences on the date on which it is deemed to commence under Part 12A of the Code (the “Commencement Date”),
~~and~~

~~4.1.2~~ 1.2 Termination: This Agreement continues until it is terminated under clause 19 or otherwise at law.

2. ~~SERVICES~~ SUMMARY OF GENERAL OBLIGATIONS

DDA drafting note: This clause 2 has been amended and renamed to make it clear that it only summarises the Distributor's obligations (in the case of clause 2.2) and the Trader's obligations (in the case of clause 2.3). However, the clause itself does not impose obligations on either party. Rather, it is included to provide an overview of the parties' obligations in order to assist readers of the Agreement. That is made clear with the new clause 2.1. In addition, the summary of the Distributor's obligations in clause 2.2, and of the Trader's obligations in clause 2.3, has been amended so that it better reflects each party's key obligations under the Agreement.

In addition, any provision in clause 2 that purported to impose substantive obligations on either the Distributor or the Trader has been relocated to the appropriate part of the Agreement. In particular; clause 2.2(j), which related to concerns about power quality, has been moved to clause 16; clause 2.3(a), which related to Consumer's Installations that do not comply with the Network Connection Standards, has been incorporated in clause 15; and

clause 2.3(f), which referred to the Trader investigating and minimising non-technical losses, is now located in clause 7.

Clause 2.2(a), which referred to the Distributor maintaining and operating its Network in a manner than confirms with relevant legislative requirements, has been deleted as it is unnecessary to include a clause requiring the distributor to comply with the law.

Reference to the Trader providing additional services as set out in Schedule 2 has also been deleted, as additional services are not within the scope of the DDA template.

4.2.1 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.

4.2.2 Summary of Distributor's ~~services and~~ general obligations: In summary, this Agreement requires ~~T~~the Distributor ~~will~~ to provide Distribution Services to the Trader as follows—:

~~(a) — maintain and operate its Network in a manner that conforms with relevant legislative requirements;~~

~~(b)~~ (a) deliver electricity to the ~~quality~~ Service ~~-L~~ Levels specified in the Service Standards, ~~but does not guarantee delivery of electricity that is free from defects and interruptions 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)~~ (e) review and determine Loss Factors and help identify the reasons for abnormal trends in Losses in accordance with clause 6;

~~(d) — allocate Price Categories and Price Options to ICPs under clause 8; provide for Warranted Persons to Energise and De-energise Points of Connection in accordance with this agreement, including clause 19 and schedule 6;~~

- ~~(e) provide a 24 hour, seven day a week, Unplanned Service Interruption diagnosis, Network repair and information service, and provide service interruption information in accordance with schedule 5;~~
- ~~(f) make provision for Load Management Services on its Network to the extent required by clause 6;~~
- ~~(g)(f) review and determine Loss Factors and help identify the reasons for abnormal trends in Losses in accordance with clause 7;~~
- ~~(h) if the Distributor proposes to make changes to the Network Supply Points supplying the Network, follow the process set out in clause 24;~~
- ~~(i)(g) allow Consumers' Installations that comply with Network Connection Standards to remain connected (unless a Consumer's Installation is disconnected or decommissioned in accordance with this agreement), and consider applications for new connections and changes to capacity for existing connections, and disconnect and decommission ICPs, in accordance with under clause 17 and Schedule 6; and~~
- ~~(j) if a Consumer, or the Retailer on behalf of a Consumer, raises concerns with the Distributor regarding the power quality (which means the frequency or voltage of the supply), reliability or safety of the Consumer's supply, the Distributor will investigate those concerns, and, if appropriate, install equipment at the Consumer's Point of Connection to measure power quality, and provide the results of such measurements to the Retailer. If such installation requires the Services to be interrupted, the Distributor will restore the Services as soon as reasonably practicable; and~~
- ~~(k)(h) provide the Additional Services as set out in schedule 2. provide information in accordance with EIEPs under clause 31 and Schedule 3.~~

4.4.2.3 Summary of ~~Retailer~~ Trader's general services and obligations: In summary, this Agreement requires the ~~The Retailer~~ Trader to perform obligations as follows will:

- ~~(a) if it becomes aware that a Consumer's Installation does not comply with the Network Connection Standards, notify the Distributor of the ICP identifier of the Consumer's Installation and the details of the non-compliance as soon as reasonably practicable;~~

- ~~(b)(a)~~ process any applications for new connections or changes to the capacity of existing connections in accordance with clause 19 pay for Distribution Services and provide billing information under clause 9 and Schedule 2;
- ~~(c)(b)~~ comply with the Service Standards; meet prudential requirements under clause 10;
- ~~(d)(c)~~ [provide a 24 hour, seven day a week, Unplanned Service Interruption information service and] provide service interruption information in accordance under clause 4 and with s Schedule 5;
- ~~(d)~~ carry out load control as permitted under clause 5, Schedule 1, and Schedule 8;
- ~~(e)~~ provide information ~~in accordance with~~ about Loss Factors under clauses ~~6 and 11;~~
- ~~(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)~~ subject to clause 29, have a Customer Agreement ~~Consumer Contract~~ with each Customer ~~Consumer~~ for the supply of electricity that contains terms ~~that have substantially the same effect as schedule 4~~ 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

~~(i)~~(v) acknowledgement that the Customer is responsible for Customer Service Lines under clause 15 and tree trimming under clause 16;
and

~~(f)~~ investigate and minimise, in accordance with Good Electricity Industry Practice, non-technical Losses;

~~(g)~~(i) provide information in accordance with EIEPs and respond to requests from the Distributor for ~~Customer~~Consumer details ~~in accordance with~~under clause 31 and Schedule 3; ~~and~~

~~(h)~~ provide the Additional Services as set out in schedule 2.

2.3. **CONVEYANCE ONLY**

DDA drafting note: The amended Part 12A now uses the terms "default distributor agreement" and "distribution agreement". Accordingly, the term "Distributor's Agreement" in clause 3 is replaced with the term "Direct Customer Agreement", to avoid confusion.

The amendment to clause 3.2(b) reflects that the registry now includes an optional field that can be populated to indicate that the Distributor is directly billing the Consumer at the relevant ICP.

2.13.1 **Distributor may enter into ~~Distributor's~~Direct Customer Agreement with a ~~Customer~~Consumer:** The Distributor may enter into a Direct Customer~~Distributor's~~ Agreement with a Customer~~Consumer~~ at the Customer~~Consumer~~'s written request, provided that any existing Customer Agreement~~Consumer Contract~~ between the Trader and ~~with the~~ Customer~~Consumer~~ is not a fixed term agreement.

2.23.2 **Conveyance Only basis:** If a Customer~~Consumer~~ has, or enters into, a Direct Customer ~~Distributor's~~ Agreement, the Distributor ~~will~~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 ~~Retailer~~Trader to supply electricity to that Customer~~Consumer~~; 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 ~~a~~ the Distributor is directly billing the Customer 's Agreement has been entered into in respect of that ICP; ~~or~~

- (i) ~~Practice note: Use this option if a Registry field is not available for the purpose of recording the existence of a Distributor's Agreement relating to an ICP:~~
- (ii) ~~for each relevant ICP, and~~ within 5 Working Days following the commencement of a Direct Customer~~Distributor's~~ Agreement, notify the Retailer~~Trader~~ that a Direct Customer~~Distributor's~~ Agreement has been entered into in respect of that ICP.

2.33.3 **Valid Direct Customer~~Distributor's~~ Agreement:** The Retailer~~Trader~~ ~~will~~must not knowingly supply electricity on a Conveyance Only basis to an ICP unless there is a valid Direct Customer~~Distributor's~~ Agreement in force in relation to the ICP.

2.4 ~~Acting consistently with Valid Direct Customer Agreement: The Retailer:~~ The Retailer~~Trader~~ :

3.4 ~~will~~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~~Consumer~~ or the Distributor under any Direct Customer~~Distributor's~~ Agreement. However, the technical requirements in a Direct Customer~~Distributor's~~ Agreement may differ from the technical requirements in relation to Distribution Services set out in this ~~a~~Agreement, if the Distributor has given the Retailer~~Trader~~ reasonable notice of those requirements; ~~and~~.

2.5 ~~Termination of Direct Customer Agreement: The Trader~~

2.63.5 acknowledges that the Distributor will be entitled to terminate any Direct Customer~~Distributor's~~ Agreement in accordance with its terms.

2.73.6 **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 Retailer~~Trader~~ ~~will~~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~~Consumer~~) but that does not adversely impact on the integrity of the Network:

- (a) if, in relation to the supply of electricity to any Customer~~Consumer~~ that is a party to a Direct Customer~~Distributor's~~ Agreement, the Distributor notifies the Retailer~~Trader~~ that it considers (acting reasonably) that the Retailer~~Trader~~ has done, or is doing, anything that is inconsistent with the Direct Customer ~~Distributor's~~ 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~~Consumer~~; or
- (b) if either the Retailer~~Trader~~ or the Distributor becomes aware that any provisions of a Direct Customer~~Distributor's~~ Agreement and any Electricity Supply Agreement would conflict to the extent that a party would be in breach of contract.

2.83.7 Customer~~Consumer~~ not party to a valid Direct Customer~~Distributor's~~

Agreement: If at any time it is found that a Customer~~Consumer~~ 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~~Distributor's~~ Agreement in relation to those ICPs, or if any Direct Customer~~Distributor's~~ 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 Retailer~~Trader~~ (or any other retailer~~trader~~) of the situation and suggest the Retailer~~Trader~~ (or any other retailer~~trader~~) take up the opportunity to supply the Customer~~Consumer~~ 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 Retailer~~Trader~~ (or any other retailer~~trader~~) will immediately commence supplying the Customer~~Consumer~~ on an Interposed basis in relation to those ICPs.

DDA drafting note: Clause 4 (Equal Access and Even-handed Treatment) of the MUoSA does not appear in this DDA template. The Authority considers that it is no longer necessary to have such a clause given that the Code now provides that either a distributor or a trader may require the other to contract on the basis of the distributor's DDA. Equal access to distribution services and even handed treatment of retailers are inherent in the rights, obligations and processes in the proposed new Subpart 1 of Part 12A.

~~3. EQUAL ACCESS AND EVEN-HANDED TREATMENT~~

- ~~3.1 Equal access and even-handed treatment: The Distributor will give all retailers equal access to the Distribution Services and will treat all retailers even-handedly.~~
- ~~3.2 The Distributor will notify the Retailer of alternative contracts: Within 20 Working Days after agreeing, or agreeing an amendment to, a contract relating to the supply of Distribution Services with any retailer other than the Retailer (the contract or amended contract, as applicable, being an “Alternative Contract”), the Distributor will notify the Retailer in writing of the existence of that Alternative Contract, make the Alternative Contract available on its website and invite the Retailer to adopt the Alternative Contract (with any changes necessary to reflect the fact that the Retailer is a different party).~~
- ~~3.3 **The Retailer has sole discretion to adopt Alternative Contracts:** Within 12 months of the Distributor commencing an Alternative Contract with any retailer other than the Retailer, the Retailer may, at its sole discretion, choose to adopt the Alternative Contract in substitution for this agreement provided that:~~
- ~~3.4 the Retailer gives not less than 20 Working Days' notice to the Distributor of its intention to sign the Alternative Contract; and~~
- ~~3.5 the Retailer adopts the Alternative Contract in its entirety.~~
- ~~3.6 If an Alternative Contract is adopted in accordance with clause 4.3, this agreement will terminate from the date of such adoption. The provisions of clauses 21.3 to 21.7 also apply to a termination of this agreement under this clause 4.4.~~

4. SERVICE INTERRUPTIONS

DDA drafting note: Clause 4.3 has been amended to reflect that during a System Emergency Event, the Distributor must manage load on its Network in accordance with its System Emergency Event management policy, which must be set out in Schedule 4. References in clause 4 to the Distributor developing such a policy have been updated accordingly.

The reference to AUFLS in clause 4.4(e) has been deleted only because it is not necessary to refer specifically to the Code provisions that relate to AUFLS.

Clause 4.5 has been amended to reflect that the party responsible for receiving Unplanned Service Interruption calls must be identified in Schedule 5.

The reference in clause 5 to responsibility for meeting costs of communication has been deleted, as that is now addressed in Schedule 5.

General

- 4.1 **Communications ~~about Service Interruption~~ policies:** The parties ~~will~~must comply with the ~~communication requirements~~policies relating to communication about Service Interruptions set out in ~~s~~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~~ **Policy for mManaging 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.
-
- ~~4.34.4~~ The Distributor will develop and Publish a policy for managing load on the Network during a System Emergency Event, and will set out in the policy the priorities for Load Shedding, the use of controllable load, and the restoration of load. When developing and amending the policy, the Distributor will consult with the Retailer and all other retailers who trade on the Network, and will take all feedback received into account in finalising the policy. The policy must not be inconsistent with this agreement and the Distributor will endeavour in accordance with Good Electricity Industry Practice to comply with the policy, but the Distributor will not be in breach of the policy if the Distributor has acted in good faith**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 ~~s~~Schedule 5 as applicable;

- (b) **Provision of supply within the Service Standards:** as permitted by the Service Standards, if the ~~Customer~~Consumer 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 ~~statutory~~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 requirements;
- ~~(f)~~(e) **Automatic Load Shedding:** ~~if automatic under frequency Load Shedding is implemented in accordance with the Code;~~ or
- ~~(g)~~(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

4.4.4.5 ~~[Distributor][Retailer]~~ Party responsible to receive Unplanned Service

Interruption calls: The ~~[Distributor][Retailer]~~ party is responsible for receiving Unplanned Service Interruption calls from ~~Customer~~ Consumers and managing further communication with affected ~~Customer~~ Consumers until normal service is restored, as necessary, is identified in Schedule 5.

4.5.4.6 **Notification of Unplanned Service Interruptions:** After the occurrence of an Unplanned Service Interruption, the Distributor and ~~the Retailer~~ Trader will must comply with the ~~relevant~~ service interruption communication ~~policy~~ requirements as set out in ~~s~~ Schedule 5.

4.6.4.7 ~~Customer~~ Consumer requests for restoration of Distribution Services: During any Unplanned Service Interruption, unless the Distributor requests otherwise, the ~~Retailer~~ Trader will must forward to the Distributor any requests it receives from ~~Customer~~ Consumers for the restoration of the Distribution Services as soon as practicable, and the Distributor will must acknowledge such receipt unless the ~~Retailer~~ Trader requests otherwise.

Planned Service Interruptions

4.7.4.8 **Distributor to schedule Planned Service Interruptions to minimise disruption:**

The Distributor will must, as far as is reasonably practicable, schedule Planned Service Interruptions to minimise disruption to ~~C~~ customer ~~on~~ sumers.

4.8.4.9 **Distributor to comply with communication policies:** The Distributor will must comply with the requirements set out in ~~the Service Interruption communication policy set out in s~~ Schedule 5 in relation to the notification of Planned Service Interruptions, ~~including any changes to the planned date and time for restoration of Distribution Services~~.

4.9 ~~Costs of communication:~~ If the Distributor asks the Retailer to notify Consumers in accordance with schedule 5, the Distributor ~~will meet the reasonable costs incurred by the Retailer in complying with such requests, unless agreed otherwise in writing.~~

Restoration of Distribution Services

4.10 **Distributor to restore Distribution Services as soon as practicable:** ~~For~~ In the case of ~~all~~ Service Interruptions, the Distributor ~~will~~ 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 ~~within~~ the timeframes set out in ~~s~~ Schedule 1; and
- (b) for Planned Service Interruptions, as soon as possible and no later than ~~within~~ the timeframe set out in the notice for Planned Service Interruptions sent to the Customer.

~~and in any event will restore the Distribution Services as soon as practicable.~~

4.11 **Retailer/Trader's remedy:** Except as provided in clause ~~9~~ 10, the ~~Retailer/Trader's~~ only remedy if the Distributor fails to meet the timeframes in clause 4.10 is ~~recovery~~ the payment of a Service Guarantee Payment in accordance with ~~s~~ Schedule 1, if applicable.

5. LOAD MANAGEMENT

DDA drafting note: Clause 5.9 has been added to reflect that either party may (with the Customer's agreement) assign load control rights to a third party.

5.1 **Distributor may control load:** Subject to clause 4.3, if the Distributor provides a Price Category or ~~Tariff Option~~ Price Option that provides for a non-continuous level of service by allowing the Distributor to control part ~~of~~, or all of, the ~~Customer~~ Consumer's load (a "**Controlled Load Option**"), and the ~~Customer~~ Consumer elects to take up the ~~Retailer/Trader's~~ corresponding price option that incorporates the Controlled Load Option, the Distributor may control the relevant part of the ~~Customer~~ Consumer's load in accordance with this clause 5, Schedule 1 and ~~s~~ Schedule 8.

5.2 **Retailer/Trader may control load:** Subject to clause 5.3, if the ~~Retailer/Trader~~ offers to a ~~Customer~~ Consumer, and the ~~Customer~~ Consumer elects to take up, a price option that provides a non-continuous level of service by allowing the ~~Retailer/Trader~~ to control part of or all of the ~~Customer~~ Consumer's load, the ~~Retailer/Trader~~ may

control the relevant part of the CustomerConsumer's load in accordance with this clause 5 and ~~s~~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 CustomerConsumer's load at a CustomerConsumer'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 CustomerConsumer's load that:

- (a) the CustomerConsumer 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 CustomerConsumer'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 ~~will~~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 ~~will~~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 ~~Retailer~~Trader to make controllable load available to the Distributor for management of system security: If the ~~Retailer~~Trader has obtained the right to control part of any CustomerConsumer's load in accordance with clause 5.2, the ~~Retailer~~Trader ~~will~~must:

- (a) within 5 Working Days of having first obtained such a right, notify the Distributor that the ~~Retailer~~Trader has obtained the right;
- (b) unless the Distributor agrees otherwise, and within 60 Working Days of providing the notice ~~in~~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](#) emergency load management policy ~~established in accordance with clause 4.3~~ [set out in Schedule 4, and the Code](#);
 - (ii) is for the purpose of coordinating the ~~Retailer~~ [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 ~~will~~ [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 ~~will~~ [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

DDA drafting note: Clause 6 includes a new clause 6.5, which requires the Trader to investigate and minimise non-technical losses. This was previously clause 2.2(g) of the MUoSA, and has been moved to this clause ~~as it places a substantive obligation on the Trader relating to losses and loss factors~~ as is explained in the drafting note included with clause 2.

