

Dated 16<sup>th</sup> day of March 2006

**ELECTRICITY SUPPLY BOARD**

**AND**

**EIRGRID**

---

**INFRASTRUCTURE AGREEMENT**

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Dated 14 March 2006

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**THIS AGREEMENT** is made on.....2006

**BETWEEN:**

- (1) EirGrid plc, a company incorporated in Ireland whose registered office is at 27, Lower Fitzwilliam Street, Dublin 2 in its capacity as Transmission System Operator ("**TSO**"); and
- (2) Electricity Supply Board, a statutory corporation of Ireland with its principal offices at 27, Lower Fitzwilliam Street, Dublin 2, in its capacity as Transmission System Owner ("**Board**");

**WHEREAS:**

- A. The electricity market in Ireland is being restructured to facilitate competition in generation and supply activities in compliance with the Directive.
- B. The Statutory Instrument provides for the designation of a transmission system operator, a transmission system owner and a distribution system operator.
- C. The TSO has been designated as the licensed Transmission System Operator with functions as set out in the Statutory Instrument.
- D. The Board has been designated as the licensed Transmission System Owner with functions as set out in the Statutory Instrument.
- E. The Commission on 20<sup>th</sup> November 2001 issued a direction to the Parties to reach agreement so as to comply with industry requirements as duly specified by the Commission.
- F. The Commission reached an agreement with the Parties on 15<sup>th</sup> October 2002 relating to aspects of the Direction of 20<sup>th</sup> November 2001.
- G. The Statutory Instrument requires the Board and the TSO to enter into an infrastructure agreement for the purposes set out in the Statutory Instrument.
- H. This is the infrastructure agreement contemplated by the Statutory Instrument.

**1 INTERPRETATION**

**1.1 Definitions**

- 1.1.1 In this Agreement (including the recitals), the following expressions shall have the following meanings except where the context requires otherwise:-

<b>“Access Protocol”</b>	means a protocol agreed between the Parties, setting out how each Party will co-operate to ensure that access to the Transmission Assets by the TSO and its officers, employees, agents and contractors is carried out in a safe and efficient manner, and incorporated into this Agreement at Schedule 15;
<b>“Act”</b>	means the Electricity Regulation Act, 1999 (No 23 of 1999) as amended by the Gas (Interim) (Regulation) Act, 2002;
<b>“Affiliate”</b>	means in relation to either Party, any holding company or subsidiary or any subsidiary of a holding company of the relevant Party, in each case within the meaning of the Companies Acts, 1963 to 2001 inclusive;
<b>“Applicant”</b>	has the meaning given to it in clause 6.1.2;
<b>“Approved Contractor”</b>	means a contractor whose name is set out in the list of Approved Contractors kept by the Board pursuant to clause 9;
<b>“Agreed Maintenance Works Programme”</b>	shall have the meaning given to it in clause 8.5.5.(a)(ii);
<b>“Agreed Unscheduled Works List”</b>	shall have the meaning given to it in clause 8.5.5.(a)(iii);
<b>“Business Day”</b>	means any day (other than a Saturday or a Sunday) on which banks are open for a full range of transactions in Dublin;
<b>“Certificate of Acceptance”</b>	means a certificate of that name issued by the TSO in accordance with clause 7.13.7 or as the case may be 8.12.10;
<b>“Certificate of Completion”</b>	means a certificate of that name issued by the TSO in accordance with clause 7.13.9;
<b>“Chairperson”</b>	means: <ul style="list-style-type: none"> <li>(i) in the case of the TSO the person appointed as such pursuant to Regulation 51; and</li> </ul>

	(ii) in the case of the Board the person appointed as such pursuant to section 2 of the Electricity (Supply) Act, 1927;
<b>“Client Engineer”</b>	shall have the meaning given to it in clause 7.9.1;
<b>“Commission”</b>	means the Commission for Energy Regulation;
<b>“Commissioning Engineer”</b>	means a suitably qualified person who is an employee, officer, or agent of the Board and has been approved by the TSO to be such to undertake commissioning tests in respect of the relevant Development Project in accordance with Clause 7.13.3 and clause 8.12.6 as the case may be;
<b>“Commissioning Procedures”</b>	shall have the meaning given to it in clause 7.13.1(a) and also 8.12.4(a);
<b>“Committed Project”</b>	means a Development Project that the TSO decides should proceed to construction;
<b>“Committed Project Parameters”</b>	shall have the meaning given to it in Clause 7.7.1;
<b>“Comprehensive List”</b>	shall have the meaning given to it in clause 8.5.1(a);
<b>“Conceptual Project”</b>	means a Development Project which has not yet reached the stage of the TSO making an application for Planning Permission;
<b>“Condition Assessment”</b>	means an assessment of the condition of assets forming part of the Transmission System, including patrols and on-line monitoring as determined by the Maintenance Policy and Standards Committee;
<b>“Condition Report”</b>	means a report following an assessment of the condition of a Transmission System asset containing such details concerning the condition of the Transmission System asset as may be specified from time to time by the Maintenance Policy and Standards Committee;
<b>“Confidential Information”</b>	means, in relation to a Party (“Recipient”), Information

regarding the business and/or activities of the other Party (“Disclosing Party”) as may from time to time be disclosed by the Disclosing Party or by agents acting on behalf of the Disclosing Party to the Recipient or to which the Recipient may be provided access by the Disclosing Party (whether voluntarily or inadvertently) and in whatever form, whether in writing, orally or by demonstration, but shall not include Information:

- (a) in respect of which there is a prior written agreement between the Parties expressly stating that the Information specified therein is not Confidential Information;
- (b) which is trivial;
- (c) which is in a public domain otherwise than as a result of a breach of this Agreement;
- (d) obtained by the Recipient other than pursuant to this Agreement free from restriction from a source permitted to disclose the same; or
- (e) developed by an officer, employee, agent or contractor of the Recipient independently of and without reference to Confidential Information of the Disclosing Party.

For the avoidance of doubt, Information shall not be deemed to be in the public domain merely because it is known to a limited number of third parties. In addition, any combination of elements of the Confidential Information shall not be deemed to be within the foregoing exceptions merely because individual elements of the Confidential Information are in the public domain but only if the combination is in the public domain.

**“Connection Agreement”**

means an agreement between the TSO and any person that sets out the terms on which that person’s facilities connect and/or remain connected to the Transmission System;

**“Customer”**

means, as the context may require, a party to a Connection Agreement or TUoS Agreement or an applicant for such an



agreement;

<b>“Declaration of Fitness”</b>	means a declaration of that name issued by the Commissioning Engineer in accordance with clause 7.13.6 or 8.12.9 as the case may be;
<b>“Decommission”</b>	means to De-energise on a long-term basis an asset forming part of the Transmission System;
<b>“De-energise”</b>	shall have the meaning set out in Grid Code
<b>“Deep Connection Works”</b>	means reinforcement of the Transmission System to ensure that the Transmission System has sufficient capacity to meet the requirements of the relevant Customer;
<b>“Defaulting Party”</b>	shall have the meaning given to it in clause 23.3;
<b>“Development Plan”</b>	means the plan of that name prepared and revised from time to time by the TSO in accordance with Regulation 8(6) and approved by the Commission;
<b>“Development Project”</b>	means a Conceptual Project, a Public Planning Contingent Project or a Committed Project for any development of the Transmission System including any Deep Connection Works or Shallow Connection Works;
<b>“Directive”</b>	means Directive 2003/54/EC of the European Parliament and of the Council of the European Union of 26 June 2003 concerning common rules for the internal market in electricity;
<b>“Distribution Code”</b>	means the distribution code as defined in section 2(1) of the Act
<b>“Dismantle”</b>	means the permanent removal of an asset from service such that it no longer forms part of the Transmission System at that location;
<b>“Dispute”</b>	means any dispute or difference of whatever nature howsoever arising under, out of or in connection with the operation of this Agreement;

<b>“Draft Maintenance Work Programme”</b>	shall have the meaning given to it in clause 8.5.3(a)
<b>“Draft Transmission Outage Programme”</b>	shall have the meaning given to it in clause 8.5.3.(a);
<b>“Effective Date”</b>	shall have the meaning given to it in clause 3.1;
<b>“Emergency”</b>	means in relation to: <ul style="list-style-type: none"> <li>(a) the TSO, an emergency as defined in clause 17.1(a); and</li> <li>(b) the Board, an emergency as defined in clause 17.1(b);</li> </ul>
<b>“Energise”</b>	Shall have the meaning set out in the Grid Code;
<b>“Energisation Procedures”</b>	Shall have the meaning given to it in clause 7.13.1(b) and also clause 8.12.4(b);
<b>“Euribor”</b>	means in relation to any sum, the rate per annum for deposits in Euros for the specified period applicable thereto which appears on Telerate (or any successor service) page 248 (or any relevant successor page) or Reuters page 454 (or any successor service page) at or about 11:00 am on the relevant rate fixing date. If no such quotation is available, Euribor will be the rate per annum for deposits in Euros determined to be equal to the arithmetic mean (rounded upwards to four decimal places) of the six month rates at which at least three banks who generally provided quotes on Telerate page 248 when quotations were last available thereon was offering to prime banks in the European Interbank Market deposits in Euros and for the specified period at or about 11:00 am on the relevant rate fixing day. For the purposes of this definition “Specified period” means the period in respect of which Euribor falls to be determined in relation to such sum;
<b>“Expert”</b>	Means in relation to a Dispute, an independent expert experienced and skilled (and, so far as possible, an

acknowledged expert) in the field that is the subject matter of the Dispute;

**“Force Majeure”**

means any event or circumstance:

- (a) which is beyond a Party’s control, and
- (b) which such Party could not reasonably have provided against avoided or overcome by Prudent Utility Practice.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) and (b) are satisfied:

- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
- (ii) rebellion (including environmental and anti-globalisation protests), terrorism, revolution, insurrection, military or usurped power, or civil war;
- (iii) malicious damage, riot, commotion, disorder, strike or lockout or other industrial dispute by persons other than the Party’s personnel and other employees of the Party;
- (iv) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Party’s use of such munitions, explosives, radiation or radio-activity,
- (v) natural catastrophes such as storm, fire, flood, bushfire, earthquake, hurricane, typhoon or volcanic activity;
- (viii) compliance with any law or governmental order, rule, regulation or direction;
- (ix) any Emergency.

Notwithstanding the foregoing, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under this Agreement;

- “Generic Design Standards”** means those applicable international standards or equivalent referred to in clause 7.5;
- “Grid Code”** means the grid code as defined in Section 2(1) of the Act;
- “Historical Records”** means Information in existence on the Effective Date relating to the Transmission System owned by the Board or the TSO and required by either Party to perform its Transmission System Obligations;
- “Health and Safety Acts”** means the Safety, Health and Welfare at Work Act, 1989 and any regulations made under that Act;
- “Incident”** shall have the meaning given to it in Schedule 10;
- “Indicative Programme”** shall have the meaning given to it in Clause 7.4.2;
- “Information”** means information, in whatever form, relating to the Transmission System, construction works or maintenance works of or provided to a Party including: books, records, correspondence, formulae, designs, specifications, drawings, data, documents, manuals, instructions, plans and forecasts, but not including computer software or Know How;
- “Intellectual Property”** means patents, trade marks, registered designs, rights in designs, trade or business names, copyrights and topography rights, database rights, know-how (whether or not any of these is registered and including applications for registration of any such thing) and rights under licences and consents in relation to any such thing and all other rights or forms of protection of rights of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world;
- “Interface Undertaking”** shall have the meaning given to it in clause 6.1.3;
- “Irish Transmission System”** means the Transmission System and all other high voltage apparatus in respect of which the TSO has Transmission System obligations but shall not include the distribution

system or any part thereof;

<b>“Know-How”</b>	means trade secrets and confidential business information including customer lists and pricing policies, sales targets, sales statistics, marketing surveys, marketing research methodologies, unpatented technical or other information, including inventions, discoveries, processes and procedures, ideas, concepts, formulae, procedures for experiments and tests and the results of experiments and tests;
<b>“Maintenance Exceptions Report”</b>	shall have the meaning given to it in clause 8.8.4;
<b>“Maintenance Period”</b>	means a calendar year, except in respect of (a) the first and (b) the last years of this Agreement where it shall mean (a) the period from the Effective Date to the end of that calendar year, and (b) the period from the beginning of the calendar year to the date of termination of this Agreement respectively;
<b>“Maintenance Planning Meetings”</b>	shall have the meaning given to it in clause 8.5.4;
<b>“Maintenance Policies and Standards”</b>	shall have the meaning given to it in clause 8.2.1;
<b>“Maintenance Policy and Standards Committee”</b>	means the committee of that name established in accordance with clause 8.3.1
<b>“Maintenance Programme Review Meetings”</b>	means meetings held in accordance with clause 8.9
<b>“Materials”</b>	means plant or equipment that, at the conclusion of any construction works or maintenance works (as the case may be) in relation to the Transmission System forms part of or is intended to form part of the Transmission System;
<b>“Metering Code”</b>	means the code of that name prepared by the DSO and approved by the Commission, as from time to time amended;
<b>“Milestone”</b>	means an event (which may be the start or, as the case may be, the completion in whole or in part of a specified activity)

	the occurrence of which is required for the construction works, the date for the occurrence of which is set out in a schedule of milestone dates included in a Project Agreement;
<b>“New Requirement”</b>	shall have the meaning given to it in clause 20.1;
<b>“New Requirement Notice”</b>	shall have the meaning given to it in clause 20.2;
<b>“Operational Safety Standards”</b>	shall have the meaning given to it in clause 14.1.1;
<b>“Operational Services”</b>	shall have the meaning given to in clause 5.2.1;
<b>“Operational Services Arrangements”</b>	means the arrangements set out in schedule 2;
<b>“Outage and Maintenance Review Meetings”</b>	shall have the meaning given to it in clause 8.8.1;
<b>“Outline Design”</b>	means, in relation to a Development Project, the design prepared by or on behalf of the TSO to the level of detail generally required by planning authorities for the purposes of obtaining Planning Permission if that is required for the Development Project, or such designs to an equivalent level of detail if Planning Permission is not required for the Development Project, (and in sufficient detail for the Board to develop detailed designs and having developed those detailed designs go out to tender for equipment and installation as required) but excluding any detailed design prepared by the Board;
<b>“Owner’s Engineer”</b>	shall have the meaning given to it in clause 7.9.2;
<b>“Party”</b>	means one or other Party to this Agreement and the term “Parties” shall be construed accordingly;
<b>“Planning Permission”</b>	means planning permission pursuant to the Planning & Development Acts 1963-2002 including any conditions attaching thereto;
<b>“Pre- Construction Services”</b>	means those services provided by the Board at the TSO’s request before the conclusion of a Project Agreement in

	accordance with clause 7.4.2(d);
<b>“Price Control Review”</b>	means a review by the Commission of the revenues to which the Board is entitled for the performance of its Transmission System Obligations;
<b>“Price Control Review Period”</b>	means the period referred to in clause 8.4.2 in respect of which the Price Control Review is conducted;
<b>“Prior Non-Energy Rights”</b>	shall have the meaning given to it in clause 5.5;
<b>“Procurement Regulations”</b>	means Directive 2004/17/EC of the European Parliament and the Council of 31 March 2004 Co-ordinating the Procurement Procedures of Utilities Operating in the Water, Energy, Transport and Postal Services Sectors, the Code of Practice for the Governance of State Bodies and the internal rules and procedures of the Board governing procurement;
<b>“Procurement Strategy Committee”</b>	means the committee established under clause 7.10.2;
<b>“Procurement Strategy Proposal”</b>	shall have the meaning given to it in clause 7.10.4;
<b>“Programme Implementation Progress Meetings”</b>	shall have the meaning set out in clause 7.14.1;
<b>“Project Agreement”</b>	means, in relation to a Development Project a document substantially in the form in schedule 4 with the information required by this Agreement for the particular Development Deep Connection Works, Shallow Connection Works (as the case may be) as agreed between the Parties in accordance with this Agreement;
<b>“Project Completion Certificate”</b>	Means the certificate of that name issued by the TSO in accordance with the provisions of clause 7.13.14;
<b>“Project Implementation Plan”</b>	shall have the meaning set out in clause 7.7.3;
<b>“Protection Scheme”</b>	means the application of methods and means to continuously monitor the state of the Transmission System, to automatically disconnect from service any asset which has

suffered a fault, and to disconnect or reconfigure network assets to relieve stressful conditions which may cause damage to the Transmission System or which may affect the safety of personnel.

<b>“Prudent Utility Practice”</b>	means the exercise of that degree of skill, diligence, prudence and foresight that would reasonably and ordinarily be expected of a skilled and experienced utility engaged in the same type of undertaking under the same or similar circumstances;
<b>“Public Planning Contingent Project”</b>	means any Development Project for which the TSO has carried out all steps up to and including making an application for Planning Permission but for which Planning Permission has not yet been granted;
<b>“Recordable Instrument”</b>	means any agreement entered into or to be entered by the Board and any procurement enquiry issued by the Board (including prior information notices and preliminary indicative notices), that, in each case, is for procurement of:  (a) maintenance or construction works for the Transmission System;  (b) Materials; or  (c) the detailed-design consultancy services required by the Board for the purposes of performing its design obligations for Development Projects;
<b>“Regulation”</b>	means a regulation of the Statutory Instrument;
<b>“Relationship Manager”</b>	means, in respect of a Party, the employee of that Party appointed to participate in the Standing Committee in accordance with clause 25;
<b>“Safety Rules”</b>	means the Board’s “Safety Rules 1993 (Electrical) (Transmission, Distribution and Marketing)” and the Power Generation Safety Rules 2002 as amended from time to time;
<b>“Separate Business”</b>	shall have the meaning given it in the TAO Licence;
<b>“Shallow Connection Works”</b>	means any works undertaken to connect the facilities of



	Customer to the Transmission System other than Deep Connection Works;
<b>“Reportable Events Procedure”</b>	means those procedures set out in schedule 10 as implemented in accordance with clause 8.11.1;
<b>“Standard Development Costs”</b>	shall have the meaning given to it in Clause 7.3.2;
<b>“Standing Committee”</b>	means the committee comprising the Relationship Manager of each Party established for the purposes described in clause 25;
<b>“Statutory Instrument”</b>	means the European Communities (Internal Market in Electricity) Regulations, 2000 (statutory instrument No. 445 of 2000) as amended by statutory instrument No. 328 of 2003 and by statutory instrument No. 60 of 2005;
<b>“Step-in Period”</b>	means the period from the time that the TSO steps-in (as notified in the Step-in Notice) until step-in ceases (as notified in the Step-out Notice or otherwise agreed by the Parties);
<b>“Step-in Notice”</b>	shall have the meaning given to it in clause 21.2.1;
<b>“Step-out Notice”</b>	shall have the meaning given to it in clause 21.3;
<b>“Step-in Direction”</b>	shall have the meaning given to it in clause 21.1.3(c);
<b>“Supplemental Telecommunications Requirements”</b>	means if in the opinion of the Board of Directors of the TSO in respect of the Telecommunications Services Agreement one or more of the following occurs: <ul style="list-style-type: none"> <li>i) non-performance by the Board under the Telecommunications Services Agreement;</li> <li>ii) a proposed disposal by the Board of Telecommunications Assets on which the TSO depends;</li> <li>iii) a proposed decommissioning by the Board of Telecommunications Assets on which the TSO depends; and/or</li> </ul>

iv) an unsatisfactory level of investment by the Board in the telecommunications infrastructure on which the TSO depends.

<b>"Survey Notices"</b>	means a notice given by the Board pursuant to the powers conferred on it by the Electricity (Supply) Act 1927 (as amended) to a landowner stating its intention to enter the landowner's property for the purpose of surveying the route of an electric line across the landowner's property and of cutting any trees, shrubs or hedges which obscure or interfere with the survey;
<b>"System-Required-by-Date"</b>	means the date specified in accordance initially with the terms of clause 7.4.2(b) and finally the terms of clause 7.7.6;
<b>"TAO Licence"</b>	means the licence issued by the Commission pursuant to Section 14(1)(f) of the Act (as inserted by Regulation 32);
<b>"Technical Operating Limits"</b>	means, in relation to an asset forming part of the Transmission System, a normal limit of operation for that asset determined and/or modified in accordance with this Agreement including Schedule 3;
<b>"Telecommunications Assets"</b>	means those assets listed in Schedule 17;
<b>"Telecommunications Services"</b>	means those telecommunications services required to be provided to the TSO by the Board in accordance with the Telecommunications Services Agreement as set out in Schedule 18
<b>"Telecommunications Services Agreement"</b>	means the Agreement [dated 00-00-2006] [to be concluded] between the TSO and the Board acting through its ESB Telecoms Business Unit under which the Board shall provide essential telecommunications services to the TSO via the Board's telecoms infrastructure and expertise.

<b>“Termination Event”</b>	means each of the events listed in clause 23.3;
<b>“Trading and Settlement Code”</b>	means the code and related agreements of that name prepared by the TSO and approved by the Commission, as from time to time amended, which set out the electricity trading and settlement arrangements established pursuant to section 9(1)(d) of the Act
<b>“Transfer Scheme”</b>	means the scheme made by the Electricity Supply Board in accordance with Regulations 13 to 16 and the schedule to the Regulations;
<b>”Specification of Transmission Assets”</b>	means the list of that name established and maintained by the Board in accordance with clause 4;
<b>“Transmission Outage Programme”</b>	shall have the meaning given to it in clause 8.5.5(a)(i);
<b>“Transmission Outage Programme Exceptions Report”</b>	Shall have the meaning given to it in clause 8.8.3;
<b>“Transitional Arrangements”</b>	means the arrangements set out in Schedule 1;
<b>“Transition Period”</b>	means the period starting on the Effective Date and ending on the date determined under the Transitional Arrangements;
<b>“Transmission System”</b>	Means, for the purposes of this Agreement, the high voltage system for the transmission of electricity in Ireland comprising the assets specified in the Specification of Transmission Assets;
<b>“Transmission System Obligations”</b>	means: <ul style="list-style-type: none"> <li>(i) in the case of the TSO the functions, obligations, duties and rights as specified under the Act, the Statutory Instrument as amended by statutory instrument No. 328 of 2003 and by statutory instrument No. 60 of 2005, this Agreement and the TSO Licence; and/or</li> <li>(ii) in the case of the Board the functions, obligations,</li> </ul>

duties and rights as specified under the Act, the Electricity Supply Acts 1927 – 1995, the Statutory Instrument as amended by statutory instrument No. 328 of 2003 and by statutory instrument No. 60 of 2005, this Agreement and the TAO Licence;

<b>“Transmission System Operator”</b>	means from time to time the person that is the current holder of the TSO Licence;
<b>“Transmission System Owner”</b>	means from time to time the person that is the current holder of the TAO Licence;
<b>“TSO Licence”</b>	means the licence issued by the Commission pursuant to Section 14(1)(e) of the Act (as inserted by Regulation 32);
<b>“TSO Relevant Contract”</b>	means any agreement for construction works, maintenance works or the procurement of Materials, in each case in relation to the Transmission System;
<b>“TUoS Agreement”</b>	means an agreement between the TSO and any person that sets out the terms on which that person uses the Transmission System to transmit electrical energy from one location to another;
<b>“Unconditional Project Completion Certificate”</b>	means the certificate of that name issued by the TSO in accordance with clause 7.13.15;
<b>“Unscheduled Works List”</b>	shall have the meaning given to it in clause 8.5.3(e);
<b>“Works Contract”</b>	means any agreement entered into by the Board with a third party for construction works or maintenance works, as the case may be, in relation to the Transmission System.

## 1.2 Interpretation

1.2.1 In this Agreement, unless otherwise specified or unless the context requires otherwise:

- (a) references to clauses, paragraphs and schedules are to clauses of, paragraphs of and schedules to, this Agreement;
- (b) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;
- (c) references to a “**company**” shall be construed so as to include any corporation or other body corporate, wherever and however incorporated or established;
- (d) references to a “**person**” shall be construed so as to include any individual, firm, company, government, state or agency of a state or any joint venture, association or partnership (whether or not having separate legal personality);
- (e) headings to clauses and schedules are for convenience only and do not affect the interpretation of this Agreement;
- (f) save as provided to the contrary and/or where the context requires, words importing the singular only also include the plural and vice versa;
- (g) a reference to any document referred to in this Agreement is a reference to that document as amended, varied, novated or supplemented from time to time;
- (h) use of any gender includes the other genders;
- (i) where general words are followed or preceded by specific examples, the nature of the specific examples shall not restrict or qualify the natural meaning of the general words and the “*ejusdem generis*” rule shall not apply. The wording ‘including’ shall not be construed as being by way of limitation;

unless expressly defined otherwise in this Agreement, the words used in this Agreement shall have their usual meaning. The Parties have had an equal opportunity to take legal advice and to negotiate and amend this Agreement and the “*contra proferentem*” rule shall not apply.

## 2 PURPOSE OF THE AGREEMENT

2.1 Each of the Parties acknowledges that the purpose of this Agreement shall be to give effect to Regulation 18(1)(a) and 18(2) to:

- 2.1.1 enable the TSO fully and effectively to discharge its functions under the Statutory Instrument;  
and
- 2.1.2 ensure that the Board will facilitate discharge by the TSO of its functions under the Statutory Instrument and ensure the performance of the Board's own Transmission System Obligations
- and it incorporates the terms which, in accordance with Regulation 18(1) and 18(2), the Commission has approved as being necessary to do so.
- 2.2 Each of the Parties acknowledges that:
- 2.2.1 each Party is charged with its own statutory and licensed obligations under the TAO Licence or the TSO Licence, as the case may be, which can best be discharged through a relationship which is mutually supportive within the context of this Agreement.
- 2.2.2 this Agreement has been developed on the assumption of a co-operative, enduring and successful relationship while providing for reasonable dispute resolution mechanisms where appropriate; and
- 2.2.3 the Parties will develop and support a co-operative relationship; nevertheless it is necessary that this Agreement provide sufficient protection to each Party in respect of its ability to carry out its obligations in the event of Disputes. This includes those provisions of this Agreement which provide for rapid step-in rights by the TSO, as required by Regulation 18(6), and for co-operation by the Board should such step-in rights be invoked.
- 2.3 Each of the Parties shall implement the terms of this Agreement and co-operate with the other Party to ensure that the Parties can fulfil their functions acknowledged in clause 2.1 in accordance with the principles acknowledged in clauses 2.2 and 2.4.
- 2.4 Each Party shall comply with this Agreement and the Schedules hereto and any Project Agreements and perform its obligations in accordance with Prudent Utility Practice unless a specific standard of performance is imposed by this Agreement in which case such specific standard shall be complied with.
- 2.5 Nothing in this Agreement shall give or have effect as if it gave to the TSO any right or title to or any or interest in the Transmission System.

### **3 CONDITIONS PRECEDENT AND TRANSITIONAL ARRANGEMENTS**

- 3.1 This Agreement shall come into effect on a date to be specified by the Commission following consultation with the Parties.

3.2 This Agreement is subject to the Transitional Arrangements in Schedule 1 from the date it commences until the end of the Transition Period, as determined under that Schedule. During the Transition Period, the Parties shall perform this Agreement as modified by the Transitional Arrangements.

3.3 This Agreement shall be effective notwithstanding that any Schedule for which it provides is not incorporated into the Agreement or is incomplete. The incorporation into this Agreement of any schedule or of any part of any schedule shall be a variation of the Agreement and shall be effected in accordance with Clause 26.5.

3.4 Where this Agreement provides or requires that a Party or the Parties shall take any action or procure any result, and any measure or procedure necessary to enable the Party or the Parties to do so

(a) is not within the power or procurement of the Party under the obligation, or

(b) does not exist by common accord of the Parties, or

(c) is not specified in this Agreement

then, without prejudice to clause 17, the Parties shall meet within five (5) Business Days to agree such procedures or measures as may be necessary to enable the Party concerned or the Parties take the action concerned or procure the result concerned. Until such time as the Parties agree such procedures or measures, the Parties shall continue to observe and maintain the arrangements in respect of the relevant matters which existed prior to this Agreement.

## **4 SPECIFICATION OF THE TRANSMISSION ASSETS**

### **4.1 Transmission Asset List**

4.1.1 Schedule 3 to this Agreement sets out those transmission assets which for the purpose of this Agreement shall constitute the Transmission System and the Technical Operating Limits applicable to such transmission assets.

4.1.2 Schedule 3 has been developed utilising the following procedures:

(a) All transmission assets owned by the Board are included in schedule 3;

(b) All transmission assets except those owned by a third party under the provisions of Regulation 33 which fall within the following categories are included in schedule 3:

- (i) all plant operated at 400kV and associated equipment. This includes lines, cables, busbars, switchgear protection, control and metering. Transformers and some of their associated protection may be either part of the Transmission System, the distribution system or a generator's connection depending on location in individual circumstances;
  - (ii) all plant operated at 275kV and associated equipment. This includes lines, cables, busbars, switchgear, transformers, protection, control and metering;
  - (iii) all plant operated at 220kV and associated equipment. This includes lines, cables, busbars, switchgear, protection, control and metering. Transformers and some of their associated protection equipment may be part of the Transmission System, distribution system or a generator's connection depending on location in individual circumstances;
  - (iv) plant operated at 110kV and associated equipment which are part of the meshed 110kV network. This includes lines, cables, busbars, switchgear, protection, control and metering. Transformers and some of their associated protection equipment may be either part of the distribution systems or a generator's connection depending on location in individual circumstances. The radial or sectionalised 110kV system located in the Greater Dublin area and other parts of the country which serves to supply electrical energy to distribution points in radial circuits will constitute distribution assets rather than transmission assets.
  - (v) All plant and associated equipment which connects a generator or an individual final customer directly to the Transmission System are designated as transmission assets, noting that in certain instances under Section 37 of the Act the connecting party may at his own choice own these assets.
  - (vi) All interconnections at 110kV or above between the Irish electricity system and other electricity systems. This includes all lines, cables, switchgear, transformers, protection, control and metering equipment;
- (c) Any transmission asset which falls on the transmission side of the boundary between the Transmission System and each of:
- (i) the distribution system, where the boundary is the high voltage bushings of the distribution transformers, the line terminal of teed distribution stations and the outgoing disconnect of a tailed sectionalised or radially fed distribution circuit;
  - (ii) generation assets, where the boundary is the high voltage bushing of generators' step-up transformers; and



- (iii) demand assets, where the boundary is the high voltage disconnect of demand customers' transformers.

has been included in schedule 3; or

- (d) If a situation has arisen which does not fit into one of the above categories, the function of the asset in question has been assessed to determine whether it is part of the Transmission System or not and, if it is, it has been included in schedule 3.

4.1.3 Schedule 3 shall include (a) the procedures for making amendments or additions to or deletions from the Specification of Transmission Assets; and (b) the criteria for determining and amending as necessary the Technical Operating Limits associated with the transmission assets.

## **5 OPERATION OF THE TRANSMISSION SYSTEM**

### **5.1 General**

5.1.1 The Parties acknowledge that:

- (a) the TSO's Transmission System Obligations include sole responsibility for operation of the Transmission System;
- (b) consistently with the Board's duty under Regulation 9(3)(b) not to exercise its property rights in a manner which would interfere with the obligations on the TSO to operate the Transmission System, the Board does not intend by this Agreement to constrain the manner in which the TSO operates the Irish Transmission System;
- (c) nevertheless the Board, as owner of the Transmission System and under its own Transmission System Obligations can be affected by the manner of operation of the Transmission System.

5.1.2 In accordance with the acknowledgements in clause 5.1.1, in operating the Transmission System and performing its Transmission System Obligations, the TSO shall be mindful of the interests of the Board in:

- (a) operation of the Transmission System in accordance with Prudent Utility Practice.
- (b) normal operation of each asset forming part of the Transmission System within its Technical Operating Limits; and
- (c) having Protection Schemes for the Transmission System that take due regard for protection of individual assets within the constraints of protection of the entire Transmission System.

5.1.3 In developing the Protection Schemes referred to in clause 5.1.2(c), the TSO shall have due regard to the views of the Board.

## **5.2 Operation outside limits**

The TSO shall notify the Board where it has reason to believe that any asset has been operated beyond its Technical Operating Limits, in writing, as soon as practical after the event, in accordance with Schedule 10.

## **5.3 Operational Services**

5.3.1 The Board shall carry out operational switching and other operational tasks and services ("Operational Services") as expressly directed by the TSO in accordance with the Operational Services Arrangements including the procedures and any necessary terms that will apply as set out in Schedule 2.

5.3.2 In calling on and directing Operational Services, the TSO shall comply with the procedures specified in the Operational Services Arrangement for the particular Operational Service.

## **5.4 Incidents**

Each Party shall promptly inform the other of any Incident relating to the Transmission System in accordance with Schedule 10.

## **5.5 Prior Non-Energy Rights**

The Board shall be entitled to use the Transmission Assets for purposes other than the transportation of electricity, provided that:

- (a) in the case of such non-energy use of the Transmission Assets occurring prior to the Effective Date ("Prior Non-Energy Rights") the Board records such Prior Non-Energy Rights in the form set out in schedule 5 and submits such record to the TSO within one month of the Effective Date; and
- (b) in the case of all other use of the Transmission Assets for non-energy related purposes the Board shall give the Commission advance notice of such proposed use in accordance with its licence conditions and it shall simultaneously notify the TSO. The Board undertakes not to proceed with the proposed non-energy use unless and until it has been advised by the Commission that it (i.e. the Commission) has no objection to such use or until four weeks have elapsed since notification whichever is the earlier. It is understood by the parties that the Commission will not advise the Owner that it has no such objection without having examined and had due regard to any view submitted to it by the TSO within two weeks of receipt of the Owner's notification.

## **5.6 Telecommunications**

In the event that the TSO at its sole discretion declares a Supplemental Telecommunications Requirement the TSO shall invoke this Agreement and the Telecommunications Assets and the Telecommunications Services shall be governed by this Agreement as if the Telecommunications Assets were Transmission Assets and the Telecommunications Services were services of a kind to which this Agreement applies. For the avoidance of doubt, all the terms of the IA shall apply in respect of the Supplemental Telecommunication Requirements.

## **6 RELATIONSHIP WITH GRID USERS**

### **6.1 New Connections**

6.1.1 The Parties acknowledge that:

- (a) the TSO has the exclusive right to offer contractual terms to and to enter into contractual agreements or arrangements with any and all persons wishing to enter into a TUoS Agreement or a Connection Agreement;
- (b) section 34(1A) of the Act provides for offers to Applicants under section 34(1) of the Act to be made on the basis that the Applicant constructs, or that either or both the Applicant and the TSO arranges to have constructed, the Applicant's shallow connection to the Transmission System;
- (c) the Board may enter into agreements with Applicants for the provisions of Shallow Construction Works where that person has exercised its rights to construct the connection itself under section 34 of the Act and has a valid connection offer.

6.1.2 The Board shall refer to the TSO any person ("Applicant") who wishes to enter into an agreement for the provision of a shallow connection and who does not have a valid connection offer.

6.1.3 In offering terms to and in entering into a Connection Agreement with any Applicant to connect to the Transmission System, the TSO shall include as a term of:

- (a) the offer to connect to the Transmission System;
- (b) the Connection Agreement

a requirement that the Applicant or the counterparty to the Connection Agreement (as the case may be) give and maintain, on its own behalf and on behalf of its officers, employees, agents, contractors and undertakers, throughout the term of the Connection Agreement and surviving its termination, an undertaking ("Interface Undertaking") in favour of the TSO, enforceable as a contract by the TSO, containing terms that protect the legitimate interests

of the Board as owner of the Transmission System, including its interest in performing its Transmission System Obligations and in limiting its liability to persons connecting to and using the Transmission System. Interface Undertakings shall be in terms agreed between the Parties incorporating at least the principles set out in Schedule 16.

6.1.4 The TSO shall give the Board a copy of every Interface Undertaking and the identity of the person by whom it was given.

6.1.5 In the event that the Board reasonably considers that the Customer is in breach of any of the terms of an Interface Undertaking, the Board shall notify the TSO accordingly in writing and giving details of the alleged breach. The TSO shall promptly notify the Customer to this effect and requiring that the Customer within five (5) Business Days respond in writing addressing in detail the matters identified by the Board in its notification to the TSO.

6.1.6 The TSO shall, at the request and cost of the Board, and in close consultation with the Board, take all steps reasonably requested by the Board to enforce the terms of Interface Undertakings.

6.1.7 Where

(a) the Board suffers any loss, damage, claim, liability, cost or expense arising from an act or omission of the party with whom the TSO has entered into a Connection Agreement or who has given the TSO an Interface Undertaking ("Customer")

(b) if the Board had been a party to the Connection Agreement or the Interface Undertaking in place of the TSO, the Customer would have been liable to the Board under the terms of the Connection Agreement or the Interface Undertaking (as the case may be) in respect of that loss, damage, claim, liability, cost or expense,

then the TSO having complied with the terms of clause 6.1.6 above, shall forward to the Board an amount equal to the amount for which the Defaulting Party would have been liable to the Board had the Board been a party to the Connection Agreement or Interface Undertaking (as the case may be) in place of the TSO, provided always, that the TSO shall have no such obligation to pay any monies to the Board to the extent that it has been unable to recover such amounts from the Customer, having made all reasonable efforts to recover such amount from the Customer.

6.1.8 The TSO shall make payments to the Board in accordance with payment policy and terms as directed by the Commission from time to time.

6.1.9 Where actual costs arising for providing the connection works differ from the Board's standard costs, this shall be a matter between the Board and the Commission. Apart from the payment referred to in clause 6.1.7, the TSO shall have no liability to the Board other

than to facilitate any payments from TUoS as specifically allowed and directed by the Commission.

- 6.1.10 For each uncontested connection offer requiring the Board to carry out construction works, the parties shall operate in accordance with the procedure attached in schedule 14.
- 6.1.11 When a Customer enters into an agreement with the TSO to arrange for the provision of an uncontested offer for the construction of a new connection or the modification of an existing connection to the Transmission System, the Shallow Connection Works shall be the subject of a Project Agreement established and implemented in accordance with clause 7 (Development).
- 6.1.12 Deep Connection Works shall also be the subject of Project Agreements established and implemented in accordance with clause 7 (Development).

## **6.2 Other Third Party Contracts**

- 6.2.1 The Parties acknowledge that:
  - (d) each of them will have a potential exposure to third party liabilities arising out of or in connection with their respective Transmission System Obligations, related contracts with third parties, and more generally through the operation of statute or common law;
  - (e) each of them will rely on the reasonable endeavours of the other Party to limit this liability, to the extent permitted by the Commission in the agreements the Commission regulates between the TSO or the Board on the one part and third parties on the other part and as generally permitted by law.
- 6.2.2 Each Party shall use its reasonable endeavours to minimise the risks referred to in clause 6.2.1.
- 6.2.3 Each Party shall use reasonable endeavours to mitigate the liability of the other Party referred to in clause 6.2.1 and assist in the management and containment of such liability if it should arise. To this end, in the event that a Party reasonably considers that the other Party is or might reasonably be expected in the future to be exposed to such third party liabilities or that such a liability has arisen, it shall:
  - (a) promptly notify the other Party;
  - (b) co-operate with the other Party by providing all relevant information and assistance in order to assess the best course of action;

- (c) not make any admission or take any step that is or might be prejudicial to the other Party without the prior consent of the other Party; and
- (d) comply with the third party claims procedure in clause 18.

6.2.4 In offering to enter into, entering into, modifying and exercising its rights under any contract with a third party, the TSO shall ensure that it:

- (a) protects the legitimate interests of the Board as owner of the Transmission System;
- (b) curtails the legitimate interests of the Board as owner of the Transmission System only to the extent necessary to uphold the statutory duties of the TSO and the statutory rights of the third party; and
- (c) restricts the potential financial and other exposure of the Board (whether directly to Customers or other third parties; by the inclusion of limitations on the rights of redress of such third parties in the event of a breach by the TSO of its obligations under the contract or a breach by either Party of its Transmission System Obligations.

## **7 DEVELOPMENT AND CONSTRUCTION ACTIVITIES**

### **7.1 General**

- 7.1.1 Regulation 8(1) requires the TSO, if necessary, to develop the Transmission System. Regulation 8(6) requires the TSO to prepare the Development Plan for the development of the Transmission System and to revise that Development Plan each year.
- 7.1.2 Regulation 19(a) requires the Board, as asset owner, to carry out construction work in accordance with the TSO's Development Plan. Under Regulation 18(3)(a), the Board may do so using its own resources and outsourcing to Approved Contractors. Regulation 19(d) requires the Board to indicate to the TSO and the Commission, within such period as shall be specified by direction of the Commission, the measures ("Implementation Measures") the Board proposes to take to implement the Development Plan in accordance with this Agreement.
- 7.1.3 Where responsibility for an individual stage in a Development Project is assigned to the TSO and this entails management of the Board's assets, the TSO shall use reasonable endeavours to ensure that the legitimate property interests of the Board are protected, subject always to the extent compatible with the Regulations and all related legislation.

**7.2** In respect of Development Projects the Parties acknowledge the following:

7.2.1 TSO will be free to review and assess any aspect of detailed design and procurement and in the absence of agreement refer any dispute to an expert in accordance with the terms of Clause 25.

7.2.2 TSO shall at any time where it deems it necessary to do so vary its Development Plan with the prior approval of the CER, its functional specifications, its outline designs and its generic standards for a project in order to meet changing system requirements, environmental or other circumstances affecting the TSO's functions. The Board shall, in accordance with the terms of this Clause 7, and subject only to any necessary regulatory approval in relation to costs, make the necessary amendments to the detailed design and/or changes to the construction project as required in order to give effect to the variations set out by TSO.

### **7.3 Conduct Planning and Feasibility Studies**

7.3.1 In planning the development of the Transmission System, the TSO may examine and consider any development options as it sees fit and the TSO shall have the sole and exclusive right to determine and identify which Development Projects will be undertaken and the timing requirement for the development of such Development Projects.

7.3.2 The Board shall prepare and make available to the TSO on request cost projections and indicative lead times ("Standard Development Costs") for network planning and modelling purposes for standard configurations for typical system enhancements in sufficient detail to enable the TSO to use the information for the purposes of planning and modelling the development of the Transmission System and carrying out feasibility studies. The TSO shall give the Board information covering its standard configurations in an appropriate form to enable the Board to provide the Standard Development Costs.

The Standard Development Costs shall be contained in an electronic database to which the TSO shall have unrestricted access and which shall:

- (i) contain accurate and up-to-date information which shall be regularly maintained and updated by the Board;
- (ii) include costs in respect of all relevant categories of constituent parts of standard configurations;

7.3.3 The Board shall provide to the TSO such information about costs and lead times for non-standard configurations and non-standard lead times or for new standard configurations as the TSO may reasonably request.

7.3.4 The TSO shall, following a request from the Board, prepare and provide to the Board projections of costs (including amounts payable to third parties and amounts payable by the Board under arrangements negotiated by the TSO with landowners) that are anticipated to

be incurred by the TSO for the Development Projects identified in the Development Plan. The information shall be to the level of detail that the Board may reasonably require for the purpose of planning and modelling its transmission capital expenditure requirements.

#### **7.4 Preparation of Indicative Programme**

7.4.1 The TSO shall prepare Indicative Programmes for Development Projects. The activities carried out in the preparation of the Indicative Programmes include consideration of:

- (a) the long term development of the Transmission System;
- (b) the long term economic evaluation of alternative solutions;
- (c) practical considerations including access arrangements;
- (d) environmental considerations; and
- (e) identification of the optimal or preferred solution to particular requirements of the Transmission System.