- 6.1 **RetailerTrader to provide information to enable calculation of Loss Factors by Distributor:** The Distributor ~~will~~must obtain information from the reconciliation manager for the purpose of calculating Loss Factors. The ~~Retailer~~Trader ~~will~~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 ~~will~~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 ~~will~~must give the ~~Retailer~~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 ~~Retailer~~Trader in accordance with clause 6.3 ~~will~~must include details of the methodology and information used by the Distributor to determine the Loss Factors.

- ~~6.4~~6.5 **Non-technical Losses:** The Trader must investigate and minimise, in accordance with Good Electricity Industry Practice, non-technical Losses.

- ~~6.5~~6.6 **Distributor to investigate adverse trends in Losses:** If over time Losses trend abnormally away from expected or historical Losses, the Distributor ~~will~~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 will must provide relevant information to all affected retailertraders and will must, if requested by the RetailerTrader, facilitate a meeting of all affected retailertraders to attempt to resolve the matter.

6.6.7 Complaints about Loss Factors: If, at any time, the RetailerTrader 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 RetailerTrader may make a written complaint to the Distributor. The Distributor will must consider the complaint in good faith, and may change the Loss Factors declared in its notice to reflect the RetailerTrader's concerns in accordance with clause 6.3. The Distributor will 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 RetailerTrader, the RetailerTrader 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 will must be no later than 60 Working Days from the date on which the Dispute is finally resolved.

DDA drafting note: Clause 8 (Service Performance Reporting) of the MUoSA does not appear in this DDA template. This clause has been deleted because the Authority cannot impose requirements on Distributors relating to service performance reporting, as such reporting is able to be regulated by the Commerce Commission and therefore cannot be regulated by the Authority under section 32(2)(b) of the Electricity Industry Act 2010.

Accordingly, all references to service performance reports have been deleted from this template.

6.7 _____

~~7. SERVICE PERFORMANCE REPORTING~~

~~7.1 Parties to report on performance relative to Service Standards: Each party will, unless it is required by law (including any regulations and the Code) to publish such information elsewhere, prepare a report on its performance relative to the Service Measures in accordance with the reporting measures and at the frequency set out in schedule 1 (“Performance Report”).~~

~~7.2 Contents of performance report: A Performance Report prepared in accordance with clause 8.1 will:~~

- ~~(a) compare actual service performance to the target Service Levels and the service performance reporting measures for each applicable Service Measure;~~
- ~~(b) explain the reasons for any significant under-performance by either party, and explain what actions the party will undertake to rectify that under-performance; and~~
- ~~(c) if a party claimed during the relevant reporting period that it was unable to meet the Service Standards due to the occurrence of a Force Majeure Event for which it invoked clause 23, give a full account of the nature of the Force Majeure Event and the impact of the Force Majeure Event on that party’s performance in relation to the Service Standards.~~

~~7.3 Additional reports: Either party (the “Requester”) may request that the other party (the “Provider”) provide additional performance reports, including reports containing information in addition to that specified in clause 8.2 or more frequent reports containing the same information. The Provider will comply with such requests if it is reasonably able to do so. The Provider may charge the Requester for the costs reasonably incurred in preparing and supplying such additional reports, provided that if an additional report is requested due to a suspected failure by the Provider to meet a Service Standard that has not been reported in accordance with clause 8.2, and the additional report demonstrates that such failure existed, no charge may be levied.~~

~~7.4 Insurance not to be compromised: Nothing in this clause 8 requires either party to disclose information that may adversely affect an insurance policy held by that party.~~

PART II — PAYMENT OBLIGATIONS

7. DISTRIBUTION SERVICES PRICES AND PROCESS FOR CHANGING PRICES

DDA drafting note: Clause 7.4 has been amended to include a requirement that the Distributor consult with the Trader if the Distributor intends to change its Pricing Methodology. That requirement was previously included in clause 12A.7 of the Code, but is now appropriately included in each distributor's DDA.

7.57.1 Distribution Services pricing information: The Distributor's Pricing ~~Policy and~~ Methodology, and a schedule of Price Categories, ~~Tariff Option~~ Price Options (if any), and ~~Tariff Rate~~ Prices, are set out in ~~S~~ schedule 79.

7.67.2 Tariff Rate Price changes: Unless otherwise agreed with the ~~Retailer~~ Trader, the Distributor may not change its ~~Tariff Rate~~ Prices more than once in any period of 12 consecutive months, unless a change is a material increase to one or more existing ~~Tariff Rate~~ 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 ~~Tariff Rate~~ Price change ~~will~~ must only apply to ICPs affected by the new or changed Distribution Services; or
- (c) the law (including any regulations and the Code).

~~7.7~~ Price decreases and agreed increases:

7.87.3 Nothing in ~~this~~ clause 7.2 prevents the Distributor from decreasing a ~~Tariff Rate~~ Price at any time, or from increasing a ~~Tariff Rate~~ Price with the agreement of the ~~Retailer~~ Trader.

7.97.4 Process to change ~~Tariff Structure~~ Pricing Methodology: ~~This clause 9.3 applies if~~ the Distributor intends to make a change to its ~~tariff~~ Pricing Methodology structure ~~(as that term is used in clause 12A.7 of the Code ("~~Tariff Structure~~"))~~ that

will materially affect ~~the Trader or one-1~~ or more ~~retailers or~~ Customer Consumers, ~~the Distributor must first consult with the Trader about the proposed change such that clause 12A.7 of the Code requires the Distributor to consult before making the 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 ~~will~~must:

- (a) **comply with guidelines:** comply with the Distribution Tariff Structure Pricing Methodology Consultation Guidelines, including by implementing the good consultation practices set out in those guidelines;
- (b) ~~consider certain matters~~comply with the Code: ~~have regard to~~comply with the pricing principles in schedule 7~~any provisions in the Code relating to the pricing of Distribution Services;~~ and
- (c) **Publish final Tariff Structure Pricing Methodology:** Publish the final ~~Tariff Structure~~Pricing Methodology and the reasons for its decision, no later than the notice period specified in clause 7.5(a).

~~7.10~~7.5 **Notice of pPrice 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~~will give the Retailer notice of price changes in accordance with this clause 9.4. The Distributor will:~~

- (a) ~~provide~~give the Trader 40 Working Days' notice of the pPrice change, unless the Distributor is required by law to implement the pPrice change earlier, in which case the Distributor ~~will~~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~~provide to the ~~Retailer~~Trader;
- ~~(c) —~~ an update of schedule 9, in a way that makes key changes from the previous version clear; and
- ~~(d)~~(b) ~~without limiting clause 10, if an ICP or a group of ICPs is to be allocated to a different Price Category,~~ a mapping table that clearly shows the new Price Category to which each affected ICP or group of ICPs is to be allocated;

~~(e)(c) — in addition to the requirements of paragraph (b),~~ 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 Retailer/Trader of the Price change in accordance with EIEP12~~;~~ and

~~(f) — send the information required in paragraphs (b) and (c) to the Retailer by email, as a minimum.~~

~~7.11 — Standard tariff codes: If the Distributor introduces a new Tariff Rate, it will assign a standard tariff code to the Tariff Rate in accordance with clause 12A.10 of the Code.~~

~~7.12~~7.6 **Tariff Structure Pricing Methodology** change and Pprice change disputes:

Once a change to a Tariff Structure Pricing Methodology has been finalised in accordance with clause 7.4, or a pPrice change is notified in accordance with clause 7.5, the Retailer/Trader may raise a Dispute under clause 23 in respect of the Tariff Structure Pricing Methodology or the pPrice change (as the case may be) only if the Retailer/Trader considers that the Distributor has not complied with ~~clause 4.~~ clause 7.3 or 7.4. If a Dispute is raised, the Retailer/Trader will must continue to pay the Distributor's Tax Invoices until the Dispute is resolved.

~~7.13~~7.7 **Changes containing an error:** If the Retailer/Trader identifies an error in the Tariff Structure Pricing Methodology finalised and Published in accordance with clause 7.4, or an error in a pPrice change notified in accordance with clause 7.5, ~~and that the error~~ arises from an obvious error in applying the Pricing Policy and Methodology/Methodology, the Retailer/Trader will 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 will must not have a material effect on the Retailer/Trader.

8. ALLOCATING PRICE CATEGORIES AND TARIFF PRICE OPTIONS TO ICPS

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

Categories to the ICP. In allocating a Price Category, the Distributor ~~will~~must have regard to:

- (a) the eligibility criteria for each Price Category that are set out in ~~s~~Schedule 79;
- (b) the attributes of the ICP; and
- (c) if known and relevant:
 - (i) the ~~Retailer~~Trader's or ~~Customer~~Consumer'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 ~~will~~must determine the ~~Tariff Option~~Price Option or ~~Tariff Option~~Price Options that apply if more than 1 ~~Tariff Option~~Price Option is defined for the relevant Price Category;
 - (iii) the ICP's historic demand profile;
 - (iv) the ~~Customer~~Consumer's capacity requirements; and
 - (v) any other factors.

8.2 **~~Retailer~~Trader may request allocation of an alternative eligible Price Category to an ICP:** At any time, the ~~Retailer~~Trader may request that the Distributor allocate an alternative Price Category to an ICP, and ~~will~~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 ~~will~~must apply the change (but not retrospectively, unless it agrees otherwise) and advise its decision to the ~~Retailer~~Trader within 5 Working Days after receipt of notice of the ~~Retailer~~Trader's request. If the Distributor declines the request, it ~~will~~must provide the reasons for its decision.

8.3 **~~Retailer~~Trader to select ~~Tariff Option~~Price Option to match meter register configuration:** If the Distributor provides options within a Price Category that correspond to alternative eligible meter register configurations ("~~Tariff Option~~Price Options"), the ~~Retailer~~Trader ~~will~~must select the ~~Tariff Option~~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 **RetailerTrader** will must change the **Tariff Option** 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 **RetailerTrader** 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 **RetailerTrader** reasonably considers that a Price Category was Incorrectly Allocated, the **RetailerTrader** will must notify the Distributor of the reasons why it considers that the Price Category was Incorrectly Allocated and identify a Price Category that the **RetailerTrader** considers should have been allocated to the ICP, which must be a Price Category for which the ICP is eligible. The Distributor will must advise the **RetailerTrader** within 10 Working Days after receipt of the **RetailerTrader**'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 will 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 **RetailerTrader** 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 **RetailerTrader** given under clause 8.4, the Distributor will must:

- (a) commence charging the **RetailerTrader** in accordance with the **Tariff Rate** 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 **RetailerTrader** with an amount (if positive) equivalent to:
 - (i) the charges paid by the **RetailerTrader** 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 ~~Retailer~~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) ~~will~~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 ~~Retailer~~Trader, the ~~Retailer~~Trader has not provided the Distributor with correct or complete information about the ICP or the ~~Customer~~Consumer 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 ~~Retailer~~Trader provided the Distributor with incorrect or incomplete information in relation to the ICP or the ~~Customer~~Consumer 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~~Consumer or the ~~Customer~~Consumer's representative.

8.7 **Distributor's right to change Price Category if it considers a Price Category has been ~~I~~Allocated:** If at any time the Distributor reasonably considers that a Price Category has been ~~I~~Allocated to an ICP:

- (a) the Distributor ~~will~~must notify the ~~Retailer~~Trader accordingly, including notification of the reasons why it considers that the Price Category has been ~~i~~ncorrectly ~~A~~allocated, and identify the Price Category or Price Categories it considers the ICP is eligible for; and
- (b) unless the ~~Retailer~~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 ~~i~~ncorrectly ~~A~~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 ~~Retailer~~Trader's or the ~~Customer~~Consumer's preferred Price Category as communicated to the Distributor by the ~~Retailer~~Trader), and may commence charging the ~~Retailer~~Trader for Distribution Services in accordance with that Price Category after a further 40 Working Days; and
- (c) the Distributor ~~will~~must provide to the ~~Retailer~~Trader information relevant to its decision.

8.8 **Application of clause 8.7:** ~~To avoid doubt, this c~~ Clause 8.7 does not apply if the ~~Retailer~~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 ~~Retailer~~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 ~~Retailer~~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 ~~Retailer~~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 ~~retailer~~trader takes responsibility for the ICP; or

- (c) from the day which is 2 Working Days after the Distributor receives a notification from the ~~Retailer~~Trader that the Distributor is responsible for completing a Vacant Site Disconnection in respect of the ICP₇ in accordance with ~~s~~Schedule 6.

9. BILLING INFORMATION AND PAYMENT

DDA drafting note: Clause 9.1 now includes a reference to Schedule 2, which must set out the parties' obligations relating to billing.

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.

~~[The Retailer will provide consumption information, and the Distributor will calculate Distribution Services charges payable by the Retailer, in accordance with the following:~~

- ~~(a) — the Retailer will provide to the Distributor, by 5:00pm on the 5th Working Day after the end of each month, and in accordance with the EIEP[s] set out in paragraph (b), all information that the Distributor reasonably requires to enable it to calculate the Distribution Services charges payable by the Retailer to the Distributor;~~
- ~~(b) — the parties acknowledge that the Distributor's Pricing Policy and Methodology is based on it receiving consumption volume information from the Retailer using:~~

~~Select from the following options as relevant to the circumstances. Generally, two or three of the options are suitable for most circumstances and the paragraphs should be renumbered accordingly.~~

- ~~(i) — [the [as-billed] [incremental normalised] [replacement normalised] [incremental replacement normalised] reporting methodology, as that methodology is defined in EIEP 1;]~~
- ~~(ii) — [summary consumption information as described in EIEP 2; and]~~

~~(iii) — [information in respect of half-hour metered ICPs as described in EIEP 3; and]~~

~~(c) — the Distributor will calculate the charges based on the Tariff Rates that apply to each chargeable quantity to which the Tax Invoice relates.~~

Practice Note: include this additional sentence if relevant.

~~[In respect of [replacement normalised] [incremental replacement normalised] consumption information, the Retailer will provide revised consumption information within 5 Working Days after the end of the month in which revised submission information was provided by the Retailer to the reconciliation manager, and the Distributor will issue a Credit Note or Debit Note to the Retailer reflecting the revised consumption information.]]~~

Practice note: Option for GXP-priced Networks

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

- ~~(a) — the Distributor will arrange with the reconciliation manager for the reconciliation manager to provide the Distributor with reconciliation information attributable to the Retailer 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 Retailer. The Retailer will, if necessary, advise the reconciliation manager that the Retailer agrees to the Distributor obtaining its reconciliation information;~~
- ~~(b) — the Retailer will provide to the Distributor, within 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 Retailer. Such information will be provided using the appropriate EIEP; and~~
- ~~(c) — the Distributor will calculate the charges based on the Tariff Rates that apply to each ICP to which the Tax Invoice relates.]~~

- 9.2 **Late, incomplete, or incorrect information:** If the [RetailerTrader](#) does not provide information to the Distributor in accordance with ~~clause 11.1~~[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 [RetailerTrader](#) is incomplete or materially incorrect, the Distributor may estimate, in accordance with Good Electricity Industry Practice, the [RetailerTrader](#)'s Tax Invoice for Distribution Services.
- 9.3 **Issuing of Tax Invoices:** The Distributor ~~will~~[must](#) issue Tax Invoices for Distribution Services as follows:
- (a) the Distributor ~~will~~[must](#) invoice the [RetailerTrader](#) 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 ~~will~~[must](#) provide to the [RetailerTrader](#), in accordance with the relevant EIEP, sufficiently detailed information to enable the [RetailerTrader](#) to verify the accuracy of the Tax Invoice; ~~{and}~~
 - (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 ~~will~~[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 [RetailerTrader](#) for its Distribution Services charges for that month~~{,};~~
 - (d) if the information received by the Distributor in accordance with ~~clause 11.1~~[Schedule 2](#) includes revised reconciliation information or additional consumption information, the Distributor ~~will~~[must](#) provide a separate Credit Note or Debit Note to the [RetailerTrader](#) in respect of the revised consumption information ("**Revision Invoice**"), and a Use of Money Adjustment;
 - (e) if a Revision Invoice is required, the Distributor ~~will~~[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 [RetailerTrader](#) for its Distribution Services charges for that month; and

- (f) at the same time it provides a Revision Invoice, the Distributor ~~will~~must provide to the ~~Retailer~~Trader, in accordance with the relevant EIEP, sufficiently detailed information to enable the ~~Retailer~~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 ~~will~~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 ~~Retailer~~Trader within 10 Working Days after the last day of the month to which the Tax Invoice relates, the due date for payment ~~will be~~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 ~~Retailer~~Trader with:
- (i) a Tax Invoice for payment for ~~Additional Services, Service Guarantee payments and~~ any other sums due to the Distributor under this ~~A~~agreement; and
 - (ii) a Credit Note for payment of Service Guarantee ~~p~~Payments due to the ~~Retailer~~Trader.
- (b) If applicable, the ~~Retailer~~Trader may issue the Distributor with a Tax Invoice for Service Guarantee ~~p~~Payments and any other sums due to the ~~Retailer~~Trader under this Agreement.
- (c) Any Tax Invoice or Credit Note under clause 9.5(a) or (b) ~~will~~must be issued within ~~{10}~~ Working Days of the end of the month to which the Tax Invoice or Credit Note relates.
- (d) The ~~S~~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 ~~Retailer~~Trader (as the case may be) fails to send a Tax Invoice to the ~~Retailer~~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 ~~will be~~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 **Retailer/Trader** or the Distributor (as the case may be) **will/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 **A**greement 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 **Retailer/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**") **will/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 **will/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 **will/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 **will/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 **will/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 ~~will~~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 ~~will~~must refund to the other party the amount of any such overcharge or the party that has underpaid ~~will~~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 ~~will~~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.