7.4.2 As soon as reasonably practicable after the TSO makes its decision to proceed with a particular Development Project as the optimal or preferred solution the TSO shall give the Board the following information (“Indicative Programme”) about the Development Project:

- (a) a high level indication of major components sufficient to enable the Board to plan related procurement activities;
- (b) indicative System Required By Date;
- (c) indicative Milestones for: submission of planning permission application; duration of planning period; date for delivery of final documents; conclusion of Project Agreement; duration of construction period based on the indicative lead times and other information provided by the Board for this purpose; Declaration of Fitness; energisation; and
- (d) outline specification of any Pre Construction Services the TSO requires the Board to provide for the Development Project.

7.4.3 The Board shall give the TSO its comments if any on the Indicative Programme as soon as practicable and the TSO shall take account of the comments and may revise the Indicative Programme if necessary.

7.4.4 The Board shall give to the TSO the name of the Project Supervisor Design.

#### **7.5 Technical Design Authority**



The TSO will be the technical design authority and will establish and maintain Generic Design Standards and designs as required in accordance with the terms of this Clause 7.

## **7.6 Public planning and right to land**

7.6.1 All activities connected with seeking and obtaining Planning Permission (if needed) and any other consents required by the TSO to discharge its Transmission Obligations shall be the sole responsibility of the TSO. These include:

- (a) the identification of alternative routes and substation sites and route and site selection;
- (b) requiring the Board to issue Survey Notices and preparation of designs and surveys;
- (c) landowner relationships, with regard to planning permission, acquisition, wayleaves and easements including the matters referred to in clause 7.6.2 below;
- (d) handling of publicity associated with TSO's functions under this clause subject to the terms of clause 13;
- (e) preparation of any Environmental Impact Statement that may be required;
- (f) preparation and submission of applications for Planning Permission (if needed);
- (g) discussions with local authority officials including planning officials; and
- (h) managing, attending and arranging representation at oral hearings, planning appeals and other legal processes.

7.6.2 The Board, irrevocably for as long as this Agreement exists, hereby appoints the TSO as its agent to:-

- (a) exercise all the powers vested in the Board for the compulsory acquisition of any land;
- (b) make and process all applications for the acquisition of wayleaves and rights of entry on behalf of the Board; and
- (c) exercise all rights of entry on land vested in the Board pursuant to Regulation 29 of Statutory Instrument or any other relevant statutory provision

insofar as these rights may be required for the development of the Transmission System.

7.6.3 Subject to clauses 7.6.1 and 7.6.2, the parties shall:-

- (a) co-operate in the development and maintenance of agreed codes of practice, policies and standards which shall reflect best practice in relation to corporate governance as

regards acquisition or disposal of properties and shall recognise the Board's legitimate interest as owner of Transmission Assets; and

- (b) comply with such codes of practice, policies and standards developed in accordance with sub-paragraph (a) of this clause 7.6.3

7.6.4 Following receipt of relevant landowner details from the TSO under clause 7.6.2 the Board will issue wayleave notices, survey notices, borehole notices and similar instruments in accordance with the terms and arrangements agreed between the TSO and the relevant landowner and make all necessary payment arising under those terms.

7.6.5 Subject to clause,7.6.2, the Board will pay any option fee for right in land acquired for Transmission System development and then purchase those rights from landowners on receipt of Planning Permission in each case in accordance with terms agreed between the TSO and landowners. For reasons of economy, the TSO shall not itself purchase those rights in land.

## **7.7 Development of the Project Agreement**

7.7.1 The TSO shall deliver to the Board the following information about the Committed Project ("**Committed Project Parameters**"):

- (a) the functional specification for the Development Project;
- (b) the functional specifications for primary and secondary plant and systems;
- (c) the Outline Design;
- (d) the Indicative Programme, amended to reflect the terms on which Planning Permission (if any) was granted and any other necessary revisions;
- (e) a list of all applicable Generic Design Standards;
- (f) any additional design standards that the TSO requires the Development Project to comply with;
- (g) costs of the TSO in connection with the Development Project up to the time that the Project Agreement is agreed and other relevant financial information for capitalisation purposes, based on actual costs incurred, estimated projected costs yet to be incurred and Schedule 7.
- (h) the entire application for Planning Permission including drawings, Environmental Impact Statement, agreements and arrangements with third parties;

- (i) a copy of the decision of the Planning Authority including any conditions and special requirements;
- (j) Commissioning Procedures and Energisation Procedures (if available) or a list of indicative Milestone dates by which the draft and final Commissioning Procedures and Energisation Procedures will be delivered to the Board;
- (k) Transmission System operational information (if available), concerning relevant constraints and outage availability (including those needed during construction and commissioning);
- (l) Operating Procedures for the Development Project once complete, insofar as required by the Board or indicative Milestone dates by which the draft and final Operating Procedures will be delivered to the Board;
- (m) list of landowners and where available details of all landowner agreements and arrangements including those pertaining to surveys, wayleaves, easements, tree lopping, access arrangements, access compensation, compensation for damage and any other arrangements including associated costs for capitalisation purposes;
- (n) the name of the Client Engineer and an alternate nominated by the TSO.
- (o) Not used
- (p) Payment arrangements for connection projects subject to Schedule 7.

7.7.2 The Board shall give the TSO any comments it may have on the Committed Project Parameters as soon as practicable. The TSO shall give due consideration to those comments and may revise the Committed Project Parameters if the TSO considers it appropriate to do so.

7.7.3 Within a time scale to be agreed and in any event not exceeding 80 business days without the specific agreement of the Parties, such agreement not to be unreasonably withheld the Board shall give the TSO information, in draft form, about the measures the Board intends to take and the programme it will follow to implement the Development Project ("Project Implementation Plan"). The Project Implementation Plan shall be consistent with the Indicative Programme and with the Committed Project Parameters and best available lead times and shall comprise:

- (a) A critical path analysis (CPA) programme in an agreed computer format setting out the order and estimated duration of each identified task which the Board proposes to implement the Development Project, including detailed design, manufacture, delivery to site, construction works, testing and commissioning;

- (b) Milestones for submission of the Board's detailed designs to the TSO for review and assessment and the times within which the TSO will be required to express its view on the detailed designs;
- (c) the project resource plan including outsourcing proposals;
- (d) the programme for procurement and management of Materials;
- (e) the proposed project review mechanisms (a schedule of meetings and standard format reports);
- (f) the Board's method statement for delivery of the Committed Project;
- (g) the Board's indicative requirements with respect to outages or other operational requirements;
- (h) The Board's proposed management arrangements for delivery of the Committed Project.
- (i) the name of the Owner's Engineer and an alternate;
- (j) the name of the Project Supervisor (Construction) for the construction stage;
- (k) an estimate of the total cost of the Development Project;
- (l) an indication of any operational training that the Board may request the TSO to provide to officers, employees, agents and contractors of the Board in relation to the Committed Project;
- (m) the times by which the Board wishes the TSO to furnish any drawings and designs for which the TSO is responsible, complete any reviews and assessments, clear wayleaves and consents and provide access to the site;
- (n) any requests or comments about Transmission System operational arrangements in connection with construction and completion of the Development Project.
- (o) the name of the Project Supervisor Design.

#### 7.7.4

The TSO will approve (or reject) the Board's draft Project Implementation Plan on the basis that it fulfils (or otherwise) the TSO's requirements. If TSO rejects the draft Project Implementation Plan it shall notify the Board that the draft Project Implementation Plan (or a part of it, as the case may be) is not satisfactory giving detailed reasons, in which case the Board can either revise and re-submit to the TSO the draft Project Implementation Plan or seek a determination through the dispute resolution process in clause 25. Pending notification of the TSO's satisfaction with the draft Project Implementation Plan, or

determination of the Dispute, the Board shall not proceed to implement it, or the part of it the subject of the Dispute (as the case may be).

7.7.5 The TSO shall not unreasonably withhold or delay notification under clause 7.7.4 and shall withhold its approval only if the measures proposed by the Board to implement the Development Project as set out in the draft Project Implementation Plan will not, or cannot reasonably be expected to, implement the Development Project in accordance with the Committed Project Parameters.

7.7.6 Once the Committed Project Parameters are finalised and the Project Implementation Plan is determined or agreed to be satisfactory, then the Parties shall prepare the Project Agreement which shall be in the form set out in Schedule 4 and shall incorporate the final versions of the Committed Project Parameters and the Project Implementation Plan.

7.7.7 The Parties shall sign the Project Agreement when it is agreed or determined under clause 25 (Disputes).

## **7.8 Project Agreement changes**

7.8.1 The Parties agree that there shall be no amendment to the Project Agreement format set out in Schedule 4 without agreement.

7.8.2 Either Party may request a variation to a Development Project covered by a Project Agreement before the Project Completion Certificate is issued by giving reasonable details of the proposed variation and support and justification for it. The other Party shall within 10 Business Days respond to the request stating whether it rejects it, is satisfied with it or is satisfied with it subject to specified modifications. In default of such a response in that time the other Party shall be taken to have rejected the proposed variation.

7.8.3 Any variation proposed by the Board to a Development Project covered by a Project Agreement shall only be made following receipt by the Board of notification that the TSO is satisfied with the proposed variation. The Parties shall then incorporate the variation into the Project Agreement together with any consequential changes identified and agreed by the Parties.

7.8.4 The TSO may specify variations to Committed Project Parameters in order to meet changing requirements of the Transmission System. In these circumstances, the TSO shall promptly document and inform the Board of any necessary variations to the Committed Project Parameters, together with the technical reasoning behind such variations. The Parties shall, subject only to any necessary regulatory approval in relation to costs, incorporate the variations into the Project Agreement together with any consequential variations identified and agreed by the Parties. Any additional costs associated with such variations shall be promptly identified by the Board and advised to the Commission prior to implementation.

7.8.5 Except in the case of variations under clause 7.8.4, variations proposed by the TSO shall be by agreement. The TSO shall give due consideration to proposals made by the Board and shall not unreasonably refuse any request:

- (a) for an extension of time in circumstances where the need for the extension has arisen as a result of:
  - (i) the Board or any of its contractors encountering any site condition which at the time the Project Agreement was signed could not reasonably have been foreseen by the Board;
  - (ii) a variation required or proposed by the TSO;
  - (iii) the TSO departing materially from the terms of the Project Agreement;
  - (iv) a Dispute that prevents the Board or any of its contractors from performing its obligations under the Project Agreement;
- (b) for any other variation, where the reason for the variation is to comply with any applicable law, for reasons of health and safety or to correct any anticipated defect in the Development Project.

7.8.6 Subject to clause 7.8.4 neither Party shall request or propose any variation that would:

- (a) cause either Party to act in breach of any enforceable undertaking or agreement with a third party, to be in breach of its Transmission System Obligations, or to infringe any other legal obligation or any Intellectual Property or other protected right of any third party;
- (b) prevent or hinder either party from complying with any other requirement of the Project Agreement, unless at the same time appropriate variations are made to that requirement.

7.8.7 An audit trail of variations to Project Agreements shall be maintained throughout the course of the Development Project to facilitate any subsequent review by the Commission.

## **7.9 Client Engineer**

7.9.1 The TSO shall appoint for each Development Project a Client Engineer. Client Engineers are agents of the TSO and shall be taken to be authorised by the TSO to undertake, on behalf of the TSO, the role specified for Client Engineers in this Agreement. The TSO is responsible for all acts and omissions of Client Engineers and for ensuring that Client Engineers perform their role in accordance with this Agreement. For the avoidance of doubt, the TSO's client engineer shall in accordance with the terms of this Agreement have unrestricted rights of

inspection with respect to all aspects of projects. TSO's Client Engineer will inspect for the purposes of satisfying him/herself that the detailed designs, plant, materials and works including scheduling meet the requirements of its Development Plan, its functional specifications, its outline designs and its generic standards and the detailed designs and procurement. In the event of any of these being unsatisfactory the TSO or its Client Engineer shall so notify the Board and the Board shall, save in the event of a dispute, with due diligence remedy the situation to the satisfaction of the Client Engineer.

7.9.2 The Board shall appoint for each Development Project an Owner's Engineer. Owner's Engineers are agents of the Board and shall be taken to be authorised by the Board to undertake, on behalf of the Board, the role specified for Owner's Engineers in this Agreement. The Board is responsible for all acts and omissions of Owner's Engineers and for ensuring that Owner's Engineers perform their role in accordance with this Agreement.

7.9.3 Subject to Clause 7.9.1 above, the role of the Client Engineer shall be, in relation to the Development Project for which he/she is appointed and in accordance with and on the terms of this Agreement and the relevant Project Agreement:

- (a) to represent the interests of the TSO;
- (b) to review the Board's detailed design, procurement specifications (except where already agreed by the Procurement Strategy Committee) and Recordable Instruments relating to the Development Project against the Committed Project Parameters;
- (c) to monitor progress (including inspection of construction works) of the Development Project against the Project Agreement;
- (d) to appraise changes proposed by the Board and approve, or otherwise, consequential changes to the Outline Design, Generic Design Standards and functional specifications and review consequential changes to the Board's detailed designs;
- (e) to appraise and approve changes proposed by the Board to the Project Implementation Plan, the Board's detailed design and /or the Construction Works consequent upon any changes made by the TSO to the Committed Project Parameters;
- (f) to ensure that the Transmission System requirements are met in order for the commissioning tests to proceed;
- (g) to witness commissioning tests to ensure his/her satisfaction with the Commissioning Procedures and Energisation Procedures carried out by the Board.
- (h) to ensure that the Board carries out Development Projects in such a way as to comply with the Project Agreement.

- 7.9.4 The TSO may replace its Client Engineer and the Board may replace its Owner's Engineer on any Development Project subject to giving the other Party not less than five (5) Business Days' notice of the change.
- 7.9.5 If the Client Engineer is not satisfied that the Board's performance in respect of the matters subject to review and inspection by the Client Engineer, the Client Engineer or the TSO shall notify the Board of such dissatisfaction, giving details.
- 7.9.6 Unless the Board disputes the validity of the Client Engineer's grounds for the dissatisfaction notified to it pursuant to clause 7.9.5 (in which case such Dispute shall be determined in accordance with clause 25) the Board shall with due diligence take such actions as are required to remedy the situation to the satisfaction of the Client Engineer.
- 7.9.7 The Client Engineer shall only communicate with the Board through the Owner's Engineer.

#### **7.10 Procurement of Plant, Materials and Construction**

- 7.10.1 The Board shall have responsibility for developing a procurement and contract strategy (which shall be reduced to writing and submitted to the Procurement Strategy Committee for review) for the procurement of all Materials, services and works required for construction and maintenance works.
- 7.10.2 The Parties shall establish a committee to be known as the Procurement Strategy Committee and shall co-operate with each other in relation to the procurement process as described in this clause 7.10.
- 7.10.3 The composition and procedures of the Procurement Strategy Committee shall be as set out in this clause 7.10.3
- (a) The Procurement Strategy Committee shall have five (5) members of which two (2) shall be appointed by the TSO and three (3) shall be appointed by the Board. Each Party shall also nominate in respect of each member an alternate to attend meetings in that member's place should the member be unavailable. Alternates are entitled to play a full role at meetings and to vote as if they were the member.
  - (b) The appointing Party may remove and replace any member appointed by it and the member's alternate, at any time subject to notifying the other Party.
  - (c) The chairman of the Procurement Strategy Committee shall be nominated by the Board appointees from their number and shall participate fully in the activities of the Procurement Strategy Committee.
  - (d) The Procurement Strategy Committee shall meet at intervals of not more than 3 months and more frequently if so agreed by the members.



- (e) One representative of each of the Parties (two in total) shall be sufficient to form a quorum of a meeting of the Procurement Strategy Committee. Minutes shall be kept of all meetings. Otherwise the Procurement Strategy Committee shall follow procedures agreed by the members, subject to those procedures being consistent with this Agreement.
- (f) The members shall use their reasonable endeavours to reach agreement unanimously but (save in respect of the satisfaction with bid lists under clause (g)(iii) below, where all decisions must be unanimous) in the absence of agreement all decisions shall be taken by a simple majority vote.
- (g) The terms of reference of the Procurement Strategy Committee are, in accordance with this Agreement, to be the forum for:
  - (i) agreement on:
    - (A) overall transmission procurement strategy;
    - (B) supplier diversity policy;
    - (C) generic terms and conditions of contract;
    - (D) assets spares policy;
  - (ii) reviewing procurement specifications for Materials prepared by the Board against the requirements of the Development Plan, functional specifications, Outline Designs (if available at the time) and Generic Design Standards; and
  - (iii) agreement on bid lists for award of Works Contracts and contracts for supply of Materials.
- (h) The Procurement Strategy Committee shall only conduct business that falls within its terms of reference, except to the extent expressly agreed between the Parties.

7.10.4 The Board shall prepare drafts of the policies, specifications and bid lists referred to in clause 7.10.3 including revisions to them ("Procurement Strategy Proposal") from time to time and shall submit Procurement Strategy Proposals to the Procurement Strategy Committee. The members of the Procurement Strategy Committee shall consider and review Procurement Strategy Proposals within a reasonable time. The TSO shall be given an opportunity to submit its comments on any Procurement Strategy Proposal to the Procurement Strategy Committee, accompanied by support and justification.

7.10.5 The Procurement Strategy Committee shall, after considering Procurement Strategy Proposals and any response and after undertaking any further review that it considers

appropriate, prepare a report on the Procurement Strategy Proposal including a summary of the review process, the recommendations of the Committee with respect to the Procurement Strategy Proposal and any dissenting or alternative views. Following that report, the Board shall be given an opportunity to amend the Procurement Strategy Proposal and resubmit it to the Procurement Strategy Committee. The Board shall give its reasons for ignoring or rejecting any dissenting or alternative views with respect to Procurement Strategy Proposals. The Procurement Strategy Committee shall then decide (in the case of policies and bid lists) whether to agree to the Procurement Strategy Proposal and (in the case of specifications) whether the specifications meet the requirements referred to in clause 7.10.3 (g)(ii).

7.10.6 For the very large number of minor materials and small stock items which comply with agreed standards and procurement arrangements between the Board and the TSO as of the Effective Date an arrangement will be established to facilitate the Board continuing its arrangements for such materials. It is envisaged that the arrangements for procurement of minor materials and small stock items will only become subject to the other provisions of this clause 7.10 where it becomes necessary to change existing specifications and terms. Once re-established for such minor materials and small stock items the procurement process will continue in an automatic fashion until such time as further changes are required.

7.10.7 The Board shall carry out the procurement process in accordance with the Procurement Regulations, procurement strategies and policies agreed by the Procurement Strategy Committee and using specifications for Materials that have been the subject of Procurement Strategy Committee review.

7.10.8 The Board will carry out the procurement process in an environment where the TSO can satisfy itself that its requirements for quality, timeliness, economy and Health and Safety provisions are met and that arrangements for procurement in any individual case do not prejudice the TSO's ability to satisfy its Transmission System Obligations. The Board will give open access to all procurement transactions and documentation throughout the entire procurement cycle through

- (a) keeping the TSO informed about the progress of individual procurement processes through the register of Recordable Instruments established under clause 12.3;
- (b) providing access to Information under clause 12 (Information);
- (c) providing access to the Transmission System, Materials and construction works in accordance with clause 11 (Access); and
- (d) the Procurement Strategy Committee process;
- (e) facilitating TSO's attendance whenever requested to do so by the TSO in the capacity of observer or with a listening brief at any meetings arranged with third parties such as

contractors, sub-contractors, service providers, providers of goods etc.; The TSO undertakes to exercise this right reasonably and shall take care not to materially affect the Board's commercial negotiating position or impair its ability to discharge its TAO Licence functions in a business-like manner to the detriment of the TUoS customer.

The TSO may assess any decision of the Procurement Strategy Committee or of the Board in relation to procurement so as to establish whether or not such decision meets its requirements. All choice of third parties such as sub-contractors, service providers, Providers of goods etc. are subject to review and assessment by the TSO.

7.10.9 The Board will seek to ensure that specifications for all goods meet the requirements of TSO's Development Plan, functional specification, Outline Designs and Generic Design Standards. Such process will be administered through the Procurement Strategy Committee subject to the understanding that TSO may review and assess any such decision in the same manner as outlined in Clause 7.10.10 below. This is without prejudice to TSO's right of unrestricted access which is a further safeguard to give TSO assurance as to the quality of goods delivered.

7.10.10 (a) The Board shall prepare draft procurement specifications for materials and services and submit them to the Procurement Strategy Committee. The TSO shall, through its representatives on the Procurement Strategy Committee, within a reasonable time, either

(b) notify the Board that the draft procurement specifications are satisfactory;

(c) notify the Board that the draft procurement specifications (or a part of them, as the case may be) are not satisfactory, giving detailed reasons,

in which case the Board can either revise and resubmit to the TSO the draft procurement specifications or seek a determination through the dispute resolution procedure in clause 25.

Pending notification of the TSO's satisfaction with the draft procurement specifications, or determination of the Dispute, the Board shall not proceed to implement the draft specifications or the part of them the subject of the Dispute (as the case may be). The TSO shall not unreasonably withhold or delay notification under this clause and shall withhold notification only if the draft procurement specifications in question will not meet the requirements referred to in clause 7.10.3.(g)(ii).

7.10.11 The TSO will input into the procurement process and may review and assess the Board's procurement arrangements and documentation so as to establish whether or not such procurement arrangements and documentation meet the TSO's requirements including requirements for inspection and testing. If the TSO has any concerns about a procurement

process then it may raise those concerns with the Board. Any concerns raised shall be in writing and shall state the reasons. The TSO shall afford the Board a reasonable time to assess the implications of any concerns. The Parties shall discuss the concerns and the Board shall implement any agreement reached during those discussions.

7.10.12 Without prejudice to any other provisions in this clause 7 the TSO shall have open access to all procurement transactions and documentation throughout the entire procurement cycle.