~~9.9~~ —

~~9.10~~ — **Refund of charges:** If ~~;~~

~~9.11~~ — as a consequence of a fault on the Network, there is a continuous interruption affecting a Customer~~Consumer~~'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 ~~;~~ and

~~9.12~~9.10 — the Retailer~~Trader~~ ~~within 60 days of the interruption~~ requests that the Distributor ~~to~~ refund the ~~such~~ charges ~~paid by the Retailer in respect of the ICP or ICPs for that Consumer for the number of complete days during which the loss of supply continued,~~ no later than 60 days after the interruption, ~~the Distributor will issue a Credit Note and refund, in the next monthly billing cycle, the Distribution~~

~~Services charges paid by the Retailer in respect of the ICP or ICPs for that Consumer for the number of complete days during which supply was interrupted.~~

10. PRUDENTIAL REQUIREMENTS

DDA drafting note: Clause 10 has been amended to incorporate requirements relating to prudential security that were previously include in clauses 12A.4 and 12A.5 of the Code. As the Authority is proposing to regulate all the terms on which distribution services are provided by the publication of a DDA, it is no longer appropriate for Part 12A to regulate aspects of distribution services such as prudential requirements. Accordingly, the relevant provisions from Part 12A have been reflected in this clause 10, and references to Code provisions have been deleted.

10.1 ~~Retailer~~Trader will~~must~~ satisfy prudential requirements: If the Distributor has given ~~required by~~ a notice, whether before or after the commencement of this Agreement, from the Distributor ~~requiring the Trader to comply with either of~~, ~~the Retailer will comply with either one of~~ the following 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 ~~ea~~fter receipt of the Distributor's notice.

~~9.13~~10.2 The Distributor may require the Trader to comply with either of the following prudential requirements:;

- (a) the ~~Retailer~~Trader will~~must~~ maintain an acceptable credit rating; or
- (b) the ~~Retailer~~Trader will~~must~~ provide and maintain acceptable security by, at the ~~Retailer~~Trader's election:
 - (i) providing the Distributor with a cash deposit of the value specified in clause 10.7 ("**Cash Deposit**"), which the Distributor ~~will~~must hold in a trust account that the Distributor ~~will~~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.

9.1410.3 Acceptable credit rating: For the purposes of clause 10.1, an acceptable credit rating means that the ~~Retailer~~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) ~~if the Retailer or the third party (as the case may be) carries a credit rating at the minimum level required by paragraph (a),~~ is not subject to a negative watch or any similar arrangement by the agency that gave it the credit rating.

9.1510.4 RetailerTrader may elect prudential requirements: The ~~Retailer~~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.

9.1610.5 Change in prudential requirements complied with: If the ~~Retailer~~Trader elects to change the way in which it complies with the prudential requirements, the ~~Retailer~~Trader ~~will~~must notify the Distributor of its intention at least 2 Working Days before the change occurring and the parties ~~will~~must comply with clause 10.19. The change will come into effect on the intended date, provided that the ~~Retailer~~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.

9.1710.6 Evidence of acceptable credit rating: The ~~Retailer~~Trader or third party (as the case may be) ~~will~~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. ~~amount calculated in accordance with clause 12A.4 or 12A.5 (as applicable) of the Code and advised by the Distributor to the Retailer in the Distributor's notice under clause 12.1.~~ If additional security is required in accordance with clause 10.8 ~~12A.5 of the Code~~ ("Additional Security"), the Distributor's notice provided under clause 10.1 must state the amount of the Additional Security.

10.8 **Additional security:** ~~If the value of the security required for the purposes of this clause has been calculated in accordance with clause 12A.4 of the Code, t~~he Distributor may, by notice to the ~~Retailer~~Trader, require the ~~Retailer~~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.

~~9.18~~10.9 If the Distributor requires the ~~Retailer~~Trader to provide Additional Security:

- (a) the ~~Retailer~~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.

~~9.19~~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 ~~will~~must pay a charge to the ~~Retailer~~Trader ~~calculated in accordance with clause 12A.5(3)(a) of the Code~~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 ~~will~~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 ~~will~~must pay a charge to the ~~RetailerTrader~~ calculated in accordance with clause 12A.5(3)(b) of the Code 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 ~~RetailerTrader~~ in accordance with this clause 10.10 ~~will~~must be paid by the Distributor to the ~~RetailerTrader~~ on a quarterly basis.

~~9.20~~10.11 **Estimating the value of security if the ~~RetailerTrader~~ is a new**

~~retailertrader~~: If the ~~RetailerTrader~~ has not previously entered into a contract with the Distributor for access to the Network, the Distributor ~~will~~must estimate the value of security required under clause 10.7 for the first 6 months of this ~~A~~agreement, subject to any reassessment of the value under this ~~A~~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 ~~RetailerTrader~~ in good faith necessary for the Distributor to determine the value of security that it requires from the ~~RetailerTrader~~.

~~9.24~~10.12 **Review of the value of security:** The Distributor may review, or the ~~RetailerTrader~~ may require the Distributor to review, the value of security required to be provided by the ~~RetailerTrader~~ at any time.

~~9.22~~10.13 **~~RetailerTrader~~ to notify Distributor of changes affecting security:**

Subject to clause 10.15, the ~~RetailerTrader~~ ~~will~~must immediately notify the Distributor if any of the following occurs:

- (a) the ~~RetailerTrader~~ no longer carries an acceptable credit rating; or
- (b) the ~~RetailerTrader~~ has complied with prudential requirements by arranging for a third party to provide security in accordance with clause 10.2(b), and the ~~RetailerTrader~~ learns that the third party no longer carries an acceptable credit rating; or

- (c) the [RetailerTrader](#) 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.

~~9.23~~10.14 **Confidential Information:** Any information provided by the [RetailerTrader](#) to the Distributor under ~~this~~ clause 10.13 will be Confidential Information.

~~9.24~~10.15 **Public issuers and listed companies:** For the purpose of clause 10.13, if the [RetailerTrader](#):

- (a) is a “~~public-listed~~ issuer” for the purposes of the [Financial Markets Conduct Act 2013](#)~~Securities Markets Act 1988~~, the [RetailerTrader](#) may withhold any information to the extent that, and for so long as, the [RetailerTrader](#) considers such information to be “inside information” as defined in that Act; or
- (b) is listed on the New Zealand Stock Exchange, the [RetailerTrader](#) may withhold any information to the extent that the [RetailerTrader](#) considers such information is “material information” under the [NZX Main Board / Debt Market Listing Rules](#) of the New Zealand Stock Exchange.

~~9.25~~10.16 **Distributor may make enquiries:** If the Distributor believes that the [RetailerTrader](#) should have given notice under clause 10.13 and the Distributor has not received any such notice, the Distributor may enquire of the [RetailerTrader](#) as to whether it should have given such notice. Any such enquiry ~~will~~must be in writing and be addressed to the Chief Executive of the [RetailerTrader](#). If notice should have been given, the [RetailerTrader](#) ~~will~~must give notice immediately, or if no notice is required, the [RetailerTrader](#) ~~will~~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 ~~will be~~is Confidential Information.

~~9.26~~10.17 **Change to the value of security:** If:

- (a) the Distributor requires that the [RetailerTrader](#) provide Additional Security in accordance with clause 10.8; or
- (b) following a review of the [RetailerTrader](#)'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 ~~Retailer~~Trader to respond to a request made under clause 10.16 within the timeframe set out in clause 10.16;

the Distributor or the ~~Retailer~~Trader considers that the value of security should be increased or decreased, the Distributor ~~will~~must, acting reasonably, make a decision on what the value of security should be, and immediately notify the ~~Retailer~~Trader of its decision and the grounds for that decision and ~~will~~must include in the notification details of the part of the security that constitutes Additional Security. To avoid doubt, failure by a ~~Retailer~~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 ~~Retailer~~Trader.

~~9.27~~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 ~~Retailer~~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 ~~Retailer~~Trader is no longer able to maintain an acceptable credit rating in accordance with clause 10.2(a), and the Distributor still requires the ~~Retailer~~Trader to comply with prudential requirements, the Distributor ~~will~~must notify the ~~Retailer~~Trader of the value of acceptable security required in accordance with clause 10.2(b).

~~9.28~~10.19 **Distributor or ~~Retailer~~Trader to effect changes in value or type of**

security: The Distributor or the ~~Retailer~~Trader, as appropriate, ~~will~~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 ~~will~~must be made in accordance with clauses 10.20 or 10.22.

~~9.29~~10.20 **Refund of Cash Deposit:** If the Distributor refunds all or part of a Cash Deposit, it ~~will~~must refund all or part of the Cash Deposit into a bank account nominated by the ~~Retailer~~Trader on the Working Day following the day on which the Distributor decided to, or is required to, refund the Cash Deposit.

~~9.30~~10.21 **Cash Deposit on Insolvency Event:** If an Insolvency Event occurs in relation to the ~~Retailer~~Trader:

- (a) the ~~Retailer~~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 ~~Retailer~~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 ~~Retailer~~Trader.

~~9.34~~10.22 **Reduction of third party security:** If the Distributor decreases the value of third party security required in accordance with this Agreement, the ~~Retailer~~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.

~~9.32~~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 ~~Retailer~~Trader has provided acceptable security in accordance with clause 10.2(b);
- (b) the ~~Retailer~~Trader fails to pay an amount due under this Agreement; and
- (c) the amount is not subject to a genuine dispute.

~~9.33~~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 ~~Retailer~~Trader (or immediately in the case of deemed Cash Deposit under clause 10.26), call on the security as follows:

- (a) if the ~~Retailer~~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 ~~then~~ draw down and apply the amount owed (including Default Interest) from the Cash Deposit;

- (b) if the [RetailerTrader](#) 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 ~~will~~must immediately notify the [RetailerTrader](#) that it has called on the security.

~~9.34~~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 [A](#)greement, or calls on the provider of a third party security, the [RetailerTrader](#) ~~will~~must within 5 Working Days take all steps necessary to ensure that the [RetailerTrader](#) 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).

~~9.35~~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 [RetailerTrader](#) in substitution for the third party security and ~~will~~must be dealt with in accordance with clause 10.27.

~~9.36~~10.27 **Trust Account Rules:** If the Distributor receives a Cash Deposit:

- (a) the Cash Deposit ~~will~~must be held in a trust account in the name of the [RetailerTrader](#), to be applied or distributed only on the terms of this [A](#)greement, or as otherwise agreed by the parties;
- (b) the Distributor ~~will~~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 ~~will~~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 [RetailerTrader](#) ~~will~~must inform the Distributor of the bank(s) that the [RetailerTrader](#) uses for its banking purposes and if the [RetailerTrader](#) changes banks;

- (e) the Trust Account ~~will~~must bear interest at the best on call rate reasonably available from time to time from the Bank. The Distributor ~~will~~must pay the ~~Retailer~~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 ~~A~~agreement is terminated, the Distributor ~~will~~must refund any Cash Deposit (less any amount owed to the Distributor plus any interest not yet paid to the ~~Retailer~~Trader) to the ~~Retailer~~Trader in accordance with clause 10.20, provided that the ~~Retailer~~Trader:
 - (i) is not otherwise in default of this ~~A~~agreement;
 - (ii) has ceased to be bound by this ~~A~~agreement; and
 - (iii) has discharged all obligations under this ~~a~~Agreement to the Distributor, including payment of all outstanding amounts under this ~~a~~Agreement; and
- (g) the Distributor ~~will~~must provide the ~~Retailer~~Trader with an annual report in respect of the operation of the Trust Account if requested by the ~~Retailer~~Trader.

~~9.37~~10.28 **Release of third party security:** If this ~~A~~agreement is terminated, the Distributor ~~will~~must release any third party security, provided that the ~~Retailer~~Trader has met all of the requirements set out in clause 10.27(f).

PART III ~~=~~ OPERATIONAL REQUIREMENTS

~~10.11.~~ ACCESS TO THE ~~CUSTOMER~~CONSUMER'S PREMISES

~~10.4~~11.1 **Rights of entry onto ~~Customer~~Consumer's Premises:** The ~~Retailer~~Trader ~~will~~must, subject to clause 29.1~~29.1~~, include in each of its ~~Customer~~Agreements~~Consumer Contracts~~ a requirement that the ~~Customer~~Consumer provide the Distributor and its agents with safe and unobstructed access onto the ~~Customer~~Consumer'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~~Consumer~~ or Customer~~Consumer~~'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~~Consumer~~ or Customer~~Consumer~~'s Premises) Metering Equipment;
- (c) to disconnect and reconnect the Customer~~Consumer~~ in accordance with this ~~a~~Agreement;
- (d) to access the ~~Retailer~~Trader's Equipment to verify metering information, including, in the event of termination of this ~~a~~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~~Consumer~~ 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~~Consumer Contract~~ for the period ending 6 months after the date that termination takes effect.

~~10.2~~11.2 **Exercise of access rights:** In exercising its access rights under clause 11.1, the Distributor ~~will~~must, except to the extent that the Distributor has any other binding agreement setting out its access rights directly with the Customer~~Consumer~~:

- (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 ~~will~~must give written notice to a Customer~~Consumer~~ if the Distributor intends to access the Customer~~Consumer~~'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~~Consumer~~'s Premises;

- (c) cause as little disturbance or inconvenience as practicable to the ~~Retailer~~Trader and the ~~Customer~~Consumer (including minimising any direct impact on the ~~Customer~~Consumer's property) and ensure that its personnel:
 - (i) behave in a courteous, considerate and professional manner at all times while on the ~~Customer~~Consumer's Premises;
 - (ii) carry identification that shows they are authorised personnel of the Distributor; and
 - (iii) if practicable, identify themselves to the ~~Customer~~Consumer before entering the ~~Customer~~Consumer's property; and
- (d) comply with the ~~Customer~~Consumer's reasonable requirements, practices and procedures as disclosed by the ~~Customer~~Consumer or as generally practised for health and safety, and security requirements.

~~10.3~~11.3 **Distributor may disconnect:** The ~~Retailer~~Trader ~~will~~must, subject to clause 29.1~~0~~, include in its ~~Customer Agreement~~Consumer Contracts a provision to the effect that if the ~~Customer~~Consumer breaches the provisions of its ~~Customer Agreement~~Consumer Contract that require it to give the Distributor access to the Distributor's Equipment on the ~~Customer~~Consumer's Premises, and the breach is material or persistent, the Distributor may disconnect the ~~Customer~~Consumer's ICP from the Network and access the ~~Customer~~Consumer'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 ~~Retailer~~Trader gave the ~~Customer~~Consumer 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 ~~clause S6.15~~the relevant provisions of ~~s~~Schedule 6.

~~10.4~~11.4 **Costs of disconnection:** The Distributor will not be liable for any loss the ~~Retailer~~Trader may suffer or incur as a result of a disconnection carried out because the ~~Customer~~Consumer has not given the Distributor access in accordance with the relevant ~~Customer Agreement~~Consumer Contract. The ~~Retailer~~Trader ~~will~~must

reimburse the Distributor for all of the Distributor's reasonable costs incurred in relation to the disconnection and any reconnection.

~~10.5~~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~~Consumer~~ and Distributor with respect to the Distributor's access rights to the Customer~~Consumer~~'s Premises, the provisions of the existing agreement between the Distributor and Customer~~Consumer~~ will prevail to the extent of such conflict.

~~11.12.~~ **GENERAL OPERATIONAL REQUIREMENTS**

~~11.1~~12.1 **Interference or damage to Distributor's Equipment by**

Customer~~Consumers~~: The Retailer~~Trader~~ will~~must~~, subject to clause 29.1~~0~~, include in each of its Customer Agreements~~Consumer Contracts~~ a requirement that, during the term of the Customer Agreement~~Consumer Contract~~ and until the end of the period ending 6 months after the termination of the Customer Agreement~~Consumer Contract~~, the Customer~~Consumer~~ will~~must~~ not interfere with or damage, and will~~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).

~~11.2~~12.2 **Costs of making good any damage:** The Retailer~~Trader~~ will~~must~~, subject to clause ~~0 29.1 below~~29.1 below, include in each of its Customer Agreements~~Consumer Contracts~~ a requirement that, if any of the Distributor's Equipment is damaged by the negligence or wilful act or omission of the Customer~~Consumer~~ or the Customer~~Consumer~~'s agents or invitees, ~~then~~ the Customer~~Consumer~~ will~~must~~ pay the cost of making good the damage to the Distributor.

~~11.3~~12.3 **Interference or damage to Distributor's Equipment by the**

Retailer~~Trader~~: The Retailer~~Trader~~ will~~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 ~~a~~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).

~~11.4~~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 ~~Retailer~~Trader or the ~~Retailer~~Trader's employees, agents or invitees, ~~then~~ the ~~Retailer~~Trader ~~will~~must pay the cost of making good the damage to the Distributor.

~~11.5~~12.5 **Interference or damage to ~~Retailer~~Trader's Equipment or ~~Customer~~Consumer's Installations:** The Distributor ~~will~~must ensure that it and its employees, agents and invitees do not interfere with or damage the ~~Retailer~~Trader's Equipment or the ~~Customer~~Consumer's Installation (including, without limitation, for a period of 6 months after termination of this Agreement) without the prior written consent of the ~~Retailer~~Trader or the ~~Customer~~Consumer (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).

~~11.6~~12.6 **Costs of making good any damage:** If the ~~Retailer~~Trader's Equipment or the ~~Customer~~Consumer'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 ~~will~~must pay the cost of making good the damage to the ~~Retailer~~Trader or the ~~Customer~~Consumer (as the case may be). This clause 12.6 is for the benefit of the ~~Customer~~Consumer and may be enforced by the ~~Customer~~Consumer under the Contracts (Privity) Act 1982.

~~11.7~~12.7 **Interference with the Network:** The ~~Retailer~~Trader ~~will~~must, subject to clause ~~0~~29.1, include in each of its ~~Customer Agreements~~Consumer Contracts a provision to the effect that the ~~Customer~~Consumer ~~will~~must not, ~~without the prior written agreement of the Distributor:~~

- (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.

~~41.8~~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 ~~Retailer~~Trader ~~will~~must:

- (a) purchase electricity from Distributed Generation connected to the Network only if the ~~Retailer~~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 ~~Retailer~~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.