7.10.13 The TAO agrees that:

(a) work relating to transmission and work relating to distribution shall not be combined in one single contract without prior written agreement of TSO; and

(b) it shall, on an on-going basis, provide access to the TSO and its agents with all the documentation relating to any contracts it has entered into for the provision of plant, Materials, and the supply of services and works.

## **7.11 Project Detailed Design and Modifications**

7.11.1 Subject to Clause 7.2.1 the Board shall undertake all detailed design required to progress a Committed Project from Planning Permission (or equivalent stage) to issue of the Project Completion Certificate in accordance with the Project Agreement.

7.11.2 The Board will facilitate the TSO's ongoing review and assessment. Before proceeding to implement any detailed design the TSO (including its Client Engineer) will be afforded time in accordance with the design delivery and review schedule to consider and express a view on such detailed design, pending which the Board will not proceed to implement the same. The TSO shall express its view (in writing or otherwise) to the Board at or before the end of such period as specified in the design delivery and review schedule in the Project Agreement. If the TSO's view is that all or any part of such detailed designs do not meet the requirements of the Development Plan, its functional specification, its Outline Designs, its Generic Standards then the Board shall not proceed to implement such part of the design as is in dispute. If the parties are in dispute as to whether the said requirements are met, the parties shall invoke the dispute resolution procedure set out in clause 25.

7.11.3 The Client Engineer shall not unreasonably withhold or delay notification under clause 7.9.2(a) and shall only do so if the draft detailed design in question will not implement the Project Agreement.

7.11.4 Where appropriate, the TSO may require at least one detailed design option (or more where reasonable), to be presented to it by the Board.

## **7.12 Construction of Project**

- 7.12.1 The Board will be responsible for constructing all Development Projects for which there is a signed Project Agreement in accordance with the Project Agreement using its own resources and outsourcing to Approved Contractors. The Board shall manage each Committed Project from signature of the Project Agreement to commissioning of the Committed Project and issue by the TSO of the Project Completion Certificate.
- 7.12.2 The TSO shall, subject to clause 11 (Access to transmission assets), have unrestricted access and rights of inspection with respect to all aspects of the execution and completion of construction works carried out on the Transmission System and to ensure that such construction works comply with the Project Agreement.

## **7.13 Declaration of Fitness, Commissioning and Operational Hand-over**

- 7.13.1 The TSO shall, following consultation with the Board, produce for each Committed Project or part thereof for all parts for which a Declaration of Fitness is required:
- (a) a set of procedures relating to pre-commissioning and commissioning (which will include scope of tests and the criteria on which the Certificate of Acceptance shall be issued) in respect of Transmission Assets which form part of a Committed Project (“Commissioning Procedures”); and
  - (b) a set of procedures relating to energisation of Transmission Assets which form part of a Committed Project (“Energisation Procedures”);

which in each case shall be consistent with and implement the requirements of the Committed Project Parameters (other than the Energisation Procedures and the Commissioning Procedures themselves) and shall provide a copy of each to the Board. For the avoidance of doubt energisation may be required on one or more occasions during commissioning for the purposes of testing and Energisation Procedures will be issued for such commissioning tests as are deemed necessary by the TSO.

- 7.13.2 The Board shall ensure compliance with the Commissioning Procedures and the Energisation Procedures and shall without prejudice to such compliance give adequate prior notice of pre-commissioning or commissioning tests to the TSO and permit the TSO to witness them.
- 7.13.3 At least twenty-five (25) Business Days before the scheduled commencement of the commissioning tests the Board shall nominate its proposed Commissioning Engineer(s) (who shall in any event not have been materially involved in any activity relating to the relevant Committed Project) (“the Commissioning Engineer”).

- 7.13.4 Commissioning tests shall be undertaken only by the Commissioning Engineer
- 7.13.5 No pre-commissioning or commissioning tests shall be commenced until the TSO has produced and issued the relevant Commissioning Procedures to the Board.
- 7.13.6 Within one (1) Business Day of completion of all specified commissioning tests the Commissioning Engineer shall either issue to the TSO a Declaration of Fitness in the form specified by the TSO in the Commissioning Procedures with such supporting documentation as necessary or else notify the TSO what further work is required to justify the issue of a Declaration of Fitness. On completion of such further work and any further commissioning tests necessary the Commissioning Engineer shall issue to the TSO the Declaration of Fitness in the form specified by the TSO in the Commissioning Procedures.
- 7.13.7 Within five (5) Business Days of receipt of such Declaration of Fitness, the TSO shall either issue a Certificate of Acceptance of the Declaration of Fitness or state the reasons why it is unable to issue a Certificate of Acceptance of the Declaration of Fitness. In the event that the TSO is unable to issue a Certificate of Acceptance the Board shall rectify those matters identified by the TSO and on completion re issue the Declaration of Fitness.
- 7.13.8 If a Development Project is divided in accordance with the Project Agreement into sections, the Board shall be entitled to issue separate Declarations of Fitness in accordance with the Commissioning Procedures for each such section and each Declaration shall be treated in accordance with clause 7.13.7.
- 7.13.9 When the Board considers that a Project or section has been substantially completed in accordance with the Project Agreement and a Certificate of Acceptance has been issued for that Project or section, the Board may apply to the TSO for a Certificate of Completion in respect of that Project or section, stating the date on which it considers the Project or section to be substantially complete.
- 7.13.10 Within ten (10) Business Days of receipt of such application the TSO shall either issue a Certificate of Completion in respect of such Project or section, indicating the date on which the Project or section is considered to be substantially complete in accordance with the Project Agreement, or state the reasons why the Project or section is considered not to be substantially complete. In the event that the TSO is unable to issue a Certificate of Completion the Board shall rectify those matters identified by the TSO and on completion re apply to the TSO for a Certificate of Completion.
- 7.13.11 There may be Development Projects or sections of Development Projects that, in accordance with the Project Agreement, do not involve pre-commissioning or commissioning and in these cases the Board shall be entitled to apply for a Certificate of Completion in respect of that Development Project or section without the requirement for a Certificate of Acceptance.

- 7.13.12 Transmission assets which are the subject of a Declaration of Fitness shall not be energised until the TSO has issued a Certificate of Acceptance in respect of such Transmission assets, unless energisation is required during commissioning for the purposes of testing. In all cases transmission assets shall only be energised under the instruction of the TSO and in accordance with relevant Energisation Procedures.
- 7.13.13 When the whole Development Project has been energised (which shall not be unreasonably delayed) and has satisfactorily passed any final commissioning test that may be prescribed in the Project Agreement and when the Board considers that the whole Development Project has been substantially completed in accordance with the Project Agreement, the Board may apply to the TSO for a Project Completion Certificate.
- 7.13.14 Within ten (10) Business Days of receipt of such application the TSO shall either issue a Project Completion Certificate indicating the date on which the whole Development Project is considered complete, or state the reasons why it is unable to issue the Project Completion Certificate. In the event that the TSO is unable to issue a Project Completion Certificate the Board shall rectify those matters identified by the TSO and on completion re apply to the TSO for a Project Completion Certificate.
- 7.13.15 All certificates issued by the TSO under clause 7.13 (other than the Unconditional Project Completion Certificate) may be issued subject to endorsements relating to matters to be addressed subsequent to their issue. When the Board considers that it has cleared some or all endorsements it shall request a further certificate and the TSO shall reissue such further certificate removing endorsements that have been completed to the satisfaction of the TSO. When all endorsements on a Project Completion Certificate have been removed to the satisfaction of the TSO the TSO shall issue an Unconditional Project Completion Certificate.
- 7.13.16 The Parties shall co-operate to agree and maintain detailed procedures and standard forms for use in implementing the terms of this clause.

## **7.14 Project Review and co-operation**

- 7.14.1 The Parties shall, establish a programme of regular meetings between the Parties to review both general progress (“Programme Implementation Progress Meetings”) and individual Projects developments that are not yet the subject of a Project Agreement. At such meetings the Parties shall address matters of concern brought forward by the TSO, its Client Engineer, the Board or its Owner’s Engineer and will review arrangements for such Development Projects. The meetings will consider prioritisation of timescales and projects to meet broader programme objectives.
- 7.14.2 The Board shall have primary responsibilities for overall project review and the Board shall convene regular progress meetings with the TSO to review ongoing Committed Projects the subject of a Project Agreement on a project by project basis in accordance with the

arrangements in the Project Agreement. If the Board has grounds to believe that any Milestone will not be met or that a Development Project is encountering or is likely to encounter any problems or difficulties or divergence from the Project Agreement the Board shall:

- (a) notify the TSO immediately of the situation and the impact, if any, on the Development Project; and
- (b) inform the TSO how the Board intends to address the situation or (where it is a TSO responsibility that is slipping) request the TSO to address the situation.

7.14.3 In setting priorities and planning its work, the Board shall take account of any views expressed by the TSO, in particular (but not limited to) technical performance matters or overall project progress. If the overall project time scales and main Milestones as informed by the Board provide for a commissioning date or date for issue of a Certificate of Acceptance or an energisation date for a Development Project which is materially beyond that required by the Project Agreement then the Parties will engage with each other in order that the appropriate actions are determined. This may include from time to time re-prioritisation of other Development Projects or other means of addressing the delay including changes in Development Project Parameters or the Development Plan. In all cases the relevant Project Agreements shall be amended to incorporate the changes.

7.14.4 If the TSO believes that the Board is not carrying out any Pre Construction Services or construction works in accordance with the requirements specified in the relevant Project Agreement the TSO shall notify the Board of such dissatisfaction. Unless the Board disputes the validity of the grounds for the dissatisfaction notified to it pursuant to this clause (in which case such Dispute shall be determined in accordance with clause 25), the Board shall with due diligence take such actions as are required to remedy the situation to the satisfaction of the TSO

## **8 MAINTENANCE**

### **8.1 General Principles**

8.1.1 Regulation 8(1) requires the TSO to ensure the maintenance of the Transmission System. Regulation 19(a) requires the Board, as asset owner, to maintain the Transmission System using its own resources and outsourcing to contractors.

8.1.2 Each of the Parties acknowledges their mutual interest in an efficient determination of maintenance requirements and an efficient allocation of resources to meet such requirements.



## **8.2 Maintenance Policies and Standards**

- 8.2.1 The TSO shall be responsible for setting Maintenance Policies and Standards (“Maintenance Policies and Standards”). The TSO shall have regard to the views of the Board and shall specify and amend the standards and policies in accordance with this clause 8.2 and clause 8.3.
- 8.2.2 When preparing and revising Maintenance Policies and Standards, the TSO’s consideration shall include;
- (a) analysis of system performance; and
  - (b) assessment of the performance of different asset types and classes.
- 8.2.3 The Maintenance Policies and Standards comprise:
- (a) policies for maintenance, replacement and refurbishment of the assets forming part of the Transmission System, including the frequency of tests, services and Condition Assessments;
  - (b) standards to which maintenance, replacement and refurbishment activities for the assets forming part of the Transmission System should be carried out;
  - (c) maintenance prioritisation criteria where practicable.
- 8.2.4 The Maintenance Policies and Standards as at the Effective Date are those listed in schedule 9. If the TSO wishes to amend the Maintenance Policies and Standards, it shall do so in accordance with this clause and shall have regard to the views of the Board through the forum of the Maintenance Policy and Standards Committee.
- 8.2.5 Each Party shall comply with the Maintenance Policies and Standards in the discharge of its Transmission System Obligations.
- 8.2.6 The Board will in carrying out the maintenance, replacement and refurbishment activities implement Maintenance Policies and Standards through preparation and issue of maintenance works practices and procedures, detailed task instructions, codes of practice and maintenance cards for each asset class and equipment make and model. These shall be made available to the TSO upon request and the Board shall have regard to any comments made by the TSO in relation to them.

## **8.3 Maintenance Policy and Standards Committee**

- 8.3.1 Terms of Reference

The Parties shall establish a committee, to be known as the Maintenance Policy and Standards Committee. The terms of reference of the Maintenance Policy and Standards Committee are, in accordance with this Agreement, to be the forum through which:

- (i) Maintenance Policies and Standards are reviewed;
- (ii) changes to the Maintenance Policies and Standards are proposed and assessed;
- (iii) new maintenance policies and standards are proposed and assessed; and
- (iv) the TSO has regard to the views of the Board in relation to the matters referred to in this clause 8.3.1

### 8.3.2 Composition of Maintenance Policy and Standards Committee

The composition and procedures of the Maintenance Policy and Standards Committee shall be as follows:-

- (a) The Maintenance Policy and Standards Committee shall have five (5) members of whom two (2) shall be appointed by the Board and three (3) shall be appointed by the TSO. Each Party shall nominate alternates to attend meetings in the place of each member should any member be unavailable. Alternates are entitled to play a full role at meetings and to vote as if they were the member themselves.
- (b) The appointing Party may remove and replace any member appointed by it and the member's alternate, at any time, subject to notification to the other party.
- (c) The chairman of the Maintenance Policy and Standards Committee shall be nominated by the TSO appointees from their number and shall participate fully in the activities of the Maintenance Policy and Standards Committee.

### 8.3.3 Meetings of Maintenance Policy and Standards Committee

- (a) The Maintenance Policy and Standards Committee shall meet at intervals of not more than 3 months or as otherwise agreed by the members.
- (b) Except for annual meetings one representative of each of the Parties (two in total) shall be sufficient to form a quorum of a meeting of the Maintenance Policy and Standards Committee. Minutes shall be kept of all meetings. Otherwise the Maintenance Policy and Standards Committee shall follow such procedures as the members shall agree, subject to those procedures being consistent with this Agreement. The Maintenance Policy and Standards Committee shall meet in its entirety at least once a year.

- (c) The members shall use their reasonable endeavours to reach decisions unanimously but in the absence of agreement all decisions shall be taken by a simple majority vote.
- (d) The Maintenance Policy and Standards Committee shall only conduct business that falls within its terms of reference, except to the extent expressly agreed by the Parties. The Maintenance Policy and Standards Committee shall participate in the process of changes to the Maintenance Policies and Standards as described in the remainder of this clause 8.3.

#### 8.3.4 Change Proposals

- (a) The role of the Maintenance Policy and Standards Committee in the process of changes to the Maintenance Policies and Standards shall be as described in this Clause.
- (b) Either Party may propose a new Maintenance Policy or Standard or a change to existing Maintenance Policies and Standards by presenting a written proposal ("Change Proposal") to the Committee, in reasonable detail and accompanied by support and justification.
- (c) Each Party shall ensure that, working through the Committee, it gives the other Party adequate time to review Change Proposals, having regard to all the circumstances. The other Party shall be given an opportunity to submit its comments on Change Proposals to the Maintenance Policies and Standards Committee, accompanied by support and justification.
- (d) The Maintenance Policy and Standards Committee shall, after considering a Change Proposal and any responses, and after undertaking any further reviews that it considers appropriate, prepare a recommendation on the Change Proposal. The recommendation shall include a summary of the review process, the recommendations of the Committee with respect to that Change Proposal, and the implementation and/or timing implications. Any dissenting views shall be expressed in a minority report accompanied by support and justification. In the event of a minority report, the recommendation shall respond to issues raised in the minority report.

#### 8.3.5 TSO Decision

- (a) The TSO shall consider the Maintenance Policy & Standards Committee's recommendation and make a decision as to whether or not to accept it.
- (b) The TSO shall give its reasons for making a decision that rejects any recommendation or minority report.

- (c) If it decides to implement a recommendation, the TSO shall do so by issuing the amended Maintenance Policy and Standard. The Board shall notify the TSO of the time it requires to make any necessary adjustments to its internal policies, procedures, documentation, resources and training in order to implement the amended Maintenance Policy and Standards safely and efficiently.

#### **8.4 Long term maintenance planning**

- 8.4.1 The Parties shall co-operate with each other in relation to their respective maintenance functions to develop a long-term plan, for up to 5 years for the maintenance of the Transmission System and corresponding resource requirements.
- 8.4.2 The TSO shall facilitate the Board's submissions to the Commission, for the purposes of the determination of allowable Transmission System maintenance expenditure in Price Control Reviews, by providing, within twenty-five (25) Business Days (or such other period as may be agreed between the parties) of receipt of any request from the Board which request shall itself have been preceded by reasonable notice given by the Board, a long term maintenance plan comprising forecast volumes of generic maintenance works by asset class and work class required for the Price Control Review Period based on the Maintenance Policies and Standards. The TSO shall also facilitate the Board's submissions by providing such other information as the Board may reasonably request.
- 8.4.3 Within twenty-five (25) Business Days of receipt of the Commission's determination for any Price Control Review Period, the Board shall provide to the TSO a draft 5 year maintenance plan for such period which shall in overall and high level terms:
  - (a) set out the programme the Board will follow to implement the TSO's long-term maintenance requirements for such period as specified in the information provided under clause 8.4.2;
  - (b) contain an estimate of resources available as approved by the Commission, to implement the TSO's long-term maintenance requirements for such Price Control Review Period. The total resource will be categorised by the Board in relation to crews, specific competencies and by capacity.
- 8.4.4 Following receipt of the Commission's determination in any Price Control Review, and annually thereafter, the Board shall submit to the TSO a schedule setting out generic maintenance task descriptions, based on the Maintenance Policies and Standards, and for each generic maintenance task:
  - (a) standard man days required for the task consistent with the Commission's determination in the Price Control Review (which at the Effective Date are as set out in schedule 8); and

- (b) the standard cost of the task, consistent with the Commission's determination in the Price Control Review; and
- (c) the minimum outage duration for the task.

8.4.5 The Board will review its 5 year maintenance plan each year on a rolling 5 year basis and for that purpose may ask the TSO to update the **information** provided under clause 8.4.2.

## **8.5 Annual Maintenance Planning**

### **8.5.1 Comprehensive List**

- (a) Unless otherwise agreed the TSO will prepare and provide to the Board on an annual basis a preliminary Comprehensive List of maintenance tasks for the following year by the 30th September of each year including requirements for Condition Assessments ("Comprehensive List").
- (b) The preliminary Comprehensive List shall be based on the Maintenance Policies and Standards, TSO's assessment of Condition Reports provided by the Board, the Unscheduled Works List and other input from the Board and other assessment information available to the TSO.
- (c) The Board may request supplementary maintenance tasks to be included in the Preliminary Comprehensive List.
- (d) The TSO shall issue the Comprehensive List which will:-
  - (i) be unconstrained from a resource and system perspective and will therefore include all maintenance tasks identified by either Party; and
  - (ii) indicate any known major outage constraints that would affect the work on the Comprehensive List. The List may also indicate work which is likely to be required to be done live, using mobile equipment, or on an accelerated work schedule.

### **8.5.2 Response from the Board**

- (a) The Board shall respond to the Comprehensive List provided by the TSO indicating:
  - (i) the outage duration required for the specified tasks, in particular where these will differ from the standard minimum outage durations notified under clause 8.4.4;
  - (ii) any resource capacity constraints;
  - (iii) any other logistical constraints and any other reasonable restrictions that may apply;

- (iv) availability of specialists or original equipment manufacturer consultants as may be required from time to time.
  - (v) projected maintenance works costs to enable the TSO to take such costs into account in determining the scope of the maintenance required.
- (b) It is for the Board to determine the resource available and the duration of maintenance tasks.

### 8.5.3 Draft Maintenance and Outage Programmes

- (a) Taking into account the information provided by the Board the TSO will determine when Transmission System outages can be taken. The TSO shall draw up and give to the Board a proposed schedule of the maintenance tasks it wishes to schedule based on the information provided by the Board and taking into account other requirements known to the TSO including system conditions, generation outage requirements, and balancing short and long term system security (“Draft Maintenance Work Programme”). At the same time the TSO will prepare and provide to the Board a proposed schedule of outages (“Draft Transmission Outage Programme”) for the Maintenance Period. In preparing these, the TSO shall (insofar as possible) implement the prioritisation criteria set out in the Maintenance Policies and Standards.
- (b) The Draft Transmission Outage Programme shall to the extent practicable indicate the extent of flexibility available in respect of outages and dates within which the identified tasks could be completed so that the Board can draw up the Agreed Maintenance Works Programme in the most efficient manner having regard to available flexibilities.
- (c) The Draft Maintenance Works Programme shall include maintenance tasks that are non outage dependent and requirements for Condition Assessments. The Draft Maintenance Work Programme shall also include tasks requiring outages of transmission plant which are not scheduled by TSO such as transmission plant connecting DSO and third party equipment to the Transmission System. It shall be for the Board to schedule the non-outage tasks. The TSO may indicate its preference for the scheduling of non outage dependent maintenance tasks and the Board shall take this into account.
- (d) The Board shall draw up and provide to the TSO a schedule indicating when the non-outage tasks on the Draft Maintenance Work Programme will take place.
- (e) At the same time that it issues the Draft Transmission Outage Programme, the TSO shall issue the list of maintenance tasks on the Comprehensive List that are not scheduled for the forthcoming Maintenance Period,“(Unscheduled Works List”), giving

an indicative date when the tasks might be scheduled and the year that the task first appeared on the Unscheduled Works List.

- (f) The Parties shall agree new versions of the Unscheduled Works List through the Maintenance Period to reflect changes to the Transmission Outage Programme and the Agreed Maintenance Works Programme.
- (g) The Board may make representations to the TSO if it has concerns with the Draft Maintenance Work Programme.

#### 8.5.4 Maintenance Planning Meetings

- (a) The Parties shall co-operate to accommodate resource restrictions through, for example, re-arrangement of a number of scheduled work items by either or both Parties.
- (b) The TSO shall convene Maintenance Planning Meetings with the Board, in advance of the Maintenance Period and no later than 30th of November of the previous year unless otherwise agreed. At these meetings, the Parties shall:
  - (i) discuss the Draft Maintenance Work Programme and the Draft Transmission Outage Programme;
  - (ii) review the maintenance tasks to be done using among other things live-line, mobile equipment and accelerated schedules;
  - (iii) where practicable agree any alterations to the Draft Maintenance Work Programme and Transmission Outage Programme, including postponement of tasks or adding other tasks. Final agreement may entail a number of meetings as detailed system studies may be required to examine the system implications of such changes.
  - (iv) At the Maintenance Planning Meetings the Draft Maintenance Work Programme and the Draft Transmission Outage Programme may be amended if necessary to take into account reasonable resource maintenance restrictions in line with maintenance capacities, reasonable resource optimisation, resource and outage interactions with the committed development programme construction works and other local factors known to the Parties
- (c) The Parties shall ensure throughout this process that operational efficiency is advanced and that local knowledge is fully utilised.
- (d) The TSO will endeavour to accommodate reasonable resource restrictions in determining the maintenance to be scheduled. In the end, however, the needs of the

system will often have to predominate over other factors – e.g. following generation outages, major constraint cost issues, reconfiguration of network due to other line outage requirements and so on. The solutions to specific cases will often involve a rearrangement of a number of scheduled work items by either or both Parties.

- (e) Ultimately, and where necessary, the TSO solely will make the decision as to the outage programme, as only the TSO will have the full information as to the state of and requirements of the Transmission System. In accordance with clause 8.12 should remedial maintenance be required (unplanned or breakdown), this may take precedence over planned maintenance and the planned maintenance for the period may be readjusted by rescheduling planned maintenance works into the following season.
- (f) TSO shall modify the Unscheduled Works List to reflect any changes to the Draft Maintenance Work Programme
- (g) The TSO will be the final determinant of the actual maintenance to be undertaken in the maintenance period in accordance with this Clause 8.

#### 8.5.5 Formal issue of Transmission Outage Programme and Agreed Maintenance Works Programme and Unscheduled Works List

- (a) Following the conclusion of the Maintenance Planning Meetings, and in a timely manner to facilitate proper planning including financial planning for the forthcoming Maintenance Period:
  - (i) the TSO shall issue to the Board the outage programme (the “Transmission Outage Programme”) for the forthcoming Maintenance Period;
  - (ii) the Board shall issue to the TSO the maintenance works programme (“Agreed Maintenance Works Programme”) detailing the agreed maintenance works to be undertaken by the Board during the forthcoming Maintenance Period.
  - (iii) The TSO shall issue to the Board the List of Works on the Comprehensive List but not scheduled for the Maintenance Period (“Agreed Unscheduled Works List”)
- (b) The Transmission Outage Programme and the Agreed Maintenance Works Programme shall first be prepared in draft and the other Party shall be given a reasonable time to comment prior to formal sign off. The programmes shall implement the position agreed at the Maintenance Planning Meetings. When issued, the programmes shall be subject to agreed version control procedures to record changes as the documents develop over the course of the Maintenance Period.



## **8.6 Condition Reports**

- 8.6.1 These provisions are without prejudice to the rights of the TSO with respect to access to the Transmission System and Information as set out elsewhere in this Agreement.
- 8.6.2 The Board shall, in accordance with the Maintenance Policies and Standards, carry out Condition Assessments and shall provide as soon as practicable upon such reports becoming available its Condition Reports to the TSO. The TSO may inspect/audit such work at a frequency and time scales that it determines to be appropriate.
- 8.6.3 The TSO may (either itself or through a contractor) carry out its own Condition Assessments subject to clause 11 (Access to transmission assets). This may arise, for example, if the TSO is not satisfied with the work carried out by the Board or if the TSO wishes to carry out specialist monitoring. As soon as practicable after any Condition Report prepared by or on behalf of the TSO becomes available, the TSO shall give a copy to the Board.
- 8.6.4 In order to minimise the scope for inefficient duplication of activities by the Parties with respect to Condition Assessments, the Parties shall exchange information about when those activities are to be undertaken. The TSO shall give reasonable notice to the Board to enable the Board to plan the resources required to support the TSO's activities.
- 8.6.5 In addition to providing Condition Reports, the Board shall also use its reasonable endeavours to:
- (a) report all such matters which in the view of the Board may assist the TSO in determining the condition of the assets constituting the Transmission System; and
  - (b) provide the TSO with such other information reasonably requested by the TSO for the purpose of enabling the TSO to determine the maintenance requirements of the Transmission System.

## **8.7 Carry out maintenance and manage programme**

- 8.7.1 The Board shall carry out the maintenance and manage the maintenance programme each year as specified by the TSO, and to that end shall:
- (a) fully comply with the agreed Maintenance Policies and Standards;
  - (b) manage the maintenance contained in the Agreed Maintenance Works Programme;
  - (c) perform maintenance works and be responsible for work specifications and work methods;

8.7.2 The Board shall have responsibility for procuring and maintaining stocks of Materials required for maintenance works. The Board shall conduct these procurement activities subject to the arrangements in Clause 7.10.

## **8.8 Outage and Maintenance Review Meetings**

8.8.1 The Parties shall attend regular outage and maintenance review meetings (“Outage and Maintenance Review Meetings”) during the Maintenance Period, convened by the TSO. In normal circumstances these will take place every two to three weeks during the Maintenance Period. At these meetings the Transmission Outage Programme may be amended by the TSO and the Agreed Maintenance Works Programme shall be discussed and may be amended by agreement of the parties to take account of:-

- (a) changed system conditions;
- (b) changed operational priorities;
- (c) additional maintenance requirements;
- (d) resource issues;
- (e) planning slippage; or
- (f) any other matters raised by either of the Parties.

The Board may request alternative outage slots for scheduled outages that did not proceed subject to the TSO being able to accommodate such requests and the Agreed Maintenance Works Programme shall be revised to reflect this.

The Parties shall comply with the Outage Management Procedures contained in Schedule 11

8.8.2 The parties acknowledge that at all stages there will have to be significant day to day interaction between TSO and Board personnel. In addition to the Outage and Maintenance Review Meetings. Each Party shall nominate and ensure the availability of a person or persons, to be the contact point for day-to-day interaction between the TSO and the Board about maintenance interfaces.

8.8.3 Before each Outage and Maintenance Review Meeting, the TSO shall issue to the Board a draft report (“Transmission Outage Programme Exceptions Report”) detailing changes made in the period then completed. The TSO shall also issue with the Transmission Outage Programme Exceptions Report a draft report of intended outages.

8.8.4 On receipt of the Transmission Outage Exceptions Report and before each Outage and Maintenance Review Meeting, the Board shall issue to the TSO its report ("Maintenance Exceptions Report"), listing, by exception to the current version of the Agreed Maintenance Works Programme, for the maintenance interval just completed any planned maintenance tasks not completed, including reasons and any additional maintenance tasks undertaken including discovered work, fault maintenance and any unplanned remedial work and, for the future, any work that the Board will not be able to undertake in the allocated outage, with associated reasons. Before each Outage and Maintenance Review Meeting, the Board may also prepare a report setting out the implications of variations to the Transmission Outage Programme over the period since the last Outage and Maintenance Review Meeting.

The TSO shall convene the Outage and Maintenance Review Meetings and, in the interest of efficiency, the TSO may invite to the Outage and Maintenance Review Meeting other parties with an interest in order to coordinate available outages with all works required on transmission assets.

During the meetings the Parties shall review the outturn from the previous maintenance interval and preview the outages and maintenance for the next maintenance interval. The Parties shall cooperate in the coordination of maintenance with other works and with available outages.

8.8.5 Promptly after each Outage and Maintenance Review Meeting

(a) the TSO shall document changes to the Transmission Outage Programme and will issue the Transmission Outage Programme Exception Report listing changes to the Transmission Outage Programme and associated reasons for change. The TSO will formally issue the revised version of the Transmission Outage Programme at the request of the Board and/or at interval agreed by the Parties

(b) the Board shall document the modifications to the Agreed Maintenance Works Programme as agreed at the Outage and Maintenance Review Meeting and issue the new version of the Agreed Maintenance Works Programme to the TSO.

(c) The TSO shall amend and issue the new version of the Unscheduled Works List, at intervals agreed by the Parties.

8.8.6 Modifications to the Agreed Maintenance Works Programme are subject to agreement, such agreement not to be unreasonably withheld where revised works are within the maintenance capacity of the Board.

## **8.9 Maintenance Programme Review Meetings**

The Parties shall meet regularly to review overall progress on the Agreed Maintenance Works Programme.

The TSO will keep under review the volume of works required under the Agreed Maintenance Works Programme. In the event that this volume differs from the volume agreed in the allowable expenditure determination by the CER, the Board will inform the CER of such variance. The CER will determine whether any over or under recovery arising from the volume variance should be effected, and if so how, and when.

## **8.10 Discovered Work and Emergency Work**

- 8.10.1 If, during the course of maintenance, inspections or condition assessment or otherwise the Board identifies work which it considers should be carried out ("Discovered Work") it shall notify the TSO as soon as possible.
- 8.10.2 Except where the Board has been delegated authority from the TSO, the TSO will solely decide on the actions to be taken to deal with the Discovered Work. If the TSO decides that the work should be carried out immediately the Board shall use reasonable endeavours to provide the resources necessary to carry out the work. The Discovered Work shall then be incorporated into a revised Agreed Maintenance Works Programme in accordance with Clause 8.8.
- 8.10.3 The TSO may decide that the work shall be carried out at some future date within the maintenance period. The TSO will decide when an outage shall be provided and the works shall be incorporated into a revised Agreed Maintenance Works Programme in accordance with this Clause 8.8.
- 8.10.4 The TSO may decide to defer maintenance *tasks* associated with the Discovered Work until a future Maintenance Period. The associated *tasks* will then be incorporated into a revised Unscheduled Works List in accordance with this Clause 8.8.
- 8.10.5 The TSO may give general authority to the Board to deal with certain Discovered Work without further reference to the TSO. As of the Effective Date, the general authority of the Board given to it by the TSO for the purpose of this clause is set out in schedule 12. This document may be amended from time to time by the TSO after consultation with the Board. Where the Board has the delegated authority to decide on work discovered during maintenance or following inspection or otherwise, the Board will be required to keep the TSO informed of the work identified, proposed target dates for completion and progress and such *tasks* shall be incorporated into a revised Agreed Maintenance Works Programme in accordance with this Clause 8.10.

The TSO may revise the target dates proposed by the Board to meet system requirements in accordance with the provisions of this clause 8.10.

Without prejudice to Clause 17 (“Emergencies”), where the TSO determines that any emergency Maintenance Works are required, the Board shall use all reasonable endeavours to procure available resources requested by TSO for the carrying out of such Emergency Maintenance even though the resource required may exceed the resources provided under the allowed revenue for that maintenance period. All emergency works will be incorporated into a revised Agreed Maintenance Works Programme in accordance with the provisions of this clause 8.10.

### **8.11 Fault Procedure**

- 8.11.1 The standard procedure for dealing with faults is contained in Schedule 10, (Reportable Events Procedures) and the Board shall comply with such procedures.
- 8.11.2 Where an agent of the Board discovers a fault which has implications for safety the provisions of Clause 17 (“Emergency”).
- 8.11.3 The Board shall notify TSO as soon as possible after the discovery and making safe of the plant to enable the TSO to decide on the Maintenance required to deal with the fault.
- 8.11.4 When the plant has been made safe, the required maintenance will be dealt with as Discovered Work as provided for under this agreement.
- 8.11.5 The Board shall provide resources for routine stand-by and emergency cover to deal with faults on the system as provided for under the terms of the Operational Services Arrangements.

### **8.12 Check Work, Issue Declaration of Fitness, Commissioning and Operational Hand-over**

- 8.12.1 The TSO will carry out scope completion and quality audits on selected works
- 8.12.2 Detailed accurate records on work progress shall be provided by the Board to the TSO to agreed timescales
- 8.12.3 The TSO will be responsible for the safe return of assets to service where applicable. The Board will be responsible for carrying out Commissioning Procedures as specified by the TSO and, where required by the TSO, will submit a Declaration of Fitness as described in this Clause.
- 8.12.4 The TSO shall, following consultation with the Board, produce for each relevant maintenance task for all parts for which a Declaration of Fitness is required:

- (a) a set of procedures relating to the commissioning (which will include scope of tests and the criteria on which the Certificate of Acceptance shall be issued) in respect of transmission assets on which maintenance has been carried out ("Commissioning Procedures"); and
- (b) a set of procedures relating to energisation of transmission assets on which maintenance has been carried out("Energisation Procedures");

- 8.12.5 The Board shall ensure compliance with the Commissioning Procedures and the Energisation Procedures and shall without prejudice to such compliance give adequate prior notice of commissioning tests to the TSO and permit the TSO to witness them.
- 8.12.6 The Board shall at least twenty-five (25) Business Days or lesser period if agreed between the parties before the commencement of commissioning tests nominate its proposed Commissioning Engineer(s) (who shall in any event not have been materially involved in any activity relating to the relevant maintenance) to undertake commissioning tests(the "Commissioning Engineer")
- 8.12.7 Commissioning tests shall be undertaken only by Commissioning Engineer.
- 8.12.8 No commissioning tests shall be commenced until the TSO has produced the relevant Commissioning Procedures.
- 8.12.9 Within one (1) Business Day of completion of all specified Commissioning Tests the Commissioning Engineer shall either issue to the TSO a Declaration of Fitness in the form specified by the TSO in the Commissioning Procedures or as otherwise specified by TSO with such supporting documentation as necessary or else notify the TSO what further work is required to justify the issue of a Declaration of Fitness.
- 8.12.10 Within five (5) Business Days of receipt of such Declaration of Fitness, the TSO shall either issue a Certificate of Acceptance of the Declaration of Fitness or state the reasons why it is unable to issue a Certificate of Acceptance of the Declaration of Fitness.
- 8.12.11 Transmission assets which are the subject of a Declaration of Fitness shall not be energised until the TSO has issued a Certificate of Acceptance. Transmission assets shall only be energised under the instruction of the TSO and in accordance with the relevant Energisation Procedures where applicable.
- 8.12.12 All certificates issued by the TSO under clause 8.12.10 other than the unconditional Certificate of Acceptance may be issued subject to endorsements relating to matters to be addressed subsequent to their issue. When the Board considers that it has cleared some or all endorsements it shall request a further certificate and the TSO shall reissue such further certificate removing endorsements that have been completed to the satisfaction of the TSO.

When all endorsements on a Certificate of Acceptance have been removed to the satisfaction of the TSO the TSO shall issue an unconditional Certificate of Acceptance.

8.12.13 The Parties shall co-operate to agree and maintain detailed procedures and standard forms for use in implementing the terms of this clause.

## **9 APPROVED CONTRACTORS**

### **9.1 General**

9.1.1 The Board shall use only Approved Contractors where it decides to outsource construction or maintenance works or to procure Materials, including where the maintenance or construction works are outsourced to, or the Materials are procured from, a Separate Business or subsidiary (within the meaning of the Companies Acts 1963 to 1990) of the Board.

9.1.2 The Board shall maintain the Approved Contractors List. There may be different Approved Contractors for different classes or categories of construction works, maintenance works and Materials. A given contractor may be an Approved Contractor for all or only one or more of the classes or categories.

### **9.2 Procedure for agreeing list**

9.2.1 For the purpose of securing agreement on the list of Approved Contractors, the following procedures will apply:

- (a) The Board will draw up proposed pre-qualification criteria for different work activities and will include the proposed contract strategy.
- (b) The Board will consult and agree these criteria with the TSO within a reasonable time.
- (c) Before each pre-qualification round, the Board shall give the TSO a list of the contractors the Board intends to invite to participate in the pre-qualification round with a brief annotation as to the reason for the inclusion of each name. The TSO shall, within 10 Business Days tell the Board of any other names (if any) that are to be included in the invitation list.
- (d) After agreement is reached between the parties (or a determination is made) about the pre-qualification criteria and the list of invitees, the Board shall conduct each pre-qualification round in accordance with the law relating to public procurement and the terms of clause 7.10 herein.

- (e) After the pre-qualification round is completed, the Board will draw up a draft pre-qualification evaluation report provisionally categorising respondents as “on” or “off” the list on the basis of the application of the pre-qualification criteria.
- (f) The Board and the TSO shall (unless otherwise agreed) meet within a reasonable time of the draft report being sent to the TSO to discuss the application of the pre-qualification criteria to the candidates, as set out in the draft report. Following that discussion (if any) which shall take place within a reasonable time:
  - (i) the Parties will agree the names of the candidates to be included in the Approved Contractors List;
  - (ii) the Board will prepare the pre-qualification evaluation report and give a copy of the final report to the TSO.
- (g) The Board will notify the Approved Contractors as per the agreed list.

9.2.2 Where the works in question fall within the requirements of the Procurement Regulations the Board shall following consultation with the TSO prepare a contract notice inviting persons to apply to become an Approved Contractor and shall arrange for the publication of that notice in the Official Journal of the European Community.

9.2.3 Documentation to be submitted in response to the contract notice shall where the TSO so requests include a separate copy of such documentation for the TSO

9.2.4

### **9.3 Changing the Approved Contractors List**

9.3.1 The Parties may amend the Approved Contractors List in accordance with the provisions set out in clause 9.2 above or otherwise agreed between the Parties.

## **10 PAYMENT**

The Parties shall comply with the terms of Schedule 7 in respect of payments due under this Agreement.

## **11 ACCESS TO TRANSMISSION ASSETS**

The Client Engineer will have unrestricted access and rights of inspection with respect to all aspects of Development Projects for the purposes of enabling the TSO to fulfil its Transmission System Obligations. The TSO will have access to and rights of inspection over the



Transmission System in accordance with Schedule 15 ("Access Protocol"). The parties shall amend that Access Protocol by agreement from time to time as appropriate. Each Party shall comply, and shall ensure that its directors, officers, employees, agents and contractors comply, with the Access Protocol.

## **12 INFORMATION**

### **12.1 Historical Records**

12.1.1 Each Party shall keep and maintain its Historical Records either itself or through a third party engaged by it for that purpose.

12.1.2 The Board and the TSO shall co-operate to ensure that, to the extent required by the other Party to perform its Transmission System Obligations, the other Party is granted access to Historical Records at reasonable times and on reasonable notice and may use and copy those Historical Records for the purposes of discharging its Transmission System Obligations.

### **12.2 Other Information**

12.2.1 In the case of Information other than Historical Records, subject to the TSO complying with the procedures in clause 12.4, the Board shall at the request of the TSO provide to the TSO any Information held or obtained by the Board including Information obtained from its officers, employees, agents and contractors in the discharge of the Board's Transmission System Obligations, where and to the extent required by the TSO to discharge the TSO's Transmission System Obligations. Use of such Information shall be in accordance with clause 12.2.3.

12.2.2 In the case of Information other than Historical Records, subject to the Board complying with the procedures in clause 12.4, the TSO shall at the request of the Board provide to the Board any Information held or obtained by the TSO including Information obtained from its officers, employees, agents and contractors relating to the condition of the Transmission Assets, where and to the extent required by the Board to protect its legitimate interests as owner of the Transmission System or to discharge its Transmission System Obligations. Use of such Information shall be in accordance with clause 12.2.3.

12.2.3 Each Party ("Grantor") hereby grants to the other Party a non-exclusive, royalty free licence and permission to:

- (a) itself copy and use; and
- (b) permit its employees, officers, contractors and agents to copy and use,

the Information provided to the second Party by the Grantor under or in connection with this Agreement, but only to the extent necessary to enable the second Party to perform its Transmission System Obligations.

### **12.3 Recordable Instruments register**

12.3.1 The Board shall create and maintain a register of Recordable Instruments. The register shall include the reference number, the current status and the subject matter of each Recordable Instrument.

12.3.2 The TSO may, at reasonable times and on reasonable notice, inspect the register. The Board shall provide copies of any Recordable Instruments included in the register where requested to do so by the TSO.

### **12.4 General**

12.4.1 A Party making a request for access to or copies of Information under this Agreement shall:

- (a) make the request at a reasonable time before the Information is required, having regard to the nature and extent of the Information the subject of the request; and
- (b) make the request in writing and specify in reasonable detail the nature and scope of the Information the subject of the request.

12.4.2 Without prejudice to other provisions in this Agreement that require Information to be provided in a specific format, nothing in this clause requires a Party to provide Information:

- (a) that it does not have or could not reasonably obtain;
- (b) in a form or medium in which it does not already exist or could not reasonably be converted to the required form or medium;
- (c) where such disclosure would be in breach of a confidentiality obligation owed in relation to the Information or a restriction on disclosure applicable to the Information under its Board Licence or TSO Licence (as the case may be);
- (d) about its internal business affairs, including terms of employment.

12.4.3 Where Information does not exist or is not collected in a form required by either Party in order to fulfil its Transmission System Obligations, each Party shall, subject only to any necessary regulatory approval comply with any reasonable request for the installation of equipment to enable collection of Information required by the other and for the maintenance of that equipment.

### **12.5 Document Index**

- 12.5.1 The Parties shall co-operate to create and maintain a computerised Document Index, which will be used to facilitate management of the various documents passing between the Parties under this Agreement. The Document Index shall comprise a list of pertinent Information on the current status of each document created or revised under this Agreement. Preparation and maintenance of the Document Index will be based on the following principles:
- (a) The Index will be divided by Information type and by document type. Routine correspondence will not be listed in the Document Index;
  - (b) Without prejudice to the Operational Safety Standards pertinent details of relevant documents will be entered and maintained by the Party creating or revising the document under this Agreement;
  - (c) Each party will have read access to all areas of the Document Index;
  - (d) Neither Party can use the Document Index to take precedence over any procedure arising from this Agreement;
- 12.5.2 In view of the complexity of document exchanges the Parties will co-operate to investigate the feasibility of using a fully computerised document management system and if it is considered feasible shall implement such a system subject to the approval of the necessary resources by the Commission.

## **13 PUBLICITY**

Each party is responsible for publicity in relation to its Transmission System Obligations. The Parties shall co-operate as appropriate to matters of common concern.