~~41.9~~12.9 **Notification of interference, damage or theft:** If the Distributor or ~~Retailer~~Trader discovers any interference or damage to the other party's equipment or the ~~Customer~~Consumer's Installation, or evidence of theft of electricity, loss of electricity or interference with the Network, the discovering party ~~will~~must notify the affected party as soon as it is practicable to do so.

~~41.10~~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.

~~41.11~~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 ~~will~~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 ~~will~~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.

~~11.12~~12.12 **Safe Housing of Equipment:** The ~~Retailer~~Trader ~~will~~must, subject to clause ~~0~~29.1, include in each of its ~~Customer Agreements~~Consumer Contracts (subject to any ~~alternative~~-written agreement between the ~~Retailer~~Trader and the Distributor) an undertaking by the ~~Customer~~Consumer 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~~Consumer's Premises that the Distributor determines is necessary.

~~11.13~~12.13 **The Network:** The ~~Retailer~~Trader ~~will~~must, subject to clause ~~0~~29.1, include in each of its ~~Customer Agreements~~Consumer Contracts an acknowledgement by the ~~Customer~~Consumer that:

- (a) the Network, including any part of the Network situated on ~~Customer~~Consumer's Premises, is and will remain the sole property of the Distributor; and
- (b) no provision of the ~~Customer Agreement~~Consumer Contract nor the provision of any services by the Distributor in relation to the Network will confer on the ~~Customer~~Consumer 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.

~~12.13~~12.13 NETWORK CONNECTION STANDARDS

DDA drafting note: Clause 13 includes a new clause 13.3, which places obligations on the Trader if the Trader becomes aware that a Customer's installation does not comply with the Distributors' Network Connection Standards. This was clause 2.2(a) of the ~~MuoSA~~MUoSA, and is relocated here per the drafting note in clause 2. ~~We have incorporated the requirement in this clause because it imposes a substantive obligation on the Trader relating~~

to Network Connection Standards, so should be included here rather than in the summary clause 2.

~~12.1~~13.1 The Distributor ~~will~~must ~~P~~ublish the current version of its Network Connection Standards ~~on its website~~.

~~12.2~~13.2 The ~~Retailer~~Trader ~~will~~must:

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

~~12.3~~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

DDA drafting note: Clause 14 includes a new clause 14.2, which places an obligation on the Distributor if a Customer or the Trader raises a concern with the Distributor regarding power quality, reliability or safety of supply. This was clause 2.1(i) of the MUoSA. We have incorporated the requirement in this clause per the drafting note in clause 2~~because it imposes a substantive obligation on the Distributor, so should be included here rather than in the summary clause 2.~~

~~12.4~~14.1 Subject to clause 29.1, the ~~Retailer~~Trader ~~will~~must:

- (a) include in each of its Customer Agreements~~Consumer Contracts~~ an acknowledgement that the Customer~~Consumer~~ 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~~Consumer~~'s sensitive equipment; and
- (iii) are not treated as interruptions; and

(b) advise each of its Customer~~Consumer~~s of the steps the Customer~~Consumer~~ should take to protect their sensitive equipment from such surges or spikes, or inform the Customer~~Consumer~~ of where to find information about the steps the Customer~~Consumer~~ 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.

13.15. CUSTOMER~~CONSUMER~~ SERVICE LINES

13.415.1 Responsibility for Customer~~Consumer~~ Service Lines: The ~~Retailer~~Trader willmust, subject to clause 29.10, include in each of its Customer~~Consumer~~ Agreements~~Consumer Contracts~~ a statement to the effect that it is the Customer~~Consumer~~'s responsibility to maintain the Customer~~Consumer~~ 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~~Consumer~~ Service Lines).

14.16. TREE TRIMMING

14.416.1 Customer Agreements~~Consumer Contracts~~ to provide Customer~~Consumer~~ is responsible for tree trimming required by the regulations: Subject to any written agreement between a Customer~~Consumer~~ and the Distributor, and any statutory provision, the ~~Retailer~~Trader willmust ensure that

each of its Customer Agreements~~Consumer Contracts~~ provides that the Customer~~Consumer will~~must comply with its obligations under the Electricity (Hazards from Trees) Regulations 2003 in respect of any trees that the Customer~~Consumer~~ has an interest in that are near the Grid or any line that forms part of the Network.

~~14.2~~16.2 **Distributor's right and obligations:** The Distributor ~~will~~must comply with the Electricity (Hazards from Trees) Regulations 2003.

17. **CONNECTIONS, DISCONNECTIONS, AND DECOMMISSIONING** ~~ICPS~~

DDA drafting note: Clause 17 includes a new clause 17.2, which sets out an acknowledgement that the Distributor's right to decommission an ICP is subject to subpart 3 of the Act. This clause was in Schedule 6 of the MUoSA, and has been moved to clause 17 as it ~~is likely to be informative to readers~~ fits better here as a core term.

17.1 **Policies and procedures:** The Distributor and the ~~Retailer~~Trader ~~will~~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 ~~for~~ 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 connections. ~~The clauses set out below focus on the responsibilities of each party and do not deal with the particular content of the information transferred between the parties or the media by which the information is transferred. The parties~~ Distributor and Trader ~~agree that the information content and transmission media will be consistent with the relevant EIEP, or in the absence of a relevant EIEP or capability by either or both parties to use the relevant EIEP, as agreed between the parties~~ 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.

~~14.3~~

~~14.4~~17.7 ~~-establishing new ICPs, changing the capacity of existing ICPs, Decommissioning existing ICPs and De-energising and Energising existing ICPs set out in sSchedule 6 and the relevant provisions of the Code.~~ **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

~~15.~~18. BREACHES AND EVENTS OF DEFAULT

~~15.1~~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 ~~will~~must remedy ~~any~~ breach within the following timeframe:

- (a) in the case of a Serious Financial Breach by the ~~Retailer~~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.

~~15.2~~18.2 **Distributor will exercise other remedies for Serious Financial**

Breaches: If the ~~Retailer~~Trader has provided acceptable security in accordance with clause 10.2(b), and the ~~Retailer~~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 ~~Retailer~~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 **RetailerTrader** 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.

~~15.3~~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 **A**greement;
- (b) the other party **will**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 **will**must continue to do all things necessary to remedy the breach as soon as possible.

~~15.4~~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 **RetailerTrader** only);
- (b) a material breach of the Defaulting Party's obligations under this **A**greement 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 **A**greement 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 **A**greement or, if the Defaulting Party is the **RetailerTrader**, the Distributor's ability to carry out its obligations under any agreement with any other electricity **retailertrader**,

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 ~~Retailer~~Trader, the Distributor may notify the Electricity Authority and/or the clearing manager in writing that ~~the Retailer is in breach of this agreement~~clause 14.41(h) of the Code applies and, if relevant, ~~notify the clearing manager in accordance with Part 14 of the Code.~~

~~15.5~~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.

~~15.6~~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 ~~Retailer~~Trader, the Distributor may notify the Electricity Authority and/or the clearing manager that clause 14.41(h) of the Code applies ~~in writing that the Retailer is in breach of this agreement and, if relevant, notify the clearing manager in accordance with Part 14 of the Code.~~

~~16.19.~~19. **TERMINATION OF AGREEMENT**

DDA drafting note: The provision allowing either party to terminate the Agreement by giving at least 120 days notice has been deleted, because the Authority does not consider that such a termination right is appropriate to include in a ~~default agreement template~~DDA. Instead, clause 19.1 provides that the parties may terminate the Agreement by mutual agreement.

~~16.1~~19.1 **Either party may terminate this Agreement:** In addition to any other termination right in this ~~a~~Agreement:

- (a) Termination At will by agreement: ~~either party may terminate this agreement by giving at least 120 Working Days' notice in writing of termination and the date on which this agreement will terminate. The~~

~~notice of termination may not be given under this clause 21.1 before [4 years and 6 months] from the commencement date of the first use of system agreement—interposed version number [insert] entered into between the Distributor and any retailer~~ 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 RetailerTrader) 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 RetailerTrader if the RetailerTrader is not supplying electricity on the Network:** the RetailerTrader may terminate this agreement by giving 5 Working Days' notice to the Distributor if the RetailerTrader is not supplying electricity to any CustomerConsumer through the Network;
- (e) **Termination by the Distributor if the RetailerTrader 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 RetailerTrader has not supplied any CustomerConsumers 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.

~~16.2~~19.2 **Termination of Agreement for Event of Default or Insolvency Event:**

In addition to any other termination right in this ~~a~~Agreement, if a party has breached this ~~a~~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 ~~Retailer~~Trader has ceased to supply electricity to all ~~Customer~~Consumers.

~~16.3~~ **Notice of termination lapses:**

~~16.4~~19.3 **Such**A notice ~~for~~f 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.

~~16.5~~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.

~~16.6~~19.5 **RetailerTrader remains liable for charges for remaining CustomerConsumers:** If this ~~a~~Agreement is terminated by the Distributor for any reason, the ~~Retailer~~Trader remains liable to pay any charges for ~~Services~~Distribution Services that arise in relation to connected ~~Customer~~Consumers that have not been switched to another ~~retailer~~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 ~~Retailer~~Trader will not be liable to pay any charges for ~~Services~~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 ~~Services~~Distribution Services at the prices that apply at the time of termination.

~~16.7~~19.6 **Obligations to continue until termination:** The parties ~~will~~must continue to meet their responsibilities under this ~~a~~Agreement up to the effective date of termination.

~~16.8~~19.7 **Events to occur on termination:** On the effective date of termination,
~~unless this agreement is replaced by an Alternative Contract:~~

- (a) the parties ~~will~~must have returned or certified the destruction of the other party's Confidential Information; and
- (b) the ~~Distributor parties will~~must cease to provide the ~~Services~~Distribution Services to ~~each other~~the Trader.

~~16.9~~19.8 **Survival of terms:** Any terms of this ~~a~~Agreement that by their nature extend beyond its expiration or termination remain in effect until fulfilled.

~~17.~~20. **CONFIDENTIALITY**

~~17.1~~20.1 **Commitment to preserve confidentiality:** Each party to this ~~A~~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 ~~A~~Agreement.

~~17.2~~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 ~~Retailer~~Trader and Distributor agree in writing to the disclosure of the information;
- (b) **Provided in this ~~a~~Agreement:** if disclosure is expressly provided for under the terms of this ~~a~~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 ~~will~~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 ~~Retailer~~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~~Consumer:** if the Confidential Information relates to a ~~Customer~~Consumer, and the ~~Customer~~Consumer has requested the release of the information.

~~17.3~~20.3 **Limit for breach:** A party's liability for breach of this clause 20 will not be limited by clause 24.

~~17.4~~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).

~~18.21.~~ FORCE MAJEURE

DDA drafting note: Clause 21.1(c) has been amended to remove text that is unnecessary because of the reference to Good Electricity Industry Practice. This is based on clause 21 of the Vector ~~distribution agreement~~UoSA.

~~18.1~~21.1 **Force Majeure Event:** A Force Majeure Event occurs if:

- (a) a party fails to comply with or observe any provision of this ~~A~~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 ~~could not have prevented the failure by the exercise of the degree of skill, diligence, prudence, control and foresight that would reasonably and ordinarily be expected from a skilled and experienced distributor or retailer engaged in the same type of undertaking under the same or similar circumstances in New Zealand at the time, acting in accordance with~~ Good Electricity Industry Practice.

~~18.2~~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.

~~18.3~~21.3 **Notice:** If a party becomes aware that a Force Majeure Event may occur or has occurred, it ~~will~~must:

- (a) notify the other party as soon as reasonably practicable that it is invoking this clause ~~23.1~~;
- (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).

~~18.4~~21.4 **Avoidance and mitigation of effect of Force Majeure Event:** The party invoking clause 21.1 ~~will~~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).

~~18.5~~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

DDA drafting note: The clauses relating to Variable Provisions have been deleted from clause 22, as all changes to the Agreement should be made as set out in clause 22.1(b) to (e).

Clause 22.1(a) has also been amended to record that the Agreement can be amended by the written agreement of the parties. While it is not strictly necessary to include such a statement, the Authority considers that it is useful to do so.

The provision relating to changes with a de minimis effect has also been deleted, as a change that has such an effect should be able to be mutually agreed by the parties.

~~18.6~~22.1 A change may be made to this ~~a~~Agreement:

- (a) ~~if the change is to one or more of the Variable Provisions and the change is made in accordance with clause 24.2;~~ by the written agreement of the parties;
- (b) if the change is a change to the information referred to in s~~S~~Schedule 9~~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, ~~or any mandatory rules or protocols of any industry association or body of which both the Distributor and the Retailer are members or signatories at the relevant time,~~ and the change is made in accordance with clause 24.4; 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; ~~and~~
- ~~(f) if the change does not fall into any of the categories set out above, and the change is made in accordance with clause 24.4~~

~~18.7 **Process to change any of the Variable Provisions:** The Variable Provisions may be changed only:~~

~~18.8 in accordance with any applicable process in the Variable Provision;~~

~~18.9 if there is no applicable process in the Variable Provision and the party seeking the change is the Distributor, in accordance with clause 24.3; or~~

~~18.10 by agreement in writing between the parties.~~

~~18.11 **Distributor seeks change to a Variable Provision:** If there is no applicable process in the Variable Provision, the Distributor may change the Variable Provision, provided that the proposed change is in accordance with Good Electricity Industry Practice and the Distributor has complied with the following:~~

~~18.12 subject to paragraph (b), the Distributor will give the Retailer a Change Notice not less than 20 Working Days before the date on which the Distributor wishes the change to take effect; and~~

~~18.13 before giving the Change Notice to the Retailer:~~

~~18.14 the Distributor will consult with the Retailer about the proposed change for a reasonable period, having regard to the nature of the proposed change, but in any event a period of not less than 20 Working Days, and will consider in good faith any submission that the Retailer makes regarding the proposed change; and~~

~~18.15 provide the Retailer with a summary of all submissions received and the responses to the submissions that clearly indicates whether the majority of retailers by number of ICPs supplied on the Network support or do not oppose the change proposed. For the avoidance of doubt, the Distributor may change the Variable Provision as~~

~~proposed in the Change Notice whether or not a majority of retailers support the change proposed.~~

~~18.16 **Procedure for changes required by law, including the Code, and other**~~

~~**changes:** The following procedures will apply to changes contemplated by clauses 22.1(d) and 24.1(f)~~

~~(a) **Notice of change:** either the Distributor or the Retailer may suggest a change by notice to the other. The notice will:~~

~~(i) if the proposed change is contemplated by clause 24.1(d), specify the provisions of the Code, the mandatory rules or protocols, or the laws that are the basis for the proposed change; or~~

~~(ii) if the proposed change is contemplated by clause 24.1(f), set out the reasons for the proposed change; and~~

~~(iii) set out the change in the form that the change is proposed to be incorporated in this agreement;~~

~~(b) **Good faith:** the parties will negotiate the change in good faith;~~

~~(c) **By agreement:** if the Distributor and the Retailer agree to the proposed change they will promptly sign a written variation to this agreement documenting the change, and this agreement will be deemed to have been changed on the date the variation is signed by the Distributor and Retailer or on such other date as specified in the variation; and~~

~~(d) **Procedure for changes required by law, including the Code, if the parties have not agreed:** if the proposed change is contemplated by clause 24.1(d) and the parties are unable to agree on the change within 60 Working Days of the date the notice was first given under paragraph (a), the matter will be referred to the decision of any independent, experienced and suitably qualified person agreed between the parties or failing agreement, appointed by the President for the time being of the New Zealand Law Society. The person appointed will act as an expert and not as an arbitrator and the decision of that person:~~

~~(i) will be the minimum necessary to effect the mandatory change required by clause 24.1(d);~~

~~(ii) subject to subparagraph (i), will be binding, absent obvious error;
and~~

~~(iii) will take effect 10 Working Days after the decision is notified to the
Retailer and Distributor unless the decision is required to take
immediate effect by law (including the Code) or mandatory rules or
protocols.~~

~~18.17~~22.2 **Change to GXP:** The following procedure will apply to changes contemplated by clause 22.1(e):

(a) **Notice of Proposal:** the Distributor ~~will~~must notify the ~~Retailer~~Trader that it proposes to:

(i) construct and operate, or agree with a ~~Transmission Provider~~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 ~~will~~must provide the following details in writing to the ~~Retailer~~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 ~~will~~must consult with the ~~Retailer~~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 ~~Retailer~~Trader or other electricity ~~retailer~~traders). The Distributor ~~will~~must provide the ~~Retailer~~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 ~~A~~agreement will be deemed to be varied

from that date to the extent necessary as a result of the commissioning or permanent disconnection.

~~18.18 **Exception:** If a change to the agreement has a de minimis effect on the contractual undertakings of the parties (for example terminology changes to accord with new industry classifications or definitions), either party may effect the change by notice to the other party and nothing in clauses 24.1 to 24.5 will apply to the change. If the party receiving such a notice disagrees that the change has a de minimis effect, the party may raise a Dispute in accordance with clause 25.~~

~~19.23.~~ DISPUTE RESOLUTION PROCEDURE

~~19.1~~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 ~~will~~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.

~~19.2~~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.

~~19.3~~23.3 **Appointment of mediator:** Within 10 Working Days of receipt of the notice referring the Dispute to mediation, the parties ~~will~~must attempt to agree on the identity of the mediator ~~or~~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.

~~19.4~~23.4 **Conduct of mediation:** In consultation with the mediator, the parties ~~will~~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.

~~19.5~~23.5 **Appointment of representative:** Each party ~~will~~must appoint a representative for the purposes of the mediation who ~~will~~must have authority to reach an agreed solution and effect settlement.

~~19.6~~23.6 **Conduct during mediation:** In all matters relating to the mediation:

- (a) **Act in good faith:** the parties and their representatives ~~will~~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.

~~—Either:~~

~~19.7~~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.

~~19.8~~23.8 **Arbitration:** A Dispute referred to arbitration under clause 23.7 ~~will~~must be resolved by a sole arbitrator under the Arbitration Act 1996. The arbitrator's decision will be final and binding on the parties.

~~19.9~~23.9 **Choice of arbitrator:** The sole arbitrator ~~will~~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.}]

~~Of:~~

~~19.10~~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.}]

~~19.11~~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.

~~19.12~~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**

DDA drafting note: Clause 24 includes a new clause 24.4, which clarifies that except as provided in clauses 24 and 25, the parties' liability to each other is excluded to the fullest extent permitted by law. This is based on clause 24.4 of the Vector ~~distribution~~ ~~agreement~~UoSA.

[The MUoSA liability clause has also been restructured.](#)

~~19.13~~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 ~~a~~Agreement.

~~19.14~~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 ~~a~~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.

~~19.15~~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 ~~a~~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.

~~19.16~~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~~Consumer 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~~Consumer's Premises;
 - (iv) the Distributor was taking any action in accordance with this ~~a~~Agreement including clause 4.4;
 - (v) such failure arises from any act or omission of the System Operator, a Generator, or ~~the a~~a ~~Transmission Provider~~Grid Owner, unless and to the extent that the Distributor has obtained a service guarantee from the System Operator or ~~Transmission Provider~~Grid Owner and the System Operator or ~~Transmission Provider~~Grid Owner has paid the Distributor under the relevant service guarantee, in which case the Distributor will ~~only~~only be liable to the ~~Retailer~~Trader ~~only~~only to the extent of the ~~Retailer~~Trader's proportionate share of such payment having regard to all other ~~retailer~~traders and all ~~customer~~consumers 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 [aAgreement](#); or

- (c) any failure to perform any obligation under this [aAgreement](#) caused by the [RetailerTrader](#)'s failure to comply with this [aAgreement](#), except to the extent that the failure is caused or contributed to by the Distributor not acting in accordance with this [aAgreement](#).

~~19.17~~24.6 [RetailerTrader](#) not liable: The [RetailerTrader](#) will not be liable for:

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

except to the extent that the failure is caused or contributed to by the [RetailerTrader](#) not acting in accordance with this [aAgreement](#).

~~19.18~~24.7 **Limitation of liability:** Subject to clauses 24.1 and 24.8 but ~~otherwise despite notwithstanding~~ any other provision of this [aAgreement](#), the maximum total liability of each party under or in connection with this [aAgreement](#) (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 [RetailerTrader](#) supplied electricity on the day of the event, or \$2,000,000.

~~19.19~~24.8 **Exclusion:** Clause 24.7:

- (a) does not limit a party's liability under clauses 20, 24.9, 25 and 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~~Consumer~~ failing to comply with the Distributor's Network Connection Standards;
- (ii) the Retailer~~Trader~~ is required by this Agreement to include in each of its Customer Agreements~~Consumer Contracts~~ a provision requiring the Customer~~Consumer~~ to comply with those Network Connection Standards; and
- (iii) the Customer Agreement~~Consumer Contract~~ between the Retailer~~Trader~~ and the Customer~~Consumer~~ did not include such a provision.

~~19.20~~24.9 **Consumer Guarantees Act:** The following provisions apply:

- (a) subject to clause 29.1, the Retailer~~Trader~~ will~~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~~all~~ its Customer Agreements~~Consumer Contracts~~ (which includes a contract between the Retailer~~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 Retailer~~Trader~~ by the Consumer Guarantees Act 1993 concerning the supply of electricity by the Retailer~~Trader~~ under the Customer Agreement~~Consumer Contract~~ ("**Retailer**~~Trader~~ **Warranties**");
- (b) if the Customer~~Consumer~~ on-supplies electricity to an end-user the Retailer~~Trader~~ will~~must~~, as a condition of any Customer Agreement~~Consumer Contract~~, require the Customer~~Consumer~~ to include provisions in all agreements between the Customer~~Consumer~~ and an end-user, excluding all Distributor Warranties and Retailer~~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~~Consumer~~ under the Consumer Guarantees Act 1993 that cannot

be excluded by law, nor does it preclude the ~~Retailer~~Trader from offering in its ~~Customer Agreements~~Consumer Contracts its own warranties, guarantees or obligations pertaining to distribution services.

~~19.24~~24.10 **Distributor liabilities and ~~Customer~~Consumer agreements:** The ~~Retailer~~Trader ~~will~~must, subject to clause 29.10, include in each of its ~~Customer Agreements~~Consumer Contracts clear and unambiguous clauses to the effect that:

- (a) the ~~Customer~~Consumer ~~will~~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~~Consumer Contract by the ~~Customer~~Consumer or any of its officers, employees, agents or invitees arising out of, or in connection with, the ~~Services~~Distribution Services provided under this ~~A~~agreement; and
- (b) to the extent permitted by law, the Distributor will have no liability to the ~~Customer~~Consumer in contract, tort (including negligence) or otherwise in respect of the supply of electricity to the ~~Customer~~Consumer under the ~~Customer Agreement~~Consumer Contract.

~~19.22~~24.11 **Benefits to extend:** Each party ~~acknowledges~~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

DDA drafting note: Clause 25 has been amended to reflect the distributor indemnity included in section 46A of the Consumer Guarantees Act 1993.

~~19.23~~25.1 **Distributor indemnity:** The Distributor indemnifies the ~~Retailer~~Trader as follows:

If:

(a) there has been a failure of the acceptable quality guarantee in ~~section 6 of~~ the Consumer Guarantees Act 1993 in the supply of electricity to a ~~Customer~~Consumer by the ~~Retailer~~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;

~~(e)~~(d) the Failure was not a result of action taken by the System Operator under the Act;

~~(d)~~(e) the ~~Customer~~Consumer obtains a remedy under Part 2 of the Consumer Guarantees Act 1993 in relation to the Failure against the ~~Retailer~~Trader; and

~~(e)~~(f) that remedy is a cost to the ~~Retailer~~Trader (a "**Remedy Cost**"),

the Distributor indemnifies the ~~Retailer~~Trader for the Remedy Cost ("**Distributor's Indemnity**").

~~19.24~~25.2 **Amount payable limited:** The amount of the Distributor's liability under ~~this~~ Distributor's ~~i~~ Indemnity is limited to the proportion of the Remedy Cost that is attributable to the event, circumstance, or condition associated with the ~~Distributor's~~ Network.

~~19.25~~25.3 However:

(a) if the Distributor pays compensation to a ~~Customer~~Consumer ("**Payment A**") in respect of a service provided directly by the Distributor to the ~~Customer~~Consumer; and

(b) the ~~Retailer~~Trader incurs Remedy Costs in relation to the ~~Customer~~Consumer for a failure of acceptable quality that arose from the

same event, ~~or~~ circumstance, or condition that led to the payment of Payment A,

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

~~19.26—If a Consumer makes a claim against the Retailer that the Retailer wishes to be indemnified for under this indemnity (a "Claim"), the Retailer will:~~

- ~~(a) — as soon as reasonably practicable, give written notice of the Claim to the Distributor specifying the nature of the Claim in reasonable detail; and~~
- ~~(b) — consult with and keep the Distributor informed in relation to the Claim.~~

26. CLAIMS UNDER THE DISTRIBUTOR'S INDEMNITY

DDA drafting note: The DDA includes a new clause 26, which sets out the procedural requirements that apply to the Distributor and Trader if a Customer makes a claim against the Trader in relation to which the Trader wishes to be indemnified by the Distributor. The drafting of clause 26 is largely based on the drafting of clauses 26.11 and 26.12 of the Vector ~~distribution agreement~~UoSA. The Authority considers that it is important to include a procedural clause such as clause 26, and also that it is appropriate for an agreement that includes an indemnity to provide that the party giving the indemnity may take over a claim from the indemnified party.

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

~~19.27~~27.1 **The Distributor will be indemnified:** Subject to clause 28, ~~The~~ ~~Retailer~~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 ~~Retailer~~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 ~~Retailer~~Trader of any of its obligations under this ~~a~~Agreement;
 - (ii) the disconnection by the ~~Retailer~~Trader, or disconnection requested by the ~~Retailer~~Trader, of any ~~Customer~~Consumer's Premises in accordance with this ~~a~~Agreement;

- (iii) the termination of this ~~a~~Agreement by the ~~Retailer~~Trader, except when the termination is the result of a breach by the Distributor;
 - (iv) any failure by the ~~Retailer~~Trader to perform any obligation under any agreement between the ~~Retailer~~Trader and any Generator or ~~Customer~~Consumer or other third party;
 - (v) any failure by the ~~Retailer~~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 ~~Retailer~~Trader; and
- (b) any recovery activity of the Distributor in respect of any unpaid charges or interest payable under this ~~a~~Agreement.

~~19.28~~27.2 **The ~~Retailer~~Trader will be indemnified:** Subject to clause 28, ~~T~~he Distributor indemnifies and holds harmless the ~~Retailer~~Trader and will keep the ~~Retailer~~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 ~~Retailer~~Trader arising out of or in connection with:

- (a) any claim by any person with whom the Distributor or ~~Retailer~~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 ~~A~~Agreement;
 - (ii) the disconnection by the Distributor of any ~~Customer~~Consumer's Premises in accordance with this Agreement;
 - (iii) the termination of this ~~a~~Agreement by the Distributor, except when the termination is the result of a breach by the ~~Retailer~~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 [Retailer/Trader](#) under or in connection with this [a](#)Agreement at the request of the Distributor; and
- (b) any recovery activity of the [Retailer/Trader](#) in respect of any unpaid charges or interest payable under this [a](#)Agreement.

28. CONDUCT OF CLAIMS

DDA drafting note: The Authority considers that it is appropriate to include a clause setting out the parties' obligations if a third party makes a claim under clause 27.

This clause is based on clause 26.17 of the Vector ~~distribution agreement~~[UoSA](#).

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.

20.29. CUSTOMER AGREEMENTS~~CONSUMER CONTRACTS~~

DDA drafting note: The provisions allowing the Retailer to recover costs resulting from changes to Consumer Contracts that are required by the Distributor more than once every two years have been deleted. The Authority considers that such provisions are not appropriate given that the Distributor's ability to require the Trader to include provisions in Customer Agreements is outside of the Distributor's control in light of the new requirement in the Code to contract on the basis of ~~this template~~ a DDA (unless the parties agree otherwise).

~~20.1~~29.1 ~~Retailer~~Trader to include provisions in Customer

~~Agreements~~Consumer Contracts: The following clauses apply in respect of the ~~Retailer~~Trader's ~~Customer Agreements~~Consumer Contracts:

- (a) in respect of each ~~Customer Agreement~~Consumer Contract that has been entered into prior to the Commencement Date:
- (i) at the next review date, or, if the ~~Retailer~~Trader is able to unilaterally vary the ~~Customer Agreement~~Consumer Contract, within 12 months after the Commencement Date (whichever is

earlier), the ~~Retailer~~Trader ~~will~~must issue a unilateral variation to the ~~Customer Agreement~~Consumer Contract to include provisions that have substantially the same effect as the provisions required to be included in the ~~Customer Agreement~~Consumer Contract by this ~~a~~Agreement, ~~as summarised in schedule 4,~~ and those provisions ~~will~~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 ~~Retailer~~Trader is unable to unilaterally vary one or more ~~Customer Agreements~~Consumer Contracts as set out in subparagraph (i), the ~~Retailer~~Trader ~~will~~must:
 - (A) use all reasonable endeavours to obtain at the next review of each ~~Customer Agreement~~Consumer Contract, or within 12 months, whichever is earlier, the agreement of the ~~Customer~~Consumer to enter into a variation of the ~~Customer Agreement~~Consumer Contract to include the provisions required to be included in the ~~Customer Agreement~~Consumer Contract by this ~~a~~Agreement, ~~as summarised in schedule 4,~~ and those provisions ~~will~~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~~Consumer required in subparagraph (A); or
- (b) in respect of each ~~Customer Agreement~~Consumer Contract that has been entered into after the Commencement Date, include the provisions required to be included in the ~~Customer Agreement~~Consumer Contract by this ~~a~~Agreement, ~~as summarised in schedule 4,~~ and those provisions ~~will~~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.

20.2—Changes to ~~Customer Agreements~~Consumer Contracts during term: If this ~~A~~Agreement is changed in accordance with clause 22.1(d) and the change results in the addition of a new provision to this ~~a~~Agreement that requires the ~~Retailer~~Trader

to include a new provision in its Customer Agreements~~Consumer Contracts~~, the Retailer/Trader ~~will~~must take such steps as are necessary to comply with that provision. ~~If the Retailer is required by the Distributor to change its Consumer Contracts more than once in any 2 year period, the Retailer may recover all reasonable costs and expenses associated with such compliance from the Distributor, provided that the Retailer may not recover such costs if the change is required by the Distributor under:~~

~~20.3 clause 24.1(b), unless the change results in a new obligation in schedule 4;~~

~~20.4 clause 24.1(c), unless the change results in a new obligation in schedule 4; or~~

~~20.5~~29.2 ~~clause 24.1(d).~~

~~20.6~~29.3 **Retailer/Trader to indemnify Distributor:** Subject to clause 24, the Retailer/Trader indemnifies the Distributor against any direct loss or damage incurred by the Distributor as a result of the Retailer/Trader's failure to meet its obligations in accordance with clause 29.1.

~~21.30.~~ 29.2 **NOTICES**

~~21.1~~30.1 **Delivery of Notices:** Any notice given under this ~~a~~Agreement ~~will~~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.

~~21.2~~30.2 **Deemed receipt:** Any notice given under this ~~a~~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.

~~21.3~~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**

DDA drafting note: Clause 31 now includes a new clause 31.7, which sets out what should happen if a review of the Provider's Records identifies material inaccuracy in the Records.

This clause is based on clause 29.8 of the Vector's ~~distribution agreement~~ [UoSA](#).

~~21.4~~31.1 **Protocols for exchanging information:** ~~From time to time the Electricity Authority will publish certain EIEPs, including new or amended EIEPs, which specify recommended formats for the exchange of information between distributors and retailers. Unless this agreement or the Code require the parties to comply with one or more EIEPs when exchanging information, the Distributor and Retailer agree that they will use reasonable endeavours to comply with any relevant EIEPs when exchanging information, provided that the frequency at which, and method by which, the parties will exchange information is such that compliance with the EIEP is cost-effective for both parties~~ The Distributor and the Trader must, when exchanging information to which an EIEP listed in Schedule 3 relates, comply with that EIEP.

~~21.5~~31.2 **Customer**~~Consumer~~ **information:** The ~~Retailer~~Trader ~~will~~must on reasonable written request from the Distributor, and within a reasonable timeframe, provide the Distributor with such Customer~~Consumer~~ information as is reasonably available to the ~~Retailer~~Trader and necessary to enable the Distributor to fulfil its obligations in accordance with this Agreement. The information ~~will~~must be treated by the Distributor as Confidential Information and the Distributor expressly acknowledges and agrees that it is not authorised to, and ~~will~~must not, use such information in any way or form other than as permitted by this clause 31.2.

~~21.6~~31.3 **Auditing information provided:** To enable either party ~~to this agreement~~ (the “**Verifier**”) to verify the accuracy of information provided to it by the other party ~~to this agreement~~ (the “**Provider**”), the Provider ~~will~~must allow the Verifier and its agents reasonable access to the Provider’s books and records (including, if the ~~Retailer~~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 ~~will~~must be given at all reasonable times providing the Verifier has given the Provider ~~not less than~~at least 10 Working Days' prior notice.

~~21.7~~31.4 **Limitations on the Verifier:** In relation to its review of the Records under clause 31.3, the Verifier ~~will~~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.

~~21.8~~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 ~~Retailer~~Trader or that the information is commercially sensitive; or
- (b) the provider is the ~~Retailer~~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 ~~Retailer~~Trader, as appropriate, ~~will~~must permit an independent auditor (the “**Auditor**”) appointed by the other party to review the Records and the other party ~~will~~must not itself directly review any of the Records. The Distributor or the ~~Retailer~~Trader, as appropriate, ~~will~~must not unreasonably object to the Auditor appointed by the other party. In the event that the Distributor or the ~~Retailer~~Trader, as appropriate, reasonably objects to the identity of the Auditor, the parties ~~will~~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 ~~will~~must pay the Auditor’s costs, unless the

Auditor discovers a material inaccuracy in the Records in which case the other party ~~will~~must pay the Auditor's costs. The terms of appointment of the Auditor ~~will~~must require the Auditor to keep the Records confidential.

31.6 **Provider ~~will~~must co-operate:** The Provider ~~will~~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 ~~will~~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

(e)(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.

~~22.32.~~32. **MISCELLANEOUS**

~~22.1~~32.1 **No Waiver:** Unless a party has signed an express written waiver of a right under this ~~a~~Agreement, no delay or failure to exercise a right under this ~~a~~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.

~~22.2~~32.2 **Entire agreement:** This ~~a~~Agreement records the entire agreement, and prevails over any earlier agreement concerning its subject.

~~22.3~~32.3 **No assignment:** Neither party may assign any benefit or burden under or in relation to this ~~a~~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.

~~22.4~~32.4 **Severance:** Any unlawful provision in this ~~a~~Agreement will be severed, and the remaining provisions enforceable, but only if the severance does not materially affect the purpose of, or frustrate, this ~~a~~agreement.

~~23.33.~~33. **INTERPRETATION**

~~23.1~~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 ~~a~~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 ~~a~~Agreement has a meaning corresponding or construed to the definition;
- (j) references to sections, clauses, ~~s~~Schedules, annexes or other identifiers are to those in this ~~a~~Agreement unless otherwise identified; and

(k) references to a document or agreement includes it as varied or replaced;
~~and~~

~~(l) each schedule and any other attachment is part of this agreement.~~

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

DDA drafting note: A number of the definitions have been amended for consistency with definitions in the Code. These include the definition of "De-engerise", "Distributed Generation", "Distributor Generator", "Energise", "Generator", "Grid", "Grid Owner", "Grid Exit Point (GXP)", "Rulings Panel", "Serious Financial Breach", "System Operator", and "System Security".