## **14 HEALTH AND SAFETY**

### **14.1 Responsibility**

- 14.1.1 The TSO is responsible for setting and maintaining the safety standards and procedures ("Operational Safety Standards") in relation to its Transmission System Obligations. The TSO shall consult with the Board and give the Board a reasonable opportunity to comment on any proposed changes to the Operational Safety Standards where such change might reasonably be expected to be of relevance to the Board.
- 14.1.2 The Board is responsible for developing and maintaining its Safety Rules. The Board shall implement the Operational Safety Standards in the Safety Rules. The Board shall give the TSO copies of its Safety Rules and any update of them. It shall give the TSO a reasonable opportunity to comment on any proposed changes to the Safety Rules to ensure they are in compliance with the Operational Safety Standards.

14.1.3 Subject to the foregoing sub clauses of this clause 14 the Parties shall co-operate to ensure consistency between the Operational Safety Standards and the Safety Rules and to implement the principle that persons undertaking activities on the Transmission System are required to have regard to only a single set of safety standards and procedures.

## **14.2 Compliance**

14.2.1 Each Party shall, and shall ensure that its officers, employees, agents and contractors observe and comply with the Operational Safety Standards and the Safety Rules in the performance of Transmission System Obligations insofar as they are applicable.

14.2.2 Each Party shall comply with all applicable provisions of the Health and Safety Acts.

14.2.3 Both Parties shall ensure that all their respective agents who are employed or hired to carry out any operations, construction and/or maintenance works on the Transmission System shall be properly trained and qualified to undertake the works for which they are employed or hired to perform. The Parties shall provide to each other on request and on reasonable notice such training as the requesting Party may require in order to enable it discharge its Transmission System Obligations and which can only or most advantageously be provided by the Party requested.

## **14.3 Supervisors**

14.3.1 The Board shall appoint a Project Supervisor (Design). The Board shall appoint a Project Supervisor (Construction) under the Health and Safety Acts:

(a) prior to the commencement of each Maintenance Period in respect of maintenance works; and

(b) in respect of each Development Project.

14.3.2 The Board shall notify the TSO of the "competent person" who has been appointed as such under the Health and Safety Acts by the Board:

(a) prior to the commencement of each Maintenance Period in respect of maintenance works; and

(b) in the Project Agreement relating to each Committed Project.

## **15 CONFIDENTIALITY**

### **15.1 Obligation of confidentiality**

15.1.1 Each Party agrees that, in respect of Confidential Information in relation to which it is the Recipient, and subject to the exceptions in clause 15.1.2, it will:

- (a) maintain the confidentiality of all such Confidential Information;
- (b) use such Confidential Information exclusively for the purpose for which it is provided (which, unless the Party can demonstrate otherwise, will be for the purposes of fulfilling its Transmission System Obligations);
- (c) not disclose such Confidential Information to any person.

15.1.2 The exceptions referred to in clause 15.1.1 above are:

- (a) subject to clause 15.2, where the Recipient needs to disclose the Confidential Information to its officers, employees, agents and contractors who need to have such Confidential Information for the purpose for which it was provided;
- (b) where the Confidential Information is required to be disclosed pursuant to a statutory or other legal obligation, pursuant to any judicial or arbitral process or tribunal of competent jurisdiction or by order of a competent regulatory body;
- (c) where expressly permitted or required to be disclosed under the terms of any agreement or arrangement (including the Grid Code, the Distribution Code, the Metering Code and the Trading and Settlement Code) with the person to whose affairs such Confidential Information relates.

## **15.2 Disclosure to employees etc**

15.2.1 Disclosure to officers, employees, consultants and contractors is subject to the further requirements in this clause 15.2.

15.2.2 The Recipient shall inform such officers, employees, consultants and contractors of the confidential nature of such Information.

15.2.3 The Recipient shall comply with any obligations under its TAO Licence or its TSO Licence (as the case may be) to procure that each such person to whom disclosure is made agrees to maintain the confidentiality of the Confidential Information. The Recipient shall furnish, within 3 days of a request by the other Party, a list of all the persons who have executed such an agreement and who is still an officer, employee, agent or contractor of the Recipient.

15.2.4 In the case where the Board is the Recipient, then in disclosing Confidential Information to:

- (a) senior managers of the Board who have management responsibilities related to the Board's Transmission System Obligations and also for the power generating activities or

who negotiate relevant commercial agreements with the TSO (such as in relation to ancillary services or system support arrangements); or

(b) board members of the Board,

then the Board will maintain appropriate arrangements to ensure that such information is not disclosed to any such person in a manner that would or might provide ESB's power generating business with a competitive advantage in relation to other actual or potential independent power producers or otherwise be incompatible with any licence Obligations of the Board regarding business separation or trust and confidentiality undertakings.

15.2.5 The Board acknowledges and undertakes that except as provided in clause 15.2.4 or except with the prior written consent of the TSO, no Confidential Information of the TSO shall be disclosed by the Board to any officers or employees in the Power Generation Business Unit of the Board as it may be constituted from time to time.

15.2.6 The Board shall procure that if an officer or employee who has received Confidential Information of the TSO transfers to a different business unit of the Board where such Confidential Information is not required for the Board's Transmission System Obligations, the officer or employee concerned shall not bring any Confidential Information with them and will continue to adhere to the terms as to confidentiality under which the Confidential Information was provided to them.

### **15.3 Redelivery**

The Recipient in relation to Confidential Information shall re-deliver to the Disclosing Party on demand by the Disclosing Party, any Confidential Information of the Disclosing Party in its possession and shall not retain any copies, extracts or other reproductions in whole or in part of such Confidential Information. Each Party further agrees that all documents, memoranda, notes and other writings whatsoever prepared by that Party or its officers, agents employees or contractors based on or arising from or in connection with the Confidential Information or any of it shall be destroyed except for such document, memorandum, note or other writing that must be retained as a requirement of good corporate governance or as a requirement of law.

## **16 ENERGISATION, DE-ENERGISATION AND DECOMMISSIONING**

16.1 The TSO shall be solely responsible for authorising the energisation and de-energisation of any part of the Transmission System, and the Board shall only take action to energise or de-energise any part of the Transmission System if it has obtained the TSO's prior authorisation or instruction.

16.2 The Board shall comply in a timely manner (and where specified by the TSO in its notice to the Board, urgently) with the TSO's instructions relating to the energisation and de-energisation of any part of the Transmission System. Where energisation and de-energisation are carried out

automatically by equipment designed for the purpose (or otherwise), the settings of such equipment shall be determined by the TSO.

- 16.3** Where the TSO determines that any part of the Transmission System is to be de-commissioned, the TSO shall include the necessary work in its Development Plan and such work shall be included in a Development Project and associated Project Agreement. The Board shall have no right to make any determination in relation to decommissioning or to decommission the Transmission System without the prior written authorisation or instruction of the TSO.

## **17 EMERGENCIES**

- 17.1** Nothing in this Agreement prevents either Party from doing or omitting to do any act in circumstances where they are entitled to do or omit to do an act under Regulation 18(7). Accordingly:

- (a) where, in the opinion of the TSO, an emergency occurs where the safety or security of persons, apparatus or installations or system security is threatened, the TSO may take whatever safeguarding or remedial measures it thinks fit to remedy the emergency, and shall inform the Commission and the Board forthwith of the nature of the emergency and the action taken or proposed to be taken;
- (b) where, in the opinion of the Board, an emergency occurs where the physical safety or security of persons is threatened, then the Board shall, subject to the Operational Services Arrangements, take whatever safeguarding or remedial measures it thinks fit to remedy the emergency or prevent the emergency, and shall inform the Commission and the TSO forthwith of the nature of the emergency and the action taken; and
- (c) when, in the opinion of the Commission, the emergency referred to in clauses 17.1(a) or 17.1(b) has been remedied to the Commission's satisfaction, the Commission may direct the TSO to cease the safeguarding or remedial measures it is taking and to make such arrangements as are provided for in the Statutory Instrument for any further maintenance, development or other work on the Transmission System as may be necessary.

- 17.2** If and to the extent that the TSO considers it appropriate to do so, the TSO may take over the safeguarding or remedial measures taken by the Board under clause 17.1(b) and insofar as it does so the TSO shall do so in accordance with the emergency operational procedure as set out in the Operational Services Arrangements.

- 17.3** The Parties shall co-operate to develop plans for dealing with any Emergency and restoring service after any Emergency.

## **18 INDEMNITIES AND LIMITATION OF LIABILITIES**

## 18.1 Definitions

“Board”	means the Board in its capacity as owner of the Transmission System but not in any other capacity and (in that capacity) its directors, officers, employees, contractors and agents, but does not include the TSO even when acting in its capacity as agent of the Board as contemplated under this Agreement
“Constraint Cost”	means any loss damage, cost, demand, suit, liability, fine, penalty or expense whether incurred by the TSO or any other person in respect of constraints on the transportation of electricity using the Transmission System or entry to or exit from the Transmission System howsoever arising and including whether due to the size of the Transmission System, planned or unplanned outages, faults, unavailability or arising through the operation of any code or contract.
“TSO”	means the TSO and its directors, officers, employees, contractors and agents but does not include the Board even when acting in its capacity as agent of the TSO as contemplated by this Agreement
“Liability Amount”	€130,000 per occurrence
“Liability Cap”	means €1.3m. in any calendar year.

## 18.2. No Liability for Force Majeure

Neither Party shall be liable for any breach of this Agreement directly or indirectly caused by Force Majeure.

## 18.3 Liability for Direct Loss

Subject to clauses 18.5 and 18.7, the total liability of either Party to the other Party, whether in contract, warranty, tort (including negligence), breach of duty, strict liability, or any other legal or equitable principle, in respect of any

- (a) breach of this Agreement;
- (b) failure to comply with any procedure, rule, instruction or direction given under or referred to in this Agreement or the Statutory Instrument;
- (c) physical damage occasioned to the property of the Board or the TSO (as the case may be)



- (d) the liability of the Board or the TSO (as the case may be) to any other person for loss in respect of physical damage caused directly to the property of such other person;
- (e) in the case of the Board, breach by the Board acting in its capacity as owner of the Transmission System of a statutory duty owed to the TSO;
- (f) in the case of the TSO, breach by the TSO of a statutory duty owed to the Board;
- (g) any other matter relating to this Agreement or any Transmission System Obligation,

shall not exceed in respect of (i) any one event or series of connected events the Liability Amount and (ii) the aggregates of all liability of either Party to the other for all occurrences during any calendar year the Liability Cap.

18.4 Not used

#### **18.5 Liability**

Nothing in this Agreement shall exclude or limit the liability of the Board or the TSO (the "Party Liable") for death or personal injury resulting directly from the negligence of the Party Liable or any of its officers, employees, contractors, and agents and the Party Liable shall indemnify and keep indemnified the other Party (the "Party Not Liable"), its directors, officers, employees, contractors and agents from and against any losses, damage, claims, liabilities, costs or expenses which the Party Not Liable, its officers, employees and agents may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the Party Liable or the negligence of any of its directors, officers, employees, contractors, or agents acting in the course of their duties for the Party Liable (such claim hereunder in this clause 18 being referred to as an "Injury Claim"). For the purposes of this clause 18, a reference to the Board (whether as the Party Liable or the Party Not Liable) is a reference to the Board in its capacity as owner of the Transmission System but not in any other capacity, and a reference to an agent of the Board does not include the TSO even when acting in its capacity as agent of the Board as contemplated by this Agreement.

#### **18.6 Taking Over of Injury Claims**

In the event of any Injury Claim, being made against the Party Not Liable, the Party Liable shall be promptly notified of the Injury Claim and may, at the Party Liable's own expense, conduct all negotiations for the settlement of the same, and any litigation that may arise from

the claim. The Party Not Liable shall not, unless and until the Party Liable has failed to, within twenty (20) Business Days of receiving notice from the Party Not Liable requesting it to do so, unconditionally agreed in writing to take over the conduct of the negotiations or litigation in respect of the Injury Claim, make any admission which might be prejudicial to the claim. The conduct by the Party Liable of such negotiations or litigation shall be conditional upon the Party Liable having first given to the Party Not Liable an indemnity supported by such reasonable security as the Party Not Liable shall from time to time notify the Party Liable that it requires to cover the amount ascertained or agreed or estimated, as the case may be of any losses, damages, claims, liabilities, costs or expenses for which the Party Not Liable may become liable in respect of the Injury Claim. The Party Not Liable shall, at the request of the Party Liable, afford all reasonable assistance for the purpose of contesting the Injury Claim, and shall be paid by the Party Liable (within ten (10) Business days of the date of its invoice therefor) all reasonable expenses incurred in so doing. This clause shall have effect subject to its being consistent with the stated claim condition of an insurance policy covering the Injury Claim. If the terms of the insurance policy are different the conditions of the insurance policy take precedence.

**18.7 No Liability for Economic Loss, etc.**

Subject to clause 18.5 neither Party nor any of its officers, directors, employees, contractors or agents shall in any circumstances whatsoever be liable to the other Party for:

- 18.7.1. any loss of profit, loss of revenue, loss of use, loss of contract (other than this Agreement), loss of Sales Arrangements or loss of goodwill; or
- 18.7.2. any indirect or consequential loss, incidental or special damages or punitive damages; or
- 18.7.3. any Constraint Cost; or
- 18.7.4. any loss resulting from the liability of the other Party to any other person howsoever and whensoever arising save as provided in clauses 18.3 (d), and 18.5.

regardless of whether suffered by the other Party or not and regardless of whether the claim is based on contract, warranty, tort (including negligence), breach of duty, strict liability, or any other legal or equitable principle.

**18.8 Rights and Remedies Exclusive**

The rights and remedies provided by this Agreement to the Parties are exclusive and not cumulative and exclude and are in place of all substantive (but not procedural) rights or remedies expressed or implied and provided by common law or statute in respect of the

subject matter of this Agreement, including without limitation any rights either Party may possess in tort which shall include without limitation actions brought in negligence and/or nuisance. Accordingly, each of the Parties hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute, and releases the Other Party, its officers, employees and agents to the same extent from all duties, liabilities, responsibilities or obligations provided by common law or statute in respect of the matters dealt with in this Agreement and undertakes not to enforce any of the same except as expressly provided herein.

## **18.9 Severability**

Each of the provisions of the provisions of this clause 18 shall:

18.8.1 be construed as a separate and severable contract term, and if one or more of such provisions is held to be invalid, unlawful or otherwise unenforceable the other or others of such provisions shall remain in full force and effect and shall continue to bind the Parties; and

18.8.2 survive termination of this Agreement.

## **18.10 Privity of Contract**

Each of the Parties agrees that the other Party holds the benefit of this clause 18 for itself and as trustee and agent for its officers, directors, employees and agents.

## **18.11 No Limitation on Enforcement of Obligations**

For the avoidance of doubt:

18.12.1 nothing in this clause 18 shall prevent or restrict either Party enforcing any obligation (including suing for a debt) owed to it under or pursuant to this Agreement.

18.12.2 each Party acknowledges and agrees that the provisions of this clause 18 are fair and reasonable having regard to the circumstances as at the date hereof.

## **18.12 Co-operation**

Both Parties acknowledge and agree to co-operate fully with each other in the management and containment of any liability if and when it arises.

## **Insurances**

## **18.13 Insurance Coverage**

The Board shall take out maintain or procure the taking out and maintenance at all times during the validity of this Agreement insurances appropriate to the requirements of the Parties in accordance with this Agreement.

Such insurances shall extend to damage suffered by the TSO and its directors, officers, employees, contractors and agents including and not limited to such persons authorised by the TSO.

#### **18.14 Evidence of Insurance Cover**

18.14.1 The Board shall furnish to the TSO copies of insurance policies effecting the insurance referred to in this clause 18.13 in terms (including levels of excess, limits of cover and territory) reasonably acceptable to the TSO and in accordance with the terms of this Agreement shall furnish proof that all relevant premia have been paid, that the relevant policy or policies remain in existence and that the TSO's interest is endorsed thereon.

18.14.2 If at any time the Board considers that any of the insurances specified in this clause 18.14 can only be obtained at unreasonable commercial rates of premium, it may, by notice in writing to the TSO, request that the Parties should meet in order to discuss alternative risk financing options.

### **19 PERIODIC REVIEW AND REPORTING**

#### **19.1 Periodic Review**

19.1.1 The Parties shall review the provisions of this Agreement annually, the first such review commencing on the first anniversary of the Effective Date and subsequent reviews unless otherwise agreed commencing on each subsequent anniversary of that date, with a view to assessing the extent to which the Agreement is facilitating the discharge of each Party's Transmission System Obligations.

19.1.2 In carrying out such a review, each Party shall provide to the other Party such information, views and feedback as the other Party may reasonably require in relation to the other Party's performance under this Agreement and shall provide its views on the operation and effectiveness of this Agreement.

19.1.3 Unless otherwise agreed by the Parties, a review is taken to have ended 2 months after it starts.

19.1.4 Each Party shall bear its own costs and expenses of reviews. Each Party shall continue to perform its obligations under this Agreement during the course of reviews.

## **19.2 Annual reporting**

19.2.1 Within two 2 months of the end of a review, each of the Parties shall submit to the Commission their independent reports under Condition 2(4) of the TSO Licence and the TAO Licence, as applicable. Each report shall include the Party's:

- (a) recommendations for modifications to this Agreement; and
- (b) commentary on the overall operation of this Agreement.

## **20 NEW REQUIREMENTS**

**20.1** The Board shall comply with any requirements considered necessary by the TSO to enable the TSO to discharge its Transmission System Obligations ("New Requirement"). In order to enable the Board to plan its business effectively, the TSO agrees to follow the procedure in this clause 20.

**20.2** In the circumstances contemplated by clause 20.1 and not already provided for elsewhere in this Agreement the TSO shall give notice ("New Requirement Notice") to the Board, copied to the Commission. A New Requirement Notice shall specify in reasonable detail the nature of the New Requirement including the assets or services that the TSO requires the Board to provide to it and the time frame in which the TSO proposes that the New Requirement would be implemented.

**20.3** A New Requirement Notice shall be given a reasonable time before the TSO proposes that the New Requirement would be implemented insofar as practicable, and taking into account all relevant circumstances including the procedures for the Parties to reach agreement on the New Requirement and to obtain a direction from the Commission.

**20.4** The Board shall consider the proposed New Requirement and make an assessment of the likely costs and other implications of complying with the New Requirement and shall respond to the New Requirement Notice, copied to the Commission, within a reasonable time.

**20.5** The TSO shall if asked to do so by the Board attend meetings with the Board to discuss any proposed New Requirement and the Board's response and must consider any change proposed by the Board to the New Requirement.

## **21 TSO STEP-IN RIGHTS**

### **21.1 Procedure for obtaining Step-in Direction**

21.1.1 If the TSO considers that the Board is in delay or default of its construction or maintenance obligations under this Agreement, the TSO may give notice to the Board, with a copy to the

Commission, stating its concerns, indicating that in its opinion there is such a delay or default and providing all information as may be required to substantiate the claim.

21.1.2 The Board must respond to the notice under clause 21.1.1 within 14 days after it is given. This response shall be addressed to both the TSO and the Commission and should:

- (a) if the Board accepts that there is a delay or default, explain in detail the steps the Board proposes to take in order to reduce, minimise or alleviate the delay or default; or
- (b) if the Board does not accept that there is a delay or default, explain in detail its reasons (together with supporting evidence).

21.1.3 The Commission is the sole determinant as to whether there is a delay or default by the Board, which it shall determine once it has considered the TSO's notification pursuant to clause 21.1.1 and the Board's response pursuant to clause 21.1.2. The Commission is also the sole determinant of the appropriate response to the notices and the Parties shall abide by its determination in that regard, including any conditions of that determination, whether that is to:

- (a) require implementation of the proposals put forward by the Board (referred to in 21.1.2(a));
- (b) instruct that additional or alternative steps be taken by the Board to reduce, minimise or alleviate any delay or default;
- (c) give a direction to the TSO to step in ("Step-in Direction");
- (d) accept the Board's response under clause 21.1.2(b) and determine that the Board is not in delay or default.

21.1.4 If exceptional circumstances exist such that the standard step-in procedure set out in clause 21.1.1 and 21.1.2 is inappropriate the TSO may, in its notice under clause 21.1.1, request the Commission to make its determination under clause 21.1.3 as a matter of urgency and without first having a response from the Board.

## **21.2 Step-in**

21.2.1 If the Commission gives a Step-in Direction, then the TSO shall give notice ("Step-in Notice") to the Board of the time from which it intends to step-in. The TSO shall, subject to the terms of the Step-in Direction, be entitled to elect to perform the step-in activities:

- (a) itself;
- (b) by engaging an Approved Contractor; or

(c) stepping into the existing contractual arrangements that the Board has with an Approved Contractor as described in clause 21.2.5.

21.2.2 The Board shall do all things reasonably necessary to co-operate with the TSO to enable the TSO fully and effectively to comply with the Step-in Direction.

21.2.3 The TSO shall undertake step-in activities in accordance with Prudent Utility Practice.

21.2.4 The TSO shall use only Approved Contractors for construction works, maintenance works and procurement of Materials.

21.2.5 If requested by the TSO, the Board shall execute Notices of Appointment of Agent in favour of the TSO (as contemplated by the provision in TSO Relevant Contracts set out in clause 21.4) as necessary to give effect to the Step-in Direction. Where the TSO steps-in to contractual arrangements with an Approved Contractor in this manner it shall, for the Step-in Period, assume joint and several liability with the Board to such Approved Contractor, benefit from the rights under the TSO Relevant Contract and, to the exclusion of the Board, be entitled to deal with such Approved Contractor in respect of the Approved Contractor's performance of the TSO Relevant Contract as if it were the counter party to the contract in place of the Board.

21.2.6 The Materials and other items constructed or maintained by the TSO during the Step-in Period remain, or will be, the property of the Board in respect of which the Board will be required, after the end of the Step-in Period, to discharge its Transmission System Obligations. In exercising rights under existing TSO Relevant Contracts or entering into any new TSO Relevant Contracts for the purposes of exercising its step-in rights, the TSO shall have regard to the longer term position of the Board by ensuring, for example, that:

(a) ownership of the Materials and other items is clear;

(b) the Board has the benefit of express and implied warranties and obligations to repair defective materials or workmanship and similar obligations of the Approved Contractor. The Board shall co-operate with the TSO to enable it to come to a suitable arrangement by, for example, executing agreements as requested by the TSO in order to enable it to take over these obligations at the end of the Step-in Period.

21.2.7 Step-in does not relieve either Party from its general obligations under this Agreement (other than, in the case of the Board, the obligations the subject of step-in).

### **21.3 Step-out**

The TSO shall give reasonable notice ("Step-out Notice") of the date from which it will cease to exercise step-in rights.

## **21.4 TSO Relevant Contracts**

21.4.1 Unless otherwise agreed in writing by the TSO there shall be included in every TSO Relevant Contract the Board enters into a right to assign the TSO Relevant Contract to the TSO and an acknowledgement by the counterparty to the contract substantially in the following form:

“On receipt of a Notice of Appointment of Agent substantially in the specified forms in this agreement, duly executed by or on behalf of the Board and the TSO, the Contractor acknowledges and agrees that the TSO shall be entitled to exercise the rights of the Board under this agreement in all respects as if it were the Board until such time as a notice of revocation of the appointment is given by the Board. This clause is without prejudice to the other rights and liabilities of the parties under this agreement and shall not in any way relieve a party from its obligations under this agreement, which shall continue in accordance with its terms following the appointment of the TSO as agent for the Board and revocation of that appointment.”

## **21.5 Costs**

21.5.1 The Board may engage an independent, suitably qualified person to undertake a review of the matters in respect of which the TSO has been given a Step-in Direction, both at the time the TSO steps in and at the end of the Step-in Period. For this purpose, the TSO agrees to allow the person undertaking the review reasonable access to the works the subject of the Step-in Notice as necessary to enable the report to be completed in a professional, efficient and timely manner.

21.5.2 The Board shall pay the costs of the TSO in connection with the exercise of step-in rights as directed by the Commission, subject to this clause.

21.5.3 The TSO shall notify the Board of amounts to be paid arising from activities undertaken as a result of the step-in direction and the Board shall discharge all such payments as notified. The TSO shall report regularly to the Board and the Commission in relation to the costs for which it seeks payment under this clause. The TSO shall separately identify costs directly associated with the performance of the activities the subject of the Step-in Direction and other ancillary costs such as legal and advisory costs.

21.5.4 The TSO shall regularly update the Board about amounts to be paid to contractors under TSO Relevant Contracts.

21.5.5 The Board shall not be liable to pay costs that were not properly incurred by the TSO. The costs will be taken not to have been properly incurred where they were incurred due to breach of this Agreement or any TSO Relevant Contract caused by any act or omission of the TSO (other than where such breach was expressly authorised in advance by the



Commission) or the negligence or other unlawful conduct of the TSO or its officers, employees, agents or contractors.

21.5.6 The TSO shall not compromise or settle any claim made by either party to a TSO Relevant Contract to which the Board is a party or any dispute under such a contract nor make any admission prejudicial to the Board in relation to such a claim or dispute except with the prior consent of the Commission.

## **21.6 General**

Without prejudice to this clause 21, the TSO will use its reasonable endeavours to give the Board as much warning as possible if it reasonably considers that grounds for seeking a Step-in Direction have or may arise thereby giving the Board an opportunity to take steps to address concerns of the TSO about delay or default at an early stage.

## **22 REPRESENTATIONS AND WARRANTIES**

22.1.1 Each Party represents and warrants to the other that for the duration of this Agreement:-

that dealings with the assets forming part of the Transmission System (including by way of disposal, creation of encumbrances and additional use) are governed by Regulations 9 (1), 9(3)(b), 19(d), 19(e) and 9(f), Conditions 5 and 6 of the TAO Licence and Conditions 10 and 11 of the TSO Licence.

## **23 DURATION AND TERMINATION**

23.1 Subject to clause 3, this Agreement shall be come into effect on the date hereof and shall continue in force until terminated in accordance with this clause 23.

23.2 Either Party may by notice to the other terminate this Agreement if as a result of repeal or amendment of the Statutory Instrument the Parties are no longer required by the terms of the Statutory Instrument (or any amendment or replacement of it) to enter into an infrastructure agreement or any other agreement, of whatever title, having substantially the same objectives as the infrastructure agreement.

23.3 Each of the following shall constitute a Termination Event in respect of a Party (the "Defaulting Party"):

- (a) the Defaulting Party has its TSO Licence or its TAO Licence (as the case may be) revoked or withdrawn or surrenders such Licence;
- (b) if an order of the High Court is made or an effective resolution passed for its insolvent winding up or dissolution;

- (c) if a receiver (which expression shall include an examiner within the meaning of Section 1 of the Companies Amendment Act, 1990 (of the whole or any material part of its assets or undertakings) is appointed; or
- (d) if it enters into any scheme of arrangement (other than for the purposes of a solvent reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by of the other Party); or
- (e) if it is unable to pay its debts within the meaning of Section 214 of the Companies Act 1963 (and the Party shall not be deemed to be unable to pay its debts if any demand for payment is being contested in good faith by the Party with recourse to all appropriate measures and procedures) and for the purposes of this sub-clause Section 214 of the Companies Act, 1963 shall have effect as if for “£1,000” there was substituted EUR 1,000,000;

**23.4** If a Termination Event has occurred and is still continuing and the Commission has given its prior written express consent in respect of the particular Termination Event to termination under this clause, the Party that is not the Defaulting Party may, by notice to the Defaulting Party terminate this Agreement.

## **24 Not used**

## **25 DISPUTE RESOLUTION**

### **25.1 Amicable resolution**

25.1.1 The Parties shall establish a Standing Committee comprising the two Relationship Managers. Each Party shall ensure that it has a Relationship Manager appointed at all times throughout the term of this Agreement.

25.1.2 Any Dispute between the Parties under or in connection with this Agreement or any Project Agreement shall, without prejudice to clause 21 (Step-in) be referred in the first instance to the Standing Committee. The Party raising the Dispute shall, if requested by the other Party, set out the essence of its case in writing and the other Party shall respond in writing if requested to do so. The Standing Committee shall meet within (5) Business Days (or sooner if either of the Parties notifies the other Party that the matter is urgent or of high importance) and shall discuss the matter and negotiate in good faith using all reasonable endeavours to resolve the Dispute amicably.

25.1.3 If the Standing Committee is unable to resolve the Dispute or difference within (10) Business Days of the matter being referred to it, either Party may refer the matter to the Chairperson of each Party who shall meet within (10) Business Days of the matter being referred to them.

The Chairpersons shall discuss the matter and negotiate in good faith using all reasonable endeavours to resolve the Dispute amicably.

25.1.4 If the Chairpersons are unable to resolve the Dispute or difference within (15) Business Days of the matters being referred to them, then subject to clause 25.2, either Party may refer the Dispute for determination by the Commission under clause 25.3.

## **25.2 Expert determination**

25.2.1 If a Dispute is subject to determination by an Expert under this clause 25.2, the Chairpersons shall seek to agree the identity of an Expert within a further (2) Business Days after expiry of the 10 Business Day Period referred to in clause 25.1.3.

25.2.2 If the Chairpersons are unable to or fail to agree on the identity of an Expert in accordance with clause 25.2.1 then either Party may request the President of the Institution of Electrical Engineers (or a Vice-President or deputy for the time being if the President is unable to exercise the functions conferred on him by this clause 25.2.2) to appoint an Expert to determine the Dispute.

25.2.3 No person shall be appointed as Expert under this clause 25 in any Dispute in respect of which that individual has any financial or personal interest in the result of the Expert determination except by prior written consent of the Parties. Prior to accepting an appointment the proposed Expert shall disclose to the Parties any circumstances likely to create a presumption of bias or prevent a prompt resolution of the Dispute.

25.2.4 The Parties shall use reasonable endeavours to give effect, in a timely fashion, to the appointment of the Expert on terms consistent with this clause 25.2.

25.2.5 Where a matter is referred to an Expert the procedures to be followed shall be as determined by the Expert subject only to the following:

- (a) the Expert's costs shall be borne initially equally by the Parties, and the Parties shall make such payments on account of his costs as the Expert may reasonably require. However, the Expert shall have power to make an award of costs (including legal costs) in making his determination;
- (b) the Expert shall decide whether the Parties may submit written submissions and evidence, oral submissions and evidence, or both;
- (c) the Expert shall be required to make a final determination within (40) Business Days of the appointment unless the Parties and the Expert agree otherwise. The Expert shall also have power to make an interim determination where an urgent decision is required

to enable critical work to progress; however such interim determination shall be without prejudice to any final determination that the Expert may make; and

(d) in giving the final determination, the Expert shall give reasons in full in writing.

25.2.6 If either Party is not satisfied with the determination of an Expert made under this clause, then it may, within 20 Business Days after the determination is given, refer the Dispute to the Commission for determination in accordance with clause 25.3. If no reference is made within that time, then the decision of the Expert is binding upon the Parties.

### **25.3 Determination by the Commission**

25.3.1 Where a matter is referred to the Commission the procedures to be followed shall be as determined by the Commission and the Commission shall determine the allocation of costs in the Dispute. The Parties shall use their reasonable endeavours to ensure that the Commission makes its final determination within (40) Business Days of the reference unless the Parties and the Commission agree otherwise and that the Commission, in giving the determination, gives its reasons in full in writing.

25.3.2 The Commission acts in its capacity as regulator under the Act and the Statutory Instrument. The decision of the Commission shall be binding upon the Parties in accordance with the Statutory Instrument.

### **25.4 Continuing performance**

Until such time as a Dispute is resolved in accordance with the procedures set out in this clause 25, neither the TSO nor the Board shall take any action which is the subject matter of the Dispute or which would or would be likely to have a material adverse effect on the outcome of the Dispute or would achieve by alternative means a result which is itself the subject matter of the Dispute.

## **26 GENERAL**

### **26.1 Remedies and waivers**

26.1.1 No delay, omission or forbearance by any Party to this Agreement in exercising any right, power or remedy provided by law or under this Agreement shall:

(a) affect or impair that right, power or remedy; or

(b) operate as a waiver of it.

26.1.2 The single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

26.1.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

## **26.2 Invalidity**

26.2.1 If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

## **26.3 No partnership**

26.3.1 Nothing in this Agreement and no action taken by the Parties under this Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the Parties.

## **26.4 Assignment and transfer**

26.4.1 Neither Party may at any time, without the prior written consent of the other Party and the Commission, assign all or any part of the benefit of, or its rights or benefits under, this Agreement.

26.4.2 If at any time:

- (a) another person is licensed as the Transmission System Operator in place of the TSO under Regulation 5; or
- (b) another person is licensed as the Transmission System Owner in place of the Board under Regulation 6.

at the request of the remaining licensed Party, the Parties shall each co-operate and use their reasonable endeavours to transfer the rights and obligations of the outgoing Party under this Agreement (save for any rights and obligations that have accrued at that time) to the new licensed entity.

26.4.3 Neither Party shall make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any other person all or any part of the benefit of, or its rights or benefits under, this Agreement.

## **26.5 Variations**

26.5.1 No amendment, variation or supplement to this Agreement shall be effective unless it is in writing and signed by a duly authorised representative of each Party and has been approved in writing by the Commission.

26.5.2 If either Party wished to propose a modification to this Agreement, it shall notify the other Party in writing setting out reasonable details of the proposed modification and the reasons for it. The other Party shall respond promptly to the proposal.

26.5.3 Following;

(a) agreement (or determination) of a modification in reasonable detail under clause 26.5.2; or

(b) a direction from the Commission to modify the Agreement in accordance with the Statutory Instrument,

then unless otherwise agreed by the Parties, the TSO shall draft the amendments to implement the modification. Those amendments are subject to agreement by both Parties and to approval by the Commission. Each Party shall bear its own costs, including legal costs, of this procedure and the procedure under clause 26.5.2.

26.5.4 The Parties shall promptly execute any document necessary to implement any variation to this Agreement once the detailed drafting is agreed or determined and approved by the Commission.

## **26.6 Rights of third parties**

26.6.1 This Agreement is intended solely for the benefit of the Parties to it. Other than as specifically provided in this Agreement, nothing in this Agreement shall be construed as creating any duty to, or standard of care with reference to, or any liability to, any person who is not a Party.

## **26.7 Entire Agreement**

26.7.1 The terms and conditions of this Agreement shall comprise the entire agreement between the Parties with respect to its subject matter and expressly exclude any warranty, condition or undertaking implied at law or by custom and supersedes all previous agreements or understandings between the Parties with respect to its subject matter. Each Party

acknowledges and confirms that it does not enter into this Agreement in reliance on any representation, warranty or undertaking by the other Party that is not fully reflected in this Agreement.

26.7.2 Nothing in this clause 26.7 shall exclude the liability of either Party for fraud and/or restrict or limit any rights of the Parties under law.

## **26.8 Counterparts**

26.8.1 This Agreement may be executed in any number of counterparts, and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart.

26.8.2 Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

## **27 NOTICES**

### **27.1 Form**

27.1.1 Any notice given under this Agreement shall only be effective if it is in writing. A facsimile message shall be treated as writing and is permitted; electronic mail messages are not treated as being in writing and are not permitted.

27.1.2 Each notice, submission, demand, consent, request or other communication given by one Party to the other under this Agreement shall be in the English language.

### **27.2 Address**

27.2.1 Notices under this Agreement shall be sent to a Party at its address or number and for the attention of the individual set out below:

#### **To the TSO:**

EirGrid plc  
27, Lower Fitzwilliam Street,  
Dublin 2

For the attention of [•]

Fax:

#### **To the Board:**

Electricity Supply Board,  
27, Lower Fitzwilliam Street,  
Dublin 2

For the attention of [•]

Fax:

provided that either Party may change its notice details on giving notice to the other Party of the change in accordance with this clause.

### **27.3 Time notice is given**

27.3.1 Any notice given under this Agreement shall, in the absence of earlier actual receipt, be deemed to have been duly given as follows:-

- (a) if delivered personally, on delivery;
- (b) if sent by post, 2 clear Business Days after the date of posting;
- (c) if sent by facsimile, on receipt of an answerback message indicating that the message has been relayed in full without error,

save that any notice delivered after 17.00 hours (Dublin time) on a Business Day shall be deemed to have been received at 09.00 hours on the next Business Day.

## **28 FORCE MAJEURE**

### **28.1 Notice of Force Majeure**

28.1.1 If a Party is or will be prevented from performing any of its obligations under this Agreement by Force Majeure affecting it or any of its contractors or agents to such extent as may be permitted by this Agreement, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and its expected duration and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within fourteen (14) days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

28.1.2 A Party claiming Force Majeure relief shall give the other Party regular reports during the period of Force Majeure and shall give notice to the other Party when it ceases to be affected by the Force Majeure.

28.1.3 Each Party shall at all times use all reasonable endeavours to minimise any delay in the performance of this Agreement as a result of Force Majeure.

### **28.2 Consequences of Force Majeure**

28.2.1 If a Party is prevented from performing any of his obligations under this Agreement by Force Majeure, of which notice has been given under clause 28.1, that Party shall be excused performance of such obligations for so long as and to the extent such Force Majeure prevents it from performing them.

If any Approved Contractor is entitled under any Works Contract to relief from force majeure on terms additional to or broader than those specified in this clause 28, such additional or



broader force majeure events or circumstances shall not excuse either Party's non-performance or entitle it to relief for the purposes of this clause 28.

**29 GOVERNING LAW AND JURISDICTION**

**29.1** This Agreement shall be governed by and construed in accordance with the law of Ireland.

**29.2** Save as otherwise expressly provided in this Agreement and subject to any provision about resolution of Disputes, the courts in Ireland are to have [exclusive] jurisdiction to settle any matter that falls to be determined arising out of or in connection with this Agreement and that accordingly any legal action or proceedings arising out of or in connection with this Agreement may be brought in those courts and each Party irrevocably submits to the jurisdiction of those courts.

**IN WITNESS** whereof the Parties hereto have entered into this Agreement the day and year first above written:-

SIGNED for and on behalf of  
ESB  
in the presence of:-



Morgan Sheehy

SIGNED for and on behalf of  
EirGrid  
in the presence of:-



Nick Cahill

# **Infrastructure Agreement Schedule 1 – Transitional Arrangements**

## Schedule 1 – Transitional Arrangements

1. Subject to clauses 3.4 and 3.5 for the avoidance of doubt, the Parties acknowledge and agree that the following Schedules are:-
  - (i) complete, namely:

Schedules 1, 2, 3, 4, 7, 10, 13, 14, 15, 16. Please note detailed list of assets and TOL's not completed.
  - (ii) not complete and due to be completed within an appropriate interval, namely:

Schedules 5, 6, 8, 9, 11, 12
2. Further the Parties agree to exchange the date and information and co-operate on all issues needed to implement this Agreement in a timely manner including but not limited exchange of the current list of Approved Contractors, approved operators, safety rules, insurance policies.

The following are examples of the areas that may need to be dealt with. Others areas may be identified as the Agreement is developed.

<b>Clause</b>	<b>Transitional issue</b>
7	The Parties have agreed the treatment of capital works as at 22 December 2004 will be updated on or before the Effective Date.
8	The existing maintenance arrangement shall continue until the new maintenance arrangements under IA become effective.

# **Infrastructure Agreement Schedule 2 – Operational Services**

# Schedule 2 – Operational Services

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# Schedule 2 – Operational Services

## 1. Background

**In this Schedule: “Transmission Operations” means the activities of monitoring and adjusting assets constituting part of the Transmission System where such adjustment primarily affects safety, security, reliability and performance of the Transmission System, where such activities do not materially change transmission plant. The requirements in this Schedule as they affect the Board are applicable to the Transmission Asset Owner only.**

The Parties acknowledge and agree that the monitoring of alarms and the initial response to alarms and faults are operational tasks. The Parties also acknowledge and agree that voluntary switching (otherwise referred to as fault switching) is also an operational task i.e. the isolating and earthing of plant for work is operations whilst the actual task of doing the work is a maintenance activity. Thus applying main earths is operational and applying local earths is maintenance. The Parties note that the same person may often perform both tasks. Thus the Operator-in-Charge may also be the Person In Charge of Work (PICW) as defined in the Safety Rules.

Maintenance activities on the transmission system are excluded from this Schedule.

The procedures governing Operational Services which are set out in this Schedule have been prepared in accordance with the following principles.

- Operational Services form part of the transmission asset owner’s activities under the Infrastructure Agreement.
- Both The TSO and The Board must give priority to the safety of the public, staff, and plant.
- The Transmission System is under the operational control of the TSO as described in the Safety Rules. This control is normally exercised through the National Control Centre.
- The Board’s personnel, except in the case of an Emergency, may make no change to the operational state of the Transmission System without the prior consent or instruction of the TSO.
- The Board will provide details of an organisation structure in accordance with the terms of this Schedule which will deliver the operational services, and report on performance as required by the TAO Licence.
- The Board will monitor and notify the TSO of any events or conditions which affect the operation of the Transmission System
- Both the TSO and the Board will set out the minimum competency standards required of Operations staff to perform all necessary operational duties. The TSO will approve the competency of all TSO operators and the Board will approve the competency of all Board operators.

- All switching will be undertaken by Operators and in accordance with Safety Rules, policies and procedures.
- The Parties shall co-operate when dealing with third parties who wish to work in proximity to the Transmission System.
- The Board shall provide Data services, Scada and Remote Control as agreed with the TSO.
- The Board shall provide access in accordance with Schedule 15 ("Access Protocol").
- Where the Board performs any Operational Service at the request of the TSO and seeks recognition for that Operational Service in the revenue entitlements approved by the CER for the Board, the TSO shall affirm the Board's execution of these Services and the fact that the Service was performed at the request of TSO in the discharge of its Transmission System Obligations.
- This Schedule shall be read in conjunction with Schedule 10.

## **2. Scope**

This Schedule sets out the requirements for the provision of Transmission System Operational Services by the Board to the TSO under the following headings:-

- (i) Operational Services to be provided and the service level to be provided by the Board in respect of such Operational Services;
- (ii) The on-going management and review of service performance and procedures.
- (iii) The appendices shall be reviewed and amended as required.

## **3. Operational Services & Service Levels**

This section identifies the Operational Services required by the TSO and the associated service levels agreed between the TSO and the Board.

In implementing this Schedule, both the TSO and the Board recognise that they must give priority to the safety of the public, staff, and plant.

### **3.1 General Services**

[The Board shall develop and provide to the TSO an organisational structure which shall at all times during the term of this Agreement provide the resources (including personnel at an appropriate level of seniority and in an appropriate geographical distribution) sufficient to enable the Board to discharge its obligations under the Agreement including the performance of operational Services under this Schedule. The Organisation Structure as at the Effective Date is contained in Appendix E. The Board shall notify the TSO of any changes to this structure promptly.

The Board shall, at all times, notify the TSO, as soon as it is aware, of any events or conditions which might affect the safe, secure and reliable operation of the Transmission System in accordance with Schedule 10.

Operational Services cover all aspects of Transmission System operations which require the presence of Operators for observation, monitoring, investigating, attending, switching, reporting and taking actions under the direction of the TSO in accordance with the Safety Rules, the Operational Safety Standards, the Grid Code, and all relevant legal and statutory requirements.

### **3.2 Operators**

Further to clause 14.2.3 of the Infrastructure Agreement the Board and the TSO agree to set out on an annual basis the minimum competency standards required of Operators assigned to perform the Operational Services ("Minimum TSO Training Standards"). The Board undertakes that it shall train sufficient personnel to carry out the services and once they are trained to such standards shall register their names on a register of Operators ("Operators") provided always that Operators shall be available in accordance with Power System Restoration Plan requirements. The Board shall each year provide the TSO in writing with an up-to-date register of Operators. Within any year, any changes to the register of Operators shall be notified on request to the TSO. A higher standard of competence may be set, if required.

The TSO reserves the right to view a copy of any individual Operator's Safety Rules approvals and training record. The TSO, mindful of the personal and employment rights of any individual, reserves the right to query the Board's nomination of an individual Operator included on the register of Operators. The Board shall investigate any such query and the Parties shall agree any remedial actions to be taken. In exceptional circumstances, the TSO may request the assignment of specific Operators to specific tasks and such a request shall not be unreasonably denied.

The TSO shall register its own staff on the register of Operators and assign them to specific tasks as required.



### **3.3 Attendance at stations**

The Board shall ensure that Operators are in attendance at Transmission Stations when required by the TSO, for the observation or monitoring of plant and/or taking of actions when instructed by the TSO. The range of activities shall include but not be limited to:

- Voluntary, Operational and Fault switching,
- Noting the status of relays,
- Re-setting of relays,
- Collecting and recording data,
- Tests associated with the Power System Restoration Plan,
- Planning future Operational switching,
- Plant inspections,
- Attending to and logging signals and alarms,
- Doing all such tasks of an operational character as may reasonably be required by the TSO in the discharge of its Transmission System Obligations.

With regard to Operational Switching, Fault Switching, setting of relays, attending to alarms and/or plant inspection, the Board shall ensure that the Operators are in attendance at Transmission Stations within the required response time as described in Appendix A. Within any year, any changes to the response time for attendance at Transmission Stations shall be communicated by the TSO to the Board in accordance with the Power System Restoration Plan.

All visits, and the activities undertaken in each visit, shall be logged in the control room log. The Control Room Log is intended to be a complete operational record of the Transmission Station. It shall record all fault and voluntary switching, giving reasons for all switching. It shall also record all relay indications, earth faults, routine visits and all abnormal events in the station. The Board's Operators shall follow the instructions inside the cover of the log regarding the completion of the log book and report any reportable incidents or events in accordance with Schedule 10.

Where there has been fault switching, a copy of the log, duly completed, shall be faxed to the TSO, Power System Operations and subsequently posted on completion of the fault switching to the TSO, Power System Operations, in accordance with Schedule 10.

### **3.4 Monitoring of Alarms**

The Board agrees to monitor at all times, in accordance with prudent utility practice, substation alarms and plant condition indicators. In particular the Board agrees to monitor the general station alarm from each Transmission Substation.

The TSO shall notify the Board, in accordance with the Procedure set out in Appendix D, of the alarms, conditions, and events that require immediate attendance. General transmission substation alarms and tripping of plant require immediate attendance except where non-attendance or delayed attendance is specifically agreed with the TSO.

When such an alarm, condition or event occurs, the Board agrees to immediately dispatch an Operator to that Transmission Station.

On investigation of the alarm, the Operator shall report to the NCC his/her findings and make recommendations on a course of action to remedy the situation. NCC shall decide on further actions to be taken and issue instructions as required. The Operator may only leave the Transmission Station with the prior permission of NCC. The findings, and any actions taken, shall be noted in the control room log. The relevant log pages shall be faxed, and subsequently posted, to the TSO, Power System Operations. In addition all alarms shall be reported to the TSO under Schedule 10.

The Board agrees to maintain sufficient on-call Operators to ensure that the response times, as set out in Appendix A, can be maintained.

### **3.5 Third Party Supervision**

The Board shall provide a supervisory service in accordance with prudent utility practice for third parties working on or in close proximity to the Transmission System in order to prevent persons or materials from coming into contact with or unacceptably close proximity to the Transmission System and to ensure that the integrity and performance of the Transmission System is maintained.

When the Board becomes aware that a third party is working in close proximity to the Transmission System and that such work represents a hazard to the safety of personnel or the transmission plant the Board shall use its best endeavours to ensure that the work is suspended until the potential safety issues have been resolved. If the third party refuses to cease work the Board's best endeavours may include an application for intervention on foot of a court order or by an appropriate statutory authority which may include the Health and Safety Authority. The Board shall report the incident to the TSO as soon as possible as set out in Schedule 10.

The parties shall co-operate in investigating any such incident and in developing solutions to alleviate the hazard. These solutions shall be approved by the TSO and implemented by the Board.

The Board shall notify the third party of the solution and shall supervise the implementation of the solution. In addition, the Board shall provide the third party with written documentation outlining the hazards of working near the Transmission System and the Board shall ensure that the third party is provided with details of the precautions to be undertaken to ensure safe working. The Board shall monitor the implementation of the safety measures on a regular basis to ensure continuing compliance.

The Board shall notify the TSO when additional measures need to be taken or where there has been a breach of the safety requirements by the third party.

When the TSO becomes aware that a third party is working in close proximity to the Transmission System it shall inform the Board and request the Board to carry out the above duties.

### **3.6 Investigations**

The Board shall report all safety incidents, mal-operations and near-misses to the TSO in accordance with Schedule 10.

The Parties shall jointly investigate and the TSO shall except where it is agreed otherwise lead all investigations into safety incidents and mal-operations.

### **3.7 Investigation of Faults; Lines and Cables**

The Board agrees to patrol transmission lines and cables when instructed by the TSO. This is normally done following a fault tripping or report of possible damage to line or cable.

Line Patrols consist of a competent person or persons checking the integrity of the transmission line. Patrols are either done by helicopter, vehicle or on foot or by a combination of one or more of the three. The transmission line shall be considered to be live in all cases. The patrol shall check for damage to the line and possible sources of the fault. With the agreement of the TSO, the patrol may be limited to part of the line. This normally occurs where there has been a report of damage or flashover, or where it is possible to locate the fault from the protection relay equipment.

Cable patrols are normally done by vehicle observing for signs of disturbance and, if possible, for sources of the fault along the cable route.

The Board shall begin heli-patrols, vehicular patrols and foot patrols within the timescale specified in appendix A except where otherwise agreed with the TSO, and subject always to safety considerations.

In general, the TSO accept that patrols normally take place in daylight and heli-patrols may not be possible under extreme weather conditions. The TSO may require that the Board check all points where a tripped transmission line crosses a public road at any time, subject always to safety considerations..

Depending on the information gathered in relation to the fault and the criticality of the line or cable a decision on the type and timing of the patrol shall be made by the TSO in consultation with the Board.

The Board agrees to immediately report to the TSO in accordance with Schedule 10 the findings of the patrol including but not limited to any physical damage to the transmission plant, the likely causes of the fault, and reports from third parties indicating likely causes of the fault.

### **3.8 Switching of Transmission Plant**

Switching may only take place on the Transmission System with the prior approval of the TSO.

Switching shall be undertaken by Operators acting under the instruction or consent of the TSO. Switching plans must be prepared by all Operators and must conform to Operational Procedures for the relevant Transmission Station. The TSO may, at its sole discretion, require switching plans to be submitted to it for its prior approval.

The Operator shall report the completion of every switching programme or relay setting change to the TSO except where otherwise agreed. The Operator upon completion of the switching program agrees to report the switching times to the TSO by phone.

### **3.9 Station Inspections.**

Routine inspection of each transmission station shall be carried out, in accordance with Appendix B, to inspect transmission facilities. This inspection shall be carried out by an Operator and noted in the log book.

During the station inspection, all actions set out in Appendix B shall be performed by the Board's Operator.

Any Transmission Station equipment defect, damage or abnormality shall be reported, as soon as discovered, to the TSO in accordance with Schedule 10.

### **3.10 Power System Restoration Service**

The Power System Restoration Plan is an essential component of the TSO's policy towards minimising outages in the event of a full or partial system failure. As such it is vital that this Plan be tested on a regular basis to ensure that the personnel are familiar with the plan and their roles within it and that the established systems, procedures and equipment meet the requirements of the Plan.

The Board agrees to have sufficient Operators available to implement the Power System Restoration Plan.

The Board shall ensure that its Operators are trained in the Power System Restoration Plan. Operators shall be familiarised, within 3 months of the issuing of a revision of the Power System Restoration Plan, with the overall structure of the Power System Restoration Plan, with those elements of the Power System Restoration Plant that pertain to their own area, and with the detailed station Blue Alert procedure. The Board agrees to participate in all tests, as required by the TSO, to validate the Power System Restoration Plan or sections of the Power System Restoration Plan.

To facilitate the implementation of the Power System Restoration Plan as required, the TSO shall organise regular tests of various elements of the Plan. The TSO will give the Board reasonable notice of the details of the tests and the Board agrees to participate in these tests as required by the TSO.

The Board shall participate in the annual Blue Alert tests in accordance with the requirements of the TSO. The Board shall develop and submit for approval detailed Blue Alert procedures for each Transmission Station, consistent with the guidelines set down, in the Power System Restoration Plan, by the TSO.

The provisions of this paragraph shall apply to all operations and activities as they affect the Transmission System.

### **3.11 Request for outages.**

The Board agrees to coordinate requests for transmission line outages in accordance with Schedule 11.

### **3.12 Switching by DCCs**

Certain remote-control and SCADA facilities associated with or relevant to the Transmission System are implemented using the facilities of the Distribution Control Centre. The Board shall perform remote

switching of the Transmission System under the instruction of the TSO using the facilities of the Distribution Control Centre.

The Board agrees to maintain these remote control/SCADA facilities.

All transmission system switching from the Distribution Control Centre shall be recorded by the Board and a copy of this record forwarded to the TSO following completion of the switching.

### **3.13 Development of Operational Procedures**

The TSO shall set the Operational Procedures and Operational Policy for the Transmission System which the Board agrees to comply with. The TSO shall consult with the Board and the Board agrees to cooperate with the TSO in the development of Operational Procedures for the Transmission System.

The Board agrees to ensure that copies of the up-to-date relevant Operational Procedures and Operational Policies are located in each Transmission Station.

The Board agrees to ensure that its Operators are trained in the appropriate Procedures and Operational Policies.

## **4. Communications**

The Board shall establish and maintain an up-to-date list of contact points and details and shall provide such information to the TSO from time to time.

In carrying out their tasks, the assigned Operators shall normally communicate directly with the TSO and take instruction from the TSO except where otherwise agreed.

## **5. Implementation of Services**

The Parties may from time to time develop procedures for the performance of Operational Services. Those currently envisaged include procedures for:-

- Requesting Voluntary outages. *[See Schedule 11]*

- Classification of alarms, conditions, and events. *[See draft in appendix C ]*

- Remote control facilities using the Distribution Control Centre – the TSO requirements [*See draft in appendix D*]
- Escalation of response through TSO's and Board's management structures.

## **6. Monitoring and Review**

The Board and the TSO shall each nominate two staff members to monitor and review the implementation of this Schedule.

This group shall meet regularly (at least quarterly) and shall address the following:

- Implementation of procedures
- Service performance
- Safety performance
- Future plans
- Changes to procedures
- Support of Board's cost recovery position (if required).

This group shall agree detailed procedures for the collection of information and measurement of the performance of the Operational Services and shall produce regular reports (at a minimum annually) regarding the performance of the Operational Services.

## **7. Definitions**

"Blue Alert" has the meaning set out in Grid Code OC9.

"Operator" means a person having sufficient knowledge, training and experience to be competent to work safely as operator of Transmission System equipment and plant in accordance with clause 3.2 above.

"Forced Outage" means the switching out of a component of the Transmission System due to failure, or imminent failure, or for safety reasons where the outage has not been agreed in advance and there is no latitude on its timing.

"Monitoring of alarms" means the transfer of signals to a location where there are continuously monitored by a competent person who shall respond appropriately and in accordance with agreed procedure.

“Operational Services” means the Services set out in Section 3 above.

“Power System Restoration Plan” has the meaning set out in the Grid Code OC9.

“Substation” means a facility at which two or more feeders are switched for operational purposes.

“Transmission circuit fault” mean a fault which results in the automatic opening of circuit breakers initiated by protection without the intervention of staff. Faults may be caused by weather conditions, objects coming into close proximity with the transmission circuit, primary equipment failures, or secondary equipment failures.

“Transmission Station” means a substation which contains transmission equipment and plant.

“Voluntary Outage” means the switching out of a component of the Transmission System to perform work or for safety reasons where the outage is agreed well in advance and is of predetermined duration.



## **APPENDIX B PROCEDURE FOR STATION INSPECTIONS**

Under the terms of this Schedule, all Transmission Stations shall be inspected on a weekly basis for three weeks out of every four. The fourth visit shall be defined as a Maintenance Inspection and the inspection requirements will be as specified in Schedule 9 (Maintenance Policies and Standards).

The following is a generic procedure for weekly station visits. Station-specific procedures may be needed to deal with station-specific actions and checks.

Each Transmission Station must be visited once a week. The visit should be carried out by an Operator.

The visit should be logged in the log book.

Any Transmission Station equipment defect, damage, or abnormality should be reported in accordance with Schedule 10.

During each weekly routine visit, the following should be inspected:

1. protection scheme for indications (which should be logged and reset following inspection of both the signal panel and the relays);
2. signal panel for all other signals and alarms;
3. visual observation of transmission plant;
4. station fence and building for damage or evidence of intruders;
5. - operation of 220V, 48V and 24V battery chargers. It is important to changeover without undue delay from a faulty battery charger to the standby battery charger.  
- 220V, 48V and 24V battery voltage levels;
6. test operate standby generator (if present). Check for adequate fuel reserve;
7. check for operation of surge arrestors (note count);
8. check transformer cooling fan operation and note hydrant(?) levels;

- 9 a copy of the log should be posted weekly to "Log Sheets", Power System Protection, ESB National Grid, D3A, ESB Head Office, Lower Fitzwilliam Street, Dublin, 2;
- 10 correct operation of phones and radio; and
- 11 proving of general station alarm to relevant control centre.
- 12 safety implications

## **APPENDIX C CLASSIFICATION OF ALARMS**

The following alarms shall be considered urgent and require immediate dispatch of an Operator to the relevant substation. In addition, there is a need to designate station specific alarms e.g. for generating station connections and GIS stations.

- General station alarm
- The tripping of any transmission plant
- Blue alert
- Battery Alarms
- Battery changer alarm
- Communications urgent alarm
- Low SF6 Pressure
- Circuit breaker operation blocked.
- Teleprotection alarm
- Fire alarm
- Intruder alarms
- Protection Blocked/fail alarms

**Infrastructure Agreement  
Schedule 3 – Specification of  
Transmission Assets**

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**1. FORMAT OF TRANSMISSION ASSET LIST**

The Transmission Asset List shall take the form outlined in spreadsheet in Appendix 1 'Form of Asset List'.

This includes the form of the asset list for

- Circuits
  - Overhead lines
  - Underground cables
- Station equipment
  - Disconnects
  - Circuit Breakers
  - Voltage Transformers
  - Current Transformers
  - Busbars
- Transformers
- Phase Shifting Transformers
- Reactive Plant
- Mobile Capacitors

## **2. SUMMARY OF AGREED ASSETS**

Colour copies of Single Line Diagrams of all stations to be included.

These SLDs will contain details of the asset boundary at each station and by implication the ownership of the connection (line or cable) between the stations will be obvious.

### 3. PROCESS FOR ADDITION OF AN ASSET TO INFRASTRUCTURE AGREEMENT SPECIFICATION OF TRANSMISSION ASSETS

The IA Specification of Transmission Assets is deemed updated by the issuance by the TSO of a Completion/Acceptance Certificate (as the case maybe). However, the parties have agreed to the following verification procedure to give practical effect to the update:

1. As soon as practical following the issuance by the TSO of a Completion/Acceptance Certificate (as the case maybe) to the TAO, the TAO will complete and sign the attached form TAL\_A and forward in duplicate to the TSO. The TAO will attach to form TAL\_A a complete asset record in the format agreed in this Schedule.
2. As soon as practical on receipt of the form TAL\_A, the TSO will verify the information on the form and sign the form and return a copy of for TAL\_A to the TAO.
3. If the TSO has queries or clarifications on the completed form TAL\_A, it can raise those queries in writing under the cover of Form TAL\_Q. This and all subsequent correspondence shall be retained with Form TAL\_A.

On a periodic basis to be agreed between the parties, the IA Specification of Transmission Assets will be consolidated with the updates. The parties have agreed to cooperate to investigate and implement, if appropriate, computer systems to automate this process.

Data required on Form TAL\_A will include the following:

Project Title and Project Reference Number : The commissioning of all items of new plant follow the process outlined in the Infrastructure Agreement. Each project will have a unique Project Title and Reference Number which will be quoted to enable the project files to be referenced as required.

Asset Name and Asset ID : Each Asset will have a unique title and a unique ID which will be used to identify the Plant item in the Transmission Asset List.

Certificate of Acceptance : No new item of plant may be included in the Transmission Asset List without a valid Certificate of Acceptance. While one Certificate of Acceptance may provide for a number of items of primary plant, a separate Form TAL\_A will be completed for each discrete item of new Primary Plant to be commissioned onto the system.



Attachment of Data Sheets : All information which will be included in the Transmission Asset List (Plant Data and Technical Operating Limits) to be listed and attached to Form TAL\_A in order to have an agreed and signed off record of the data. If items of data are missing for any reason, an explanation will be provided. The item of plant may not be entered on the Transmission Asset List unless both parties agree to accept the reduced data information.

Inclusion of Data on Asset Register : Both parties to satisfy themselves as to the correctness of the data included for the new item of plant prior to signing form TAL\_A.

Queries in relation to the data issued by the Board shall be forwarded by TSO in writing under the cover of Form TAL\_Q. This and all subsequent correspondence shall be retained with Form TAL\_A. Completion of Form TAL\_A and entry of the plant item on the Transmission Asset List shall not be unduly delayed and will be completed within 4 weeks of the date of the Certificate of Completion except in the case where there is disagreement relating to the data.

**ADDITION OF NEW ASSET TO TRANSMISSION ASSET LIST**  
**To be Completed for each discrete item of New Primary Plant**

Form TAL\_A

**Project Title :**

**Project Reference Number :**

**Asset Name :**

**Asset Id :**

**Date of issue of Certificate of Acceptance which includes the Plant Item :**

**Completed Data sheets attached [Y] [N]**

**Are all Data Fields of Asset Title and TOL completed? [Y] [N]**

**Reason for missing data :**

**Signed**

\_\_\_\_\_ **For Board**

\_\_\_\_\_ **For TSO**

**Date :**

**Date Asset List is Updated with New Plant Data : Signed:\_\_\_\_\_**  
**Data Manager**

---

**Circulation :**    **A. N. Other (For Board)**  
                      **B. N. Other (For TSO)**  
                      **Database Manager**

**ADDITION OF NEW ASSET TO TRANSMISSION ASSET LIST**

**Query on Data**

Form TAL\_Q

**Project Title :**

**Project Reference Number :**

**Asset Name :**

**Asset Id :**

**Nature of Query :**

**Date Query Resolved :**

**Date Asset Register is Updated with New Plant Data :**

**Signed**

\_\_\_\_\_  
**For Board**

\_\_\_\_\_  
**For TSO**

**Date :**

\_\_\_\_\_  
**Circulation : A. N. Other (For Board)**  
**B. N. Other (For TSO)**  
**Database Manager**

#### **4. PROCESS FOR CHANGE OF TECHNICAL OPERATING LIMIT OF AN ASSET**

From time to time it may be necessary for either one or other of the parties to request a change to a Technical Operating Limit for an item of plant in the Transmission Asset List. Such changes could arise following :

- tests, calculation, measurements etc. on existing plant
- if a Party discovers an error in the existing list
- a party is in a position to populate an omission in the existing in the TOL
- other

The following process describes the formal manner by which a request to change a TOL is transmitted to the other party and provides a formal mechanism whereby the resolution of any potential disputes may be tracked.

In the event of a Party requiring a change to a TOL, it will complete form TOLC\_P (Transmission Operating Limit Change - Proposal) and will formally issue this to the other party. On receipt of this information and assuming that the receiving Party does not challenge the proposal the TOL will be formally changed and the TOLC\_P signed by a representative of both Parties. Details of the information required to complete TOLC\_P are described below.

In the event of a challenge to the proposal, the challenging party will complete form TOLC\_C (Transmission Operating Limit Change – Challenge) which will outline the reason for the challenge. Details of the information required to complete TOLC\_P are described below. Finally in the event that the parties cannot agree on a change, the issue may be sent for Dispute Resolution, using Form TOL\_D (Transmission Operating Limit Change – Dispute).

#### **Change Proposal**

Form TOLC\_P requires the following information to be provided with an explanation of the requirement for the data where necessary :

- Issuing party : either the Board or TSO
- Proposal Reference Number : each proposal will have a unique reference number for filing and audit purposes
- Asset to which TOL change is proposed : Asset name as in Transmission Asset List.

- Asset ID : Asset Identification as in Transmission Asset List.
- Existing Operating Limit : self explanatory
- Proposed Operating Limit : self explanatory
- Reason for change : Changes can be on the basis of tests, calculation, measurements etc. This mechanism may also be used if a Party discovers an error in the existing list or if there is an omission in the list and a Party has determined the value to be included.
- Additional Information : The proposing party will provide any extra information relating to the proposed change which may assist the receiving party in deciding whether to accept the change
- Date of Issue of form TOLC\_P : self explanatory
- Date of reply from receiving party : The receiving party has the option of accepting the change or of challenging the proposal. Irrespective of which option adopted, the receiving party will be obliged to reply to the issuing party within 20 business days. Otherwise it will be assumed that the receiving party is challenging the proposed change.
- If proposal accepted, the date that the Database is changed : The revised Limit will issue to the database Manager for inclusion in the Transmission Asset List. The date that the List is changed will be noted on Form TOLC\_P as the formal record of the change.
- Change Reference Number