"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;

~~**"Additional Services"** means the additional services that the Distributor or the Retailer will provide to the other as described in schedule 2;~~

~~**"Alternative Contract"** has the meaning given in clause 4.2;~~

~~**"Avoided Transmission Charge"** means any expense (including the cost of capital) incurred by the Distributor that arises from any generation or other activity that substitutes for use of the transmission system;~~

"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;

~~"Change Notice" means notice of a change to a Variable Provision given by the Distributor to the Retailer under clause 24.3;~~

"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 ~~on the execution page of this agreement~~ in clause 1.1~~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 ~~a~~ 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) reports prepared in accordance with clause 8; and~~

~~(d) the existence and terms of this Agreement, except schedule 2;~~

"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 Retailer~~Trader~~ contracts with the Customer~~Consumer~~ for the supply of electricity only in relation to an ICP and the Distributor does not provide Distribution Services to the Retailer~~Trader~~ in respect of that ICP;

“**Credit Note**” has the meaning given ~~to that term~~ in the GST Act;

“**Customer**~~consumer~~” means a person who purchases electricity from the Retailer~~Trader~~ that is delivered via the Network;

“**Customer Agreement**~~Consumer Contract~~” means an agreement between the Retailer~~Trader~~ and the Customer~~Consumer~~ that includes the supply of electricity and distribution services;

“**Customer**~~consumer~~ **Service Lines**” means the lines used or intended to be used for the conveyance of electricity between the Customer~~Consumer~~'s Point of Connection and the Customer~~Consumer~~'s Premises;

“**Customer**~~consumer~~'s **Installation**” means an Electrical Installation and includes Distributed Generation, if Distributed Generation is connected to a Customer~~Consumer~~'s Installation;

“**Customer**~~consumer~~'s **Premises**” means the land and buildings owned or occupied by a Customer~~Consumer~~, and any land over which the Customer~~Consumer~~ 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 ~~to that term~~ 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~~process of removing a fuse or link or the opening of a switch to prevent further transportation of electricity to or from an ICP;~~

“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 ~~to it~~ in clause 24.2;

“Disclosure Requirements” ~~means the disclosure requirements under any means the Electricity Distribution Information Disclosure Requirements determination 2008~~ issued by the Commerce Commission ~~under in accordance with sections 57T and 57U~~ Part 4 of the Commerce Act 1986 relating to electricity distribution, as amended or replaced from time to time;

“Dispute” has the meaning given ~~to it~~ 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.

~~(i) used, or proposed to be used, for generating electricity that is:~~

~~(a) connected, or proposed to be connected, to the Network, or to an Electrical Installation; and~~

~~(b) in addition to supplying electricity to the Consumer, may also be used for injecting electricity into the Network for supply to another person;~~

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

“Distribution Services” ~~means those services described in clause 2.1 provided by the Distributor to the Retailer under this agreement but excludes Additional 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 ~~a~~Agreement;

~~**“Distributor’s Agreement”** means an agreement between the Distributor and a Consumer for the provision of distribution services and, unless otherwise agreed with the Retailer, includes the direct billing of lines charges to the Consumer and responsibility for associated debt;~~

“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~~Consumer~~’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 ~~on the Electricity Authority's website <http://www.ea.govt.nz> in accordance with the Code;~~ or

~~an electricity information exchange protocol that is additional to those published on the Electricity Authority's website, agreed by the parties and recorded in schedule 3;~~

“Electrical Installation” means:

- (a) all Fittings that form part of a system for conveying electricity at any point from the ~~Customer~~Consumer'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 ~~to it~~ in section 5 of the Act;

“Electricity Supply Agreement” means an agreement between the ~~Retailer~~Trader and a ~~Customer~~Consumer 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; ~~process of adding a fuse or link or the closing of a switch to allow transportation of electricity to or from an ICP;~~

“Entrant” has the meaning given in clause 6.3;

“Event of Default” has the meaning given ~~to it~~ in clause 18.3(a);

~~**“Feeder”** means a high voltage circuit served by automatic switchgear at 3.3kV and above, and for which the Distributor can reasonably aggregate network interruption statistics to monitor average feeder performance;~~

“**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 ~~set out~~given in clause 21.1;

“**Generator**” means any person that owns a machine that generates electricity that is connected to a network~~has assets that have the capability to generate electricity,~~ 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 ~~Retailer~~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 ~~retailer~~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 GXP's to convey electricity throughout the North Island and the South Island of New Zealand~~the nationwide system of transmission lines, substations and other works including the HVDC (High Voltage Direct Current) link owned by Transpower and used to connect all grid injection points and/or grid exit points to transport electricity throughout 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 ~~Goods and Services Tax Act 1985~~;

“GST Act” means the Goods and Services Tax Act 1985;

~~“GXP” means a Grid Exit Point that is a point of connection on the Grid:~~

~~(a) — at which electricity predominantly flows out of the Grid; or~~

~~(b) — determined as being such by the Authority following an application made under the Code;~~

“ICP” means an installation control point being one of the following:

- (a) a Point of Connection at which a Customer ~~Consumer~~'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 CustomerConsumer, that the Distributor provides Distribution Services to the RetailerTrader and the RetailerTrader contracts with the CustomerConsumer 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 CustomerConsumer’s Premises for the purpose of receiving signals sent by Load Signalling Equipment and switching on and off, or otherwise controlling, controllable load;

~~**“Load Management Service”** means providing a signal for the purpose of reducing or interrupting delivery of electricity to all or part of Consumer’s Premises, including as an example, but without limitation, delivery to a water heater, on a basis agreed between the Distributor and the Retailer;~~

“Load Control System” means a control and communications system for controlling parts of a CustomerConsumer’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 ~~retailer~~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;

~~“Performance Report” has the meaning set out given in clauses 8.1 and 8.28.2;~~

“**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 9~~Schedule 7 that determine the ~~Tariff Rate~~Price(s) that apply to an ICP;

~~“Price Options” has the meaning given in clause 108.3;~~

“**Pricing Policy and Methodology**Methodology” means the policy and methodology set out in ~~schedule 9~~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 ~~Retailer~~Trader that the information has been disclosed on the website ~~and sending the information in hardcopy to the Retailer~~;

“**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.

~~“Retailer” means the party identified as such in this agreement;~~

~~“Retailer’s Equipment” means the Fittings and/or Metering Equipment owned by the Retailer, the Retailer’s agent or any other third party with whom the Retailer has contracted with for the use by the Retailer of such third party’s Fittings or Metering Equipment, which are from time to time installed in, over, or on Consumer’s Premises;~~

~~“Rulings Panel” has the meaning given to it in section 5 of the Act~~means the Rulings Panel continued by the Act;

~~“SAIDI” means the system average interruption duration index;~~

“Serious Financial Breach” means:

- (a) a failure by the ~~Retailer~~Trader to pay an amount due and owing that exceeds the greater of \$100,000 or 20% of the actual charges payable by the ~~Retailer~~Trader for the previous month, unless the amount is genuinely disputed by the Trader and such amount is not genuinely disputed by the Retailer in accordance with clause 9.7; or
- (b) a material breach of clause 10 by the ~~Retailer~~Trader;

“Service Guarantee Payment” means any payment or other benefit that one party provides to the other party ~~when if~~ it fails to meet a Service Standard for which a guarantee payment is ~~provided should~~required to be paid if that Service Standard not be met;

“Service Interruption” means, ~~in relation to the supply of electricity to an ICP~~ 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.

~~the cessation of supply to that ICP for a period exceeding the time allowed for interruptions in the relevant Service Standard, other than in accordance with this agreement;~~

“**Service Level**” means the magnitude of a Service Measure ~~set out in Schedule 1;~~

“**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, ~~service performance reporting measures and frequency of reporting~~ as set out in schedule 1;

~~“**Services**” means the Distribution Services, Additional Services, Transmission Services and any other services provided by the Distributor to the Retailer Trader in accordance with this agreement;~~

“**Switch Event Date**” means the date recorded in the Registry as being the date on which a ~~retailer~~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~~means the person who is the system operator under 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~~secure state of the Grid achieved when the System Operator acts in~~

~~accordance with its principal performance obligations in relation to common quality and dispatch that are set out in Part 7 of the Code;~~

~~"Tariff Options" has the meaning given to it in clause 10.3;~~

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

~~"Tariff Structure Consultation Guidelines" means the guidelines relating to consulting on distributor tariff structure changes issued by the Electricity Authority and updated from time to time;~~

"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;

~~"Transmission Charge" means:~~

- ~~(a) — an amount charged by a Transmission Provider for use of that Transmission Provider's transmission system for the purpose of providing Transmission Services to the Distributor, and includes any amounts received from or payable to that Transmission Provider in relation to:
 - ~~(ii) — connection, interconnection and economic value adjustments;~~
 - ~~(iii) — new investment;~~
 - ~~(iv) — the provision of System Operator Services;~~
 - ~~(v) — loss and constraint rentals; and~~
 - ~~(vi) — the settlement of financial transmission rights;~~
 - ~~(vii) — any other charge component that is introduced into, or substitutes for, an existing component of the Transmission Provider's transmission pricing methodology from time to time; and~~~~
- ~~(b) — Avoided Transmission Charges;~~

"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 ~~Transmission Provider~~Grid Owner to meet the service standards agreed between the Distributor and the ~~Transmission Provider~~Grid Owner;

~~“Transmission Provider” means a person who transports electricity across the Grid and provides the Distributor with services relating to the injection or off-take of electricity at Network Supply Points;~~

~~“Transmission Services” the services provided by the Transmission Provider(s) to the Distributor;~~

“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 ~~Retailer~~Trader or any affected ~~Customer~~Consumer, ~~as anticipated in schedule 5 that relate to Unplanned Service Interruptions;~~

“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 ~~Retailer~~Trader has changed the status in the Registry to “Inactive”;

~~“Variable Provisions” means [schedule 6 and schedule 7 or insert provisions of this agreement and schedules (if any) that may be changed];~~

“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 ~~street~~-address for notices identified in the Parties section ~~at the start~~ of this ~~a~~Agreement.

PART V – SCHEDULES

SCHEDULE 1 – SERVICE STANDARDS

Introduction

~~S1.1 — In accordance with clause S1.2, the Distributor and the Retailer will meet the Service Standards outlined in this schedule.~~

~~S1.2~~S1.1 _____ If ~~either party~~the Trader becomes aware of or suspects a breach of the Service Standards by the ~~other party~~Distributor, the ~~Trader~~party ~~must~~will give the ~~other party~~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 ~~either party~~the Distributor breaches a Service Level that is subject to a Service Guarantee Payment, it ~~will~~must notify the ~~other party~~Trader as soon as possible and no later than 10 Working Days after becoming aware of the breach. The notification ~~will~~must include:

- (a) the ~~identity of the~~ ICP identifier of each ICPs affected and the Service Guarantee ~~amount~~ Payment owed by ICP and in total (if applicable);
- (b) _____ the reason for the breach; and
- (b)(c) _____ a Credit Note, or order number (if the payer Trader requires ~~an invoice~~ a Tax Invoice from the ~~payee~~ Distributor for the amount payable in respect of the breach, the Distributor must ~~will be sent~~ the Tax Invoice in the next payment cycle).

~~S1.4 — All Service Guarantee amounts in this schedule are exclusive of GST (if any). All Service Guarantee invoices will state clearly the amount of GST (if any) that is payable.~~

~~S1.5~~S1.4 _____ If the Distributor makes a Service Guarantee Payment in respect of an ICP, the ~~Retailer~~Trader ~~will~~must pass that payment on to the relevant

Customer~~Consumer~~ or Customers but may deduct an amount that reflects its reasonable cost of administering the payment.

S1.5 The parties acknowledge that the Service Guarantees Payments are set at a level to provide reasonable compensation to ~~the affected Customer~~Consumers, ~~Retailer or the Distributor (as the case may be)~~ in respect of the Distributor's ~~or the Retailer's~~ failure to meet the relevant Service Levels, and are not a penalty.

Operational Terms

S1.6 ~~This section must include a table that sets out~~ ~~include a table that the~~ Service Standards that ~~apply to the Services~~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

(c) 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);

(d) timeframes for restoring electricity supply following Unplanned Service Interruptions, which may be categorised by Customer category and Network locality; and

(e) 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 and~~specify:~~the~~

(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. ~~service performance reporting measure the method and frequency of service performance reporting~~

~~S1.6~~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~~

Table 1—Examples of schedule 1 items for sService Sstandards

SERVICE MEASURE	SERVICE LEVEL	POLICYCONDITIONS
1. UNCONTROLLED <u>ELECTRICITY</u> SUPPLY CATEGORY		
<p><u>1.1 24 hour Continuous Supply</u></p> <p>Time period when electricity supply is available</p>	<p>1. 24 hour Continuous Supply</p> <p>Supply <u>is must</u>, in normal supply circumstances, <u>be</u> continuously available 24 hours each day, 7 days each week.</p>	<p>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 will must endeavour in accordance with Good Electricity Industry Practice to maintain continuous electricity supply to every ICP where the Consumer has elected to receive Uncontrolled Supply and be charged on the basis of the relevant Uncontrolled Supply Price Category or Tariff Option in accordance with schedule 9 in accordance with this Agreement.</p> <p><u>Metering Eligibility</u> requirements for this category of <u>electricity</u> supply, <u>including Metering Equipment requirements</u>, are specified in <u>Schedule 7</u>. Different metering configurations may be available that provide for recording of consumption in different time periods. Refer to schedule 9 for details of the options available.</p>
2. CONTROLLED <u>ELECTRICITY</u> SUPPLY CATEGORIES		
<p><u>2.1 19 hour Controlled Supply</u></p> <p>Time period when electricity supply is available</p>	<p>1. [19] hour Controlled Supply</p> <p>Supply <u>is must</u>, in normal supply circumstances, <u>be</u> available for a minimum of [19] hours each day, 7 days each week.</p>	<p>If the a Customer Consumer has elected to receive [19] hour Controlled Supply and be is charged on the basis of the relevant Controlled Supply Price Category or Tariff Option Price Option in accordance with sSchedule 7, the Distributor may effect Load Shedding control the relevant part of the Customer's load at any time for up to a total for a maximum period of [5] hours on any one day.</p> <p>The <u>Customer's</u> controlled appliances <u>will must</u> be connected (and remain connected) to a load control relay that operates manually or automatically as the Distributor may determine and as specified in schedule 9 <u>Schedule 7</u>.</p> <p><u>Metering Equipment</u> requirements for this category of supply are specified in</p>

SERVICE MEASURE	SERVICE LEVEL	<u>POLICY</u> <u>CONDITIONS</u>
<p><u>2.2 Controlled Night Supply with afternoon boost</u></p> <p>Time period when electricity supply is available</p>	<p>2. Controlled Night Supply</p> <p>Supply is<u>must</u>, in normal supply circumstances, <u>be</u> available within the following time periods, 7 days each week:</p> <ul style="list-style-type: none"> • Supply available [from 11 pm to 7 am • and from 1 pm to 3 pm]. <p>At other times the supply is De-energised.</p>	<p><u>S</u>chedule <u>7</u>9.</p> <p>If the a <u>Customer</u>Consumer has elected to receive supply only within the specified time periods and be charged on the basis of the relevant <u>c</u>Controlled <u>s</u>Supply Price Category or Tariff Option<u>Price Option</u> in accordance with schedule 9<u>Schedule 7</u>, the Distributor will<u>must</u> provide <u>the</u> appropriate load control signals <u>to switch the supply to automatically energise and de-energise the supply</u>.</p> <p>The controlled appliances will<u>must</u> be connected (and remain connected) to a load control relay that operates automatically at the specified times<u>in response to the load control signal</u>, as specified in <u>S</u>chedule <u>7</u>9. Metering <u>Equipment</u> requirements for this category of supply are specified in <u>S</u>chedule <u>7</u>9.</p>
<p><u>2.3 Controlled Supply for Street Lights</u></p> <p>Time period when electricity supply is available</p>	<p>3. Controlled Supply for Street Lights</p> <p>Supply to street light circuits is<u>must</u>, <u>in normal supply circumstances</u>, <u>be</u> continuously available during the hours of darkness every day.</p>	<p>If the <u>Customer</u>Consumer (usually a Territorial Local Authority or Transit NZ) has elected to receive a streetlight controlled supply and be<u>is</u> charged on the basis of the relevant <u>c</u>Controlled <u>s</u>Supply Price Category or Tariff Option<u>Price Option</u> in accordance with <u>S</u>chedule <u>7</u>9, the Distributor will<u>must</u> provide appropriate load control signals <u>to switch the supply</u>.</p> <p>Street lights will<u>must</u> 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 <u>S</u>chedule <u>7</u>9. The hours of supply must be<u>are</u> set and controlled in accordance with the <u>Customer</u>Consumer's requirements. Specific special functionality may be provided by agreement to meet Consumer needs e.g. ANZAC Day timetable.</p> <p>[Street lights are an Un-metered Supply load in accordance with the relevant provisions of schedule 9.]</p>

SERVICE MEASURE	SERVICE LEVEL	POLICY <u>CONDITIONS</u>	SERVICE GUARANTEE <u>PAYMENT</u>
<u>3. ELECTRICITY SUPPLY SERVICE INTERRUPTIONS REPOSE AND POWER QUALITY</u>			
<u>3.1 Time period for Restoration of supply:</u> Unplanned Service Interruptions	The Distributor will <u>must</u> : Urban: restore supply within {3} hours of following notification of an Urban Unplanned Service Interruption; Rural: restore supply within {6} hours of following notification of a Rural Unplanned Service Interruption; and Remote Rural: restore supply within {12} hours of following notification of a Remote Rural Unplanned Service Interruption.	<u>For the purpose of this Service Measure</u> Service <u>areas:</u> Urban <u>means</u> [Distributor to define geographically]; Rural <u>means</u> [Distributor to define geographically]; and Remote Rural <u>means</u> : [Distributor to define geographically].	\${50} in respect of each ICP up to 60 A <u>Amps per phase</u> directly affected by the Unplanned Service Interruption to the extent the Service Level is not met , plus a further \${50} for each completed 24hr period in excess of the time limit, subject to the general limit of liability. \${150} in respect of each ICP greater than 60 Amps <u>per phase</u> directly affected by the Unplanned Service Interruption to the extent the Service Level is not met , plus a further \${150} for each completed 24hr period in excess of the time limit, subject to the general limit of liability. However, the Distributor does not need to pay a Service Guarantee payment in the following situations:

SERVICE MEASURE	SERVICE LEVEL	POLICY <u>CONDITIONS</u>	SERVICE GUARANTEE <u>PAYMENT</u>
			substantial third-party or weather-related damage to the Network (e.g. affecting 3 or more poles on a line); an Unplanned Service Interruption caused by the Transmission Provider, unless the Distributor has obtained an appropriate Service Guarantee from the Transmission Provider; a Force Majeure Event; prevented from making repairs (e.g. by police at accident scene).
<u>3.2 Frequency of Service Interruptions</u>	<u>Urban: No more than 4 per annum recorded by the Distributor or reported by the Customer;</u> <u>Rural: No more than 10 per annum recorded by the Distributor or reported by the Customer; and</u> <u>Remote Rural: No more than 20 per annum recorded by the Distributor or reported by the Customer.</u>	<u>The Service Measure includes Service Interruptions caused, or contributed to, by Transmission Interruptions.</u>	
<u>4. POWER QUALITY</u>			

SERVICE MEASURE	SERVICE LEVEL	POLICY <u>CONDITIONS</u>	SERVICE GUARANTEE <u>PAYMENT</u>
Frequency of Service Interruptions and short interruptions at ICPs	Urban: No more than [4] per annum recorded by the Distributor or reported by the Consumer; Rural: No more than [10] per annum recorded by the Distributor or reported by the Consumer; and Remote Rural: No more than [20] per annum recorded by the Distributor or reported by the Consumer.	Includes cessation of supply to a Consumer of less than 1 minute to the extent advised by that Consumer, but excludes subsequent interruptions that relate to an intermittent system fault. Includes Transmission Interruptions.	Nil
FAIDI, FAIFI, and CAIDI (distribution network only). Practice note: while feeder level statistics are included here, they may not be available or appropriate in all situations. The Distributor will need to determine whether feeder or system level information is provided.	The Distributor will provide to the Retailer annually the [5]-year rolling average data and latest year's data at the Feeder level for: Feeder Average Interruption Duration Index (FAIDI); Feeder Average Interruption Frequency Index (FAIFI); and Customer Average Interruption Frequency Index (CAIDI).		Nil
<u>4.1</u> Frequency of voltage sags at ICPs (to less than 80% of normal voltage)	Urban: No more than [30] per annum recorded by the Distributor or reported by the <u>1 or more Customer Consumers</u>; Rural: No more than [40] per annum recorded by the Distributor or reported	<u>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.</u> <u>If no suitable means of measurement of voltage is permanently available (such as by advanced</u>	Nil

SERVICE MEASURE	SERVICE LEVEL	POLICY CONDITIONS	SERVICE GUARANTEE PAYMENT
	<p>by the <u>1 or more Customer Consumers</u>; and</p> <p>Remote rural: No more than {50} per annum recorded by the Distributor or reported by <u>1 or more the Customer Consumers</u>.</p>	<p><u>metering functionality</u>), supply voltage must only be M<u>measurement d</u> will be triggered by notification of voltage sags under the 'Power quality and Service Interruption' Service Measure <u>in response to a Customer complaint</u>.</p> <p><u>Includes voltage sags caused, or contributed to, by Transmission Interruptions</u>.</p>	
<p><u>4.2 Steady sState sSupply vVoltage rRange</u></p>	<p><u>Maintain voltage within ± 6% of nominal voltage at each pPoint of Connection supply</u>.</p>	<p><u>Excludes momentary fluctuations</u>.</p> <p><u>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</u>.</p> <p><u>Includes voltage excursions caused, or contributed to, by Transmission Interruptions</u>. Measurement will be triggered by notification of a voltage sag under the 'Power Quality and service interruption investigation' Service Measure.</p>	<p>Nil</p>
<p>Load Management Service</p>	<p>The Distributor to operate and maintain its Load Management Service in accordance with schedule 8.</p>		<p>Nil</p>
<p><u>5.4. INVESTIGATIONS OF POWER QUALITY AND SERVICE INTERRUPTIONS</u> <u>CUSTOMER COMPLAINTS</u></p>			
<p><u>5.1 Power quality, reliability and safety or Service Interruption investigations</u></p>	<p>The Distributor will<u>must</u>, within no later than <u>{5}</u> Working Days ea<u>fter</u> receiving notification from the Retailer<u>Trader or a Customer</u> of a <u>complaint about power quality, supply reliability or</u></p>	<p><u>For the purpose of this Service Measure, a Ppower quality iinvestigations-problem includes a problem relating to, but are not limited to</u> momentary voltage fluctuations, flicker, <u>voltage</u> harmonics, voltage <u>phase</u> imbalance, and <u>voltage</u> sags.</p>	<p>Nil <u>{50}</u> for exceeding <u>any the</u> timeframe <u>specified in the Service Level</u>.</p>

SERVICE MEASURE	SERVICE LEVEL	POLICY <u>CONDITIONS</u>		SERVICE GUARANTEE <u>PAYMENT</u>
Interruption communication.		Standard an Unplanned Service Interruption applies to 20 or more Consumers.		
Notification of Planned Service Interruption.	As defined in schedule 5.			[\$20] per ICP per missed communication.
Information Requests.	The Distributor will consider all reasonable requests for information from the Retailer (if they are stated to be made under this schedule 1 of this agreement) and within [5] Working Days meet that request. If the request cannot be met within [5] Working Days, the Distributor will provide an explanation and/or a new timeframe.			[\$50] for exceeding the timeframe.

SERVICE MEASURE	SERVICE LEVEL	POLICY <u>CONDITIONS</u>	SERVICE GUARANTEE <u>PAYMENT</u>
Information Requests.	Each party will consider all reasonable requests for information from the other party (if they are stated to be made under this schedule 1 of this agreement) and within [5] Working Days meet that request. If the request cannot be met within [5] Working Days, the party to whom the request is made will provide an explanation and/or a new timeframe.		\$[50] for exceeding the timeframe.

SCHEDULE 2 – ~~ADDITIONAL SERVICES~~ BILLING INFORMATION

Operational Terms

S2.1 This Schedule 2 must set out:

— 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:-

(a)

(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.

~~S1.7~~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:

~~(a)~~(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

~~(b)~~(c) the Distributor must calculate the charges based on the Prices that apply to each ICP to which the Tax Invoice relates.]

~~SCHEDULE 2~~

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 ~~table below lists the EIEPs published on the Electricity Authority website as at the date of signing this agreement.~~

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.

~~S3.1—These EIEPs, which may be amended or added to from time to time, specify recommended formats for the exchange of information between distributors and retailers.~~

~~S3.2—Unless this agreement or the Code require the parties to comply with one or more EIEPs when exchanging information, the Distributor and Retailer agree that they will use reasonable endeavours to comply with any relevant EIEPs when exchanging information, provided that the frequency at which and method by which the parties will exchange information is such that compliance with the EIEP is cost-effective for both parties.~~

Protocol Reference	From/To R means Retailer D means Distributor	Description
EIEP1	R → D and D → R	Detail Consumption Information <ul style="list-style-type: none">• As-Billed• Incremental Normalised• Replacement Normalised
EIEP2	R → D and D → R	Aggregate Consumption Information Reconciled (for GXP-based charging)
EIEP3	R → D	Half Hour Metering Information
EIEP4	R → D	Customer Information
EIEP5A	D → R	Planned Service Interruptions <ul style="list-style-type: none">• singular• multiple
EIEP5B	D → R	Unplanned Service Interruptions
EIEP6A	R → D and D → R	Fault Initiation file: <ul style="list-style-type: none">• Initiation

		<ul style="list-style-type: none"> • Status Update and Closure
EIEP6B	R → D and D → R	<p>Faults and service Request Initiation:</p> <ul style="list-style-type: none"> • Initiation • Status Update and Closure
EIEP7	R → D	General Installation Status Change
EIEP8	R → D and D → R	Notification of Network Tariff Rate and Tariff Change
EIEP9	R → D and D → R	Customer Location Address Change Notification
EIEP11	R → D and D → R	<p>New Connections</p> <ul style="list-style-type: none"> • Request for a new ICP • Provision of a new ICP • Change of ICP information • Provision of metering information by either party
EIEP12	D → R	<p>Detailed Pricing Information</p> <p>Notification of Pricing changes</p>

The following EIEPs have also been agreed between the Distributor and Retailer:

SCHEDULE 4 – ~~C~~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

(a)(c) the restoration of load.

~~CONSUMER CONTRACTS~~

~~— This schedule summarises the obligations that this agreement requires the Retailer to include and the rights that the Retailer must include in every Consumer Contract.~~

Summary of right/obligation	Clause in this agreement
The Consumer will provide the Distributor and its agents with safe and unobstructed access onto the Consumer’s Premises for certain purposes (e.g. inspection and maintenance of the Distributor’s Equipment) at reasonable times.	Clause 13.1
The Distributor may disconnect the Consumer’s ICP and reclaim its equipment if the Consumer does not give the Distributor access to the Distributor’s Equipment on the Consumer’s Premises on notice from the Distributor.	Clause 13.3
The Consumer will not interfere with or damage the Distributor’s equipment.	Clause 14.1

Summary of right/obligation	Clause in this agreement
The Consumer will not inject energy into or attempt to convey or receive signals over the Network.	Clause 14.7
The Consumer will provide suitable space for the secure housing of the Distributor's Equipment.	Clause 14.11(a)
The Consumer acknowledges that the Network on the Consumer's Premises is the Distributor's property.	Clause 14.13
The Consumer undertakes to comply with all Distribution Services safety and technical requirements provided for under any regulations or industry standards, and the Distributor's reasonable Network Connection Standards.	Clause 15.2(a)
The Consumer acknowledges that the Consumer recognises that surges or spikes are momentary fluctuations in voltage or frequency and are not treated as interruptions.	Clause 16.1
It is the Consumer's responsibility to maintain Consumer Service Lines (unless the Distributor is required or agrees to provide and maintain those lines).	Clause 17.1
The Consumer is responsible for ensuring that the Electricity (Hazards from Trees) Regulations 2003 are complied with in respect of any trees that the Consumer has an interest in that are near the Grid or any line that forms part of the Network.	Clause 18.1
The Consumer will ensure that its Consumer Installation complies with all relevant legal requirements and the Network Connection Standards.	Clause 19.1 (and clause S6.10)
The Distributor may perform a Temporary Disconnection in relation to a Consumer's ICP in certain circumstances.	Clause 19.1 (and clause S6.14)
All warranties, guarantees or obligations imposed on the Distributor by the Consumer Guarantees Act 1993 or any other law are excluded.	Clause 26.9(a)

Summary of right/obligation	Clause in this agreement
<p>If the Consumer on-sells electricity to an end-user, the Consumer's agreement with the end-user will include provisions that exclude all Distributor Warranties.</p>	<p>Clause 26.9(b)</p>
<p>The Consumer will indemnify the Distributor against any direct loss or damage caused or contributed by the fraud, dishonesty or wilful breach of the Consumer Contract between the Retailer and the Consumer.</p>	<p>Clause 26.10(a)</p>
<p>The Distributor will have no liability to the Consumer in contract, tort (including negligence) or otherwise in respect of the supply of electricity to the Consumer under the Consumer Contract.</p>	<p>Clause 26.10(b)</p>

SCHEDULE 5 – SERVICE INTERRUPTION COMMUNICATION POLICIES
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 ~~This clause must set out the frequency at which the~~ by the Distributor of must provide the Trader with updated information about the status of the Unplanned Service Interruptions, including:

(i) if the Distributor expects that previously advised restoration times will change; and- ~~An example of a clause is:~~

(ii) ~~This clause must set out the information about the confirmation of areas restored and areas that remain without electricity supply of areas that the Distribution must supply to the Trader, and the timeframe within which that information must be supplied:- An example of a clause is:~~

~~(b)(c) This clause must set out~~ whether the Trader or the Distributor is responsible for receiving and managing Unplanned Service Interruption calls from ~~Customer Consumers~~ and managing further communication with affected Customers until electricity supplies are restored, and the parties' obligations to exchange information; and ~~- An example of a clause if the Trader is responsible for such calls is:~~

~~— This clause must set out~~ 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.

(d) ~~An example of a clause is:~~
~~An example of a clause if the Distributor is responsible for such calls is:~~

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.

~~S5.2~~ **Unplanned Service Interruptions**

S5.3 ~~The Distributor will~~must, ~~as soon as reasonably practicable but no later than the periods specified in paragraphs (a) and (b) below after first becoming aware of an Unplanned Service Interruption affecting 20 or more consumers, communicate~~ provide ~~to the~~ Retailer/Trader with ~~by electronic file transfer in accordance with the relevant EIEP (if practicable and agreed), otherwise by email which includes~~ relevant ~~information~~ about an Unplanned Service Interruption affecting 20 or more Customers that enables the Retailer/Trader to respond in an informed manner to calls from affected Customer/Consumers.

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 ~~Such~~The information provided under clause S5.3 should ~~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 ~~estimated~~expected time for restoration.

~~Unless otherwise agreed,~~

~~S5.3 Staffed control room hours 10 minutes~~

~~S5.4 On-call control room hours 40 minutes~~

~~S5.5~~ S5.6 ~~_____.~~ ~~If~~ the Distributor ~~will~~ must, within 10 minutes of new information about an Unplanned Service Interruption becoming available and at intervals of no longer than 60 minutes, ~~unless otherwise agreed or as reasonable in the circumstances,~~ ~~until a firm restoration time has been advised,~~ provide the ~~Retailer~~ 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.

~~S5.6~~ S5.7 ~~_____.~~ ~~If~~ the expected restoration time advised by the Distributor to the Trader is likely to be exceeded, the Distributor ~~will~~ must endeavour to inform the ~~Retailer~~ Trader of the new expected restoration time at least 10 minutes before the expected restoration time elapses.

~~S5.7~~ S5.8 ~~_____.~~ Unless otherwise agreed, ~~the Distributor will supply the Retailer, within no~~ later than 10 minutes ~~or~~ after a full or partial restoration of supply, the Distributor must provide the Trader with details of the areas restored.

~~S5.8~~ ~~If~~ ~~t~~ The Retailer Trader ~~is responsible for receiving and managing Unplanned Service Interruption calls from Consumers it will~~ must,

~~Either:~~

S5.9 ~~{~~ ~~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~~ ~~the relevant EIEP~~ 5, or by any other information exchange method ~~as otherwise~~ agreed by the parties. The Distributor ~~will~~ must advise the ~~Retailer~~ Trader if the ~~Retailer~~ Trader should stop logging calls.~~}~~

~~S5.10 Or:~~

~~{transfer the call to the Distributor's call centre.}~~

~~When communicating with the Retailer in accordance with this schedule, the Distributor will advise the Retailer if the Retailer should stop logging calls.~~

~~S5.11~~ S5.10 ~~— If the Distributor is responsible for receiving and managing Unplanned Service Interruption calls from Consumers, t~~ The Retailer/Trader may provide the Distributor's contact details to the Customer/Consumer rather than taking details and logging the call with the Distributor.

~~S5.12~~ S5.11 ~~—~~ The Distributor must implement its public and following situations will trigger the Distributor's 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 customer/consumers;
 - (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.

~~S5.13~~ S5.16 Examples of -clauses that may comply with the requirements in clause S5.13 to S5.15 are set out in clauses S5.17 to S5.25.

*Practice n*Note: Include either option A or B as relevant. The two clauses below reflect common arrangements. Ideally, the parties should agree which option applies at agreement formation. However, the Distributor has the final call to ensure a consistent service approach is in place within their Network area(s). If a hybrid arrangement operates (e.g. *Retailer*Trader notifies normally but Distributor's contractor ~~will~~notifies directly affected customers for small jobs, say < 20 ICPs) suitable additional clauses ~~must~~should be added.

Option A – *Retailer*Trader to notify Customer~~Consumer~~s (Default)

~~S5.14~~S5.17 The Distributor ~~will~~must provide the *Retailer*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 ~~s which~~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.

~~S5.15~~S5.18 The *Retailer*Trader may ~~within~~no later than 2 Working Days after receipt of such notice, notify the Distributor of any Customer~~Consumer~~s who would be adversely affected by the interruption and request an alternative date and/or time for the Planned Service Interruption.

~~S5.16~~S5.19 If the Distributor receives a ~~response~~request from the *Retailer*Trader ~~for requesting~~ an alternative date and/or time for the Planned Service Interruption, the Distributor ~~will~~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 a change is contemplated~~the Distributor makes such a change, the Distributor ~~will~~must provide the Trader with an updated notice of the new date and/or time at least 7 Working Days ~~in advance~~before of the original date of the Planned Service Interruption.

~~S5.17~~S5.20 If a Planned Service Interruption is necessary on a more urgent basis for reasons of emergency repairs, the Distributor ~~will~~must provide the *Retailer*Trader with a notice of the Planned Service Interruption in accordance with ~~the relevant EIEP~~clause S5.16 as soon as reasonably practicable.

S5.21 If the Planned Service Interruption will affect all customer~~consumer~~s supplied from a

Network Supply Point, the Distributor may, in addition to providing the notices required in clauses ~~S5.9~~S5.14, ~~S5.16~~S5.19 and ~~S5.20~~S5.12, arrange for public notification through ~~the~~ a local newspaper, or other effective method, on behalf of all ~~retailer~~traders.

~~S5.18~~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 Customer~~Consumers~~

~~S5.19~~S5.23 If required, and subject to clause 31.2, the ~~Retailer~~Trader ~~will~~must provide Customer~~Consumer~~ contact information to the Distributor on a monthly basis. The information ~~will~~must be provided in accordance with ~~the relevant~~ EIEP4.

~~S5.20~~S5.24 For all Planned Service Interruptions, the Distributor ~~will~~must provide each of the Customer~~Consumers~~ 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 ~~prior to~~before the date on which the Planned Service Interruption is scheduled.

~~Practice n~~Note: the timeframe in clause ~~S5.14~~S5.24 may need to be longer than ~~the default~~ of 4 Working Days if, for example, the ~~Retailer~~Trader elects to provide its own written/telephone notification to medically dependent customer~~consumers~~ that would be ~~impacted~~affected by the Planned Service Interruption.

~~S5.24~~S5.25 The Distributor ~~will~~must provide the ~~Retailer~~Trader with notice of the Planned Service Interruption in accordance with ~~the relevant~~ EIEP5 at least ~~[4]~~ Working Days before the Planned Service Interruption is scheduled to occur.

~~S5.22~~—

~~SCHEDULE 6~~—

~~SCHEDULE 7~~—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

~~—~~ Decommissioning

~~(a)(e)~~ _____.

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

~~S7.2 The Distributor and the Retailer recognise that the process of managing connections and disconnections of ICPs on the Network requires significant co-ordination between them.~~

~~S7.3~~ S6.4 This ~~S~~schedule sets out the processes that the Distributor and ~~Retailer~~ Trader ~~will~~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 ICPs; and

~~(f)~~(e) Unmetered Load.

Process for new connections or changes in capacity

~~S7.4~~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 ~~Retailer~~Trader on behalf of ~~the~~a Requesting Party, for a new connection to be created; and
- (b) a ~~Customer~~Consumer (the "**Requesting Party**"), or the ~~Retailer~~Trader on behalf of ~~the~~a Requesting Party, for an increase or decrease in the capacity of an existing connection.

~~S7.5~~S6.6 _____ The Distributor ~~will~~must undertake an impact assessment to determine whether the capacity required for the connection is already available or whether a Network ~~expansion~~upgrade is required. If acting reasonably, the Distributor considers that a Network ~~expansion~~upgrade is ~~required~~required, or that other works are required, the Distributor ~~will~~must advise the Requesting Party of the terms on which the Distributor ~~will~~is prepared to undertake the ~~required~~necessary works. If the application is declined the Distributor ~~will~~must provide the reasons why for its decision.

~~S6.7~~ _____ If the Distributor and Requesting Party agree on terms under which the Distributor will agree to supply a new connection or change the capacity of an existing connection, ~~and the Requesting Party agrees to terms offered by the Distributor and advises the Distributor that the Retailer is its retailer (if not already known),~~ the Distributor ~~will~~must advise the ~~Retailer~~Trader of the following no later than within 2 Working Days after agreement was reached (provided that the Distributor knows that the Requesting Party is a Customer):

(a) _____ ~~of~~ the ICP identifier for the new connection;

(b) _____ ~~of~~ the NSP to which the ICP is or will be connected;

(c) _____ ~~of~~ 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.

~~S7.6 — If the ICP is eligible for more than one Price Category, the Retailer may advise the Distributor of its preferred Price Category in accordance with clause 10.2.~~

~~S7.7~~ S6.8 _____ The Distributor or the ~~Retailer~~ Trader (if authorised by the Distributor) ~~will~~ must arrange for the ICP to be electrically connected to the Network ~~(using a by a Warranted Person)~~ once approval has been granted by the Distributor. The party that undertakes the electrically connection to the Network ing the ICP will ~~must~~, unless otherwise agreed, notify the other party within 2 Working Days of the ICP being electrically connected.

~~S7.8 — Both parties will update the status of the ICP in the Registry throughout this process in accordance with the Code.~~

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 ~~The timeframe for electrically connecting a standard new ICP connection (if~~

(a) _____ all necessary equipment is in place; ~~e~~;

(b) _____ ~~line~~ Network upgrades or extensions are not required; ~~and~~

~~_____~~ all other necessary requirements are met); ~~;~~

(c) _____ ~~is within 2 Working Days after a request is made by the Retailer.~~

~~S7.9~~ S6.10 _____ ~~The timeframe for electrically connecting all other ICP connections~~ The timeframe for electrically connecting an ICP that does not meet the requirements set out in ~~of clause S6.9-10 will~~ must be ~~as~~ agreed ~~between~~ by the parties; ~~;~~

Temporary Disconnections and associated reconnections

~~Practice n~~ Note: Clauses S6.110 – S6.2521 provide reciprocal arrangements whereby ~~that~~

~~each~~ either party may carry out Temporary Disconnections in specified circumstances.

~~Clause S6.12 provides that only~~ Clause 17.3 provides that only a Warranted Persons 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 ~~does~~ would not ~~preclude~~ prevent the a ~~Retailer~~ Trader ~~from~~ undertaking a Temporary Disconnection using a method that does not involve access to the Network (e.g. ~~using suitable~~ AMI advanced Metering Equipment functionality, removing conductors from meter terminals and resealing the meter, or locking open a suitable isolation device located within the ~~Customer~~ Consumer's Premises).

~~S7.10—Consumers' Installations to be compliant: The Retailer will, subject to clause 27.1, ensure that its Consumer Contracts require the Consumer to ensure that its Consumer Installation complies with all relevant legal requirements and the Network Connection Standards, including (if applicable) by ensuring that any alteration is certified by a suitably qualified person.~~

~~S7.11—ICPs not Decommissioned without notice: Subject to section 105 of the Act and any agreement the Distributor may have with a Consumer, the parties agree that neither party will seek to have an ICP Decommissioned without first giving the other party 24 hours' notice or any other notice period agreed by the parties.~~

~~S7.12—Warranted Persons: Each party will ensure that any person that it engages to carry out any activity related to Energising, De-energising and Decommissioning ICPs involving work on the Network, or performing any other work on the Network, is a Warranted Person.~~

~~S7.13~~ S6.11 ~~Disconnection by the Retailer:~~ The parties agree that ~~a~~ Temporary Disconnection of an ICP at which the ~~Retailer~~ Trader supplies electricity may be carried out by the ~~Retailer~~ 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~~ Consumer, for safety or other reasons.

~~S7.14~~ S6.12 ~~Disconnection by the Distributor:~~ The ~~Retailer~~ Trader ~~will~~ must, subject to

clause 29.1, ensure that each of its ~~Customer Agreements~~ ~~Consumer Contracts~~ ~~require~~ provides that, ~~subject to clauses S6.13 to S6.15,~~ the Distributor may perform a Temporary Disconnection in relation to a Customer~~Consumer~~'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 ~~transmission system~~Grid;
- ~~(c) an Event of Default or Insolvency Event has occurred in relation to the Retailer;~~
- ~~(d)~~(c) in the circumstances set out in clause 3.7;
- ~~(e)~~(d) in accordance with clause 11.3;
- ~~(f)~~(e) if a Customer~~Consumer~~ 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
- ~~(g)~~(f) on termination of this aAgreement.

~~S7.15~~S6.13 ~~Notice of disconnection if event is within Consumer's control:~~ Subject to clause ~~S4.4~~17.4 (which relates to medically dependent and vulnerable Customers), if the Distributor intends to perform a Temporary Disconnection ~~as contemplated in~~under clause S6.12, the Distributor ~~will~~must give the ~~Retailer~~Trader notice of the Temporary Disconnection as follows:

- (a) the Distributor ~~will~~must give the ~~Retailer~~Trader at least 5 Working Days' ~~prior~~ notice of disconnection if the Distributor intends to perform a Temporary Disconnection because:
 - (i) the Customer~~Consumer~~ failed to provide the Distributor with access in accordance with its Customer Agreement~~Consumer Contract~~; or
 - (ii) the Customer~~Consumer~~ damaged or interfered the Distributor's Equipment or Network; or

- (b) the Distributor ~~will~~must give the ~~Retailer~~Trader at least 10 Working Days' ~~prior~~ notice of disconnection if the Distributor intends to perform a Temporary Disconnection ~~where~~ because the ~~Customer~~Consumer ~~failed~~s to do any of the things required of it as contemplated in clause 11.

~~S7.16~~S6.14 **Content of notice of disconnection for events within Consumer's**

control: The notice of Temporary Disconnection provided by the Distributor to the ~~Retailer~~Trader under clause S6.13 ~~will~~must specify:

- (a) the ICP identifier ~~relating to the~~of the relevant ~~Customer~~Consumer ~~breach~~;
- (b) the particulars of the ~~Customer~~Consumer 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.

~~S7.17~~S6.15 **Retailer to provide notice of disconnection to Consumer:**

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

~~S7.18~~S6.16 **Notice of disconnection if event is outside the Consumer's control:**

Subject to clause ~~S1.1~~17.4 (which relates to medically dependent and vulnerable Customers):

- (a) if the Distributor intends to perform a Temporary Disconnection under clause ~~S6.14, S1.1(a)~~ or S6.12(f), the grounds for the Temporary Disconnection are not being reasonably Disputed by the ~~Retailer~~Trader, and the Distributor has taken reasonable steps to avoid the need for a Temporary Disconnection, the Distributor ~~will~~must give each ~~Customer~~Consumer:

- (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~~Consumer~~'s last address provided to the Distributor by the Retailer~~Trader~~, or if no address has been provided as the Retailer~~Trader~~ has no Customer~~Consumer~~ at that ICP, the notice ~~will~~must be sent to the Customer~~Consumer~~'s address on the Registry, and the Distributor ~~will~~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 ~~will~~must provide the timeframes for disconnection. This ~~will~~must be a separate notice to the one provided at least 9 Working Days ~~prior to~~before disconnection;
 - (iii) if disconnection is not completed within the timeframes notified, the Distributor ~~will~~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 ~~S6.14~~, S6.12(a) or S6.12(b), the Distributor ~~will~~must use its best endeavours to give each Customer~~Consumer~~ as much prior notice as reasonably practicable, but in any event ~~will~~must notify ~~the~~ each Customer~~Consumer~~ no later than 2 days after the Temporary Disconnection.

~~S7.19—**Authority guidelines:** Notwithstanding clauses 3.7(b), 13.3, S6.14, or any other relevant provision in this agreement, the parties will work together in good faith to ensure that if the Retailer identifies a Consumer as being either a medically dependent or a vulnerable consumer for the purposes of the Electricity Authority guidelines on arrangements to assist vulnerable and medically dependent consumers, then in respect of any proposed Temporary Disconnection in any of the circumstances in clause S6.15, the notice requirements of those guidelines will be complied with to the fullest extent practicable in the circumstances.~~

~~S7.20~~S6.17 ~~**Each party to give notice of Temporary Disconnection:**~~ The party that

performs a Temporary Disconnection in respect of a ~~Customer~~Consumer ~~will~~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 ~~is~~must only to 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.

~~S7.21~~S6.18 ~~Restoration of connection~~: If either party has performed a Temporary Disconnection in respect of a ~~Customer~~Consumer's ICP, the party that performed the Temporary Disconnection ~~will~~must take reasonable steps to arrange restoration of supply to the ~~connection~~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

~~S7.22~~S6.19 The ~~Retailer~~Trader may undertake a Vacant Site Disconnection of an ICP if:

- (a) the ~~Retailer~~Trader is recorded as the ~~retailer~~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~~Consumer Contract exists with the ~~Retailer~~Trader.

~~S7.23~~—The Trader

~~S7.24~~S6.20 ~~and will~~must undertake a Vacant Site Disconnection of an ICP without delay if ~~the above criteria apply~~the ICP meets the criteria set out in clause S6.19 and the ICP has been inactive for at least 30 Working Days.

~~Practice n~~Note: Clauses ~~S6.23~~S6.19 and S6.20 assumes that the Distributor ~~has no~~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 ~~section~~regulation 74(3) of the Electricity (Safety) Regulations 2010.

~~S7.25~~S6.21 The ~~Retailer~~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 ~~Retailer~~Trader ~~will~~must either request an inspection from the Distributor (if the Distributor provides this service) or advise the ~~Customer~~Consumer to procure its own safety inspection using a person authorised to certify mains work. A copy of the certificate issued following such an inspection ~~will~~must either be provided to the Distributor, or held by the ~~Retailer~~Trader at the ~~Retailer~~Trader's offices for the later inspection by the Distributor, before the ICP is Re-energised.

~~S7.26~~S6.22 The ~~Retailer~~Trader ~~will~~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.

~~S7.27~~S6.23 The ~~Retailer~~Trader may give the Distributor notice that the Distributor is responsible for completing the Vacant Site Disconnection for an ICP if:

- (a) the ~~Retailer~~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 ~~Retailer~~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).

~~S7.28~~S6.24 If the ~~Retailer~~Trader gives the Distributor notice under clause S6.23:

- (a) the Distributor ~~will~~must endeavour in accordance with Good Electricity Industry Practice to complete the Vacant Site Disconnection;
- (b) the Distributor ~~will~~must investigate provision of an accessible isolation device for the ICP but ~~is~~will not ~~be bound~~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 ~~Retailer~~Trader ~~will~~must continue to use reasonable endeavours to seek to gain access to the ICP meter to meet its obligations under the Code.

~~S7.29~~S6.25 The party performing the disconnection or reconnection ~~will~~must, unless otherwise agreed, notify the other party within 2 Working Days ~~after~~of completion of the work.

~~S7.30~~—~~Both parties will update the Registry throughout this process in accordance with the Code.~~

Decommissioning an ICP

~~S7.31~~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~~Consumer, landowner or the ~~Retailer~~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 ~~Retailer~~Trader has attempted to recover ~~the meters~~any Metering Equipment; or
- (d) if the Distributor has not supplied Distribution Services in respect of the ICP for 6 months or more.

~~S7.32~~—~~If a Distributor intends to Decommission and clauses S6.26,~~

~~S7.33~~S6.27 ~~provided that in respect of paragraphs (a) and/or (d) apply,~~ the Distributor ~~will~~must, unless advised by the ~~Retailer~~Trader, notify the ~~Retailer~~Trader before Decommissioning the ICP to enable the ~~Retailer~~Trader to arrange for removal of the Metering Equipment (if appropriate) and updating ~~of~~ the Registry.

~~S7.34~~S6.28 A party Decommissioning an ICP ~~will~~must do so be performed by removing all or part of the ~~Customer~~Consumer Service Line to the ICP, or if a shared ~~Customer~~Consumer 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 ~~meters~~ Metering Equipment. In all circumstances, the property ~~will~~ must be left electrically safe.

~~S7.35~~ S6.29 The party performing the Decommissioning ~~will~~ must notify the other party within 2 Working Days of the Decommissioning having been completed.

~~S7.36~~—If an ICP has the status of "Decommissioned" on the Registry, the ICP identifier ~~will~~ must not be used again and the process for new connections ~~will~~ must be followed if supply is required again at the property.

~~Both parties will update the Registry throughout this process in accordance with the Code.~~

~~Unmetered Load~~

~~If the Retailer is responsible for an ICP that includes Unmetered Load, the Retailer will provide information about the ICP to the Registry in accordance with the Code.~~

~~The Distributor will maintain a database of ICPs that include Unmetered Load and, if it becomes aware of changes to any Unmetered Load, the Distributor will update its database and the Registry and notify the Retailer of those changes in accordance with the Code. The detail included in the database will include, at a minimum, information necessary to support the Registry.~~

~~If the Retailer notifies the Distributor that Unmetered Load is shared between several Consumers, the Distributor will, if requested, allocate the Unmetered Load to the appropriate ICP and advise the Retailer and all other affected retailers in accordance with the Code.~~

~~S7.37~~ S6.30 Both parties will align their processes and populate the Registry, 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.

SCHEDULE 8—~~SCHEDULE 7~~ – PRICING PRINCIPLES

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.

~~C.~~

~~(i) the time-shifting of consumption); and~~

~~(ii) providing interruptible load into the reserves market.~~

Coordination of split ownership Load Control Systems

Practice note: Include this section if relevant.

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 ~~most typically~~ normally involves the Distributor providing the Load Signalling Equipment and the Retailer/Trader providing the Load Control Equipment.

~~S8.2~~S8.4 If the Retailer/Trader provides Load Control Equipment that forms part of the Distributor's Load Control System, the following provisions apply:

- (a) The Distributor ~~will~~must provide the Retailer/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 ~~the a load control~~ right ~~to control load at an IGP~~ in accordance with clause 5.1, the Retailer/Trader ~~will~~must ensure that install 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 Retailer/Trader to install additional Metering Equipment that separately measures and records controlled load electricity consumption, the Retailer/Trader ~~will~~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 ~~Tariff Option~~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 ~~will~~must first negotiate in good faith with the Trader to seek to negotiate agree suitable terms ~~with the Retailer~~ for the upgrade of the Retailer/Trader's Load Control Equipment. If agreement is not reached, the Distributor may, at its discretion, ~~choose~~ 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 ~~that it defines~~ of its choice. The audit ~~will~~ must ~~review~~ assess the proper functioning of the Load Control Equipment for a randomly selected sample of ICPs to which the ~~Retailer~~ Trader supplies electricity. The sampling technique ~~will~~ must be consistent with the methodology outlined in Part 10 of the Code that applies to selecting samples of meters.

- (e) If the ~~sample~~ audit ~~shows~~ finds that Load Control Equipment for which the ~~Retailer~~ Trader is responsible is not functional in respect of a number that is greater than 5% of the sample, the Distributor and ~~Retailer~~ Trader ~~will~~ must, within 40 Working Days of the Distributor notifying the ~~Retailer~~ 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 ~~will~~ must be identified and either replaced or repaired. The ~~Retailer~~ Trader ~~will~~ must pay the reasonable costs of any inspection (including the initial audit) and repair work identified.
- (f) If the audit ~~identifies~~ reveals that non-functional the proper functioning of Load Control Equipment is caused by ~~due to~~ low signal levels or faults on a pilot wire network that are the responsibility of the Distributor, ~~those~~ such failures ~~will~~ must be excluded from the audit results.
- (g) If the audit ~~shows~~ finds that Load Control Equipment for which the ~~Retailer~~ Trader is responsible is functional for 95% or more of the ~~Consumers~~ ICPs sampled, the cost of the audit ~~will be~~ is must be paid by the ~~responsibility of the~~ Distributor, but the ~~Retailer~~ Trader ~~will be required~~ to must remedy all defects found in respect of non-functional Load Control Equipment for which the ~~Retailer~~ Trader is responsible.

~~Either party may obtain Load Management Services from the other~~

~~Either party that has obtained the right to control load at an ICP in accordance with clause 6.1 or 6.2 may provide Load Management Services to the other party as an Additional Service.~~

~~If a party requests Load Management Services from the other party, the parties will negotiate the provision of additional Load Management Services in good faith.~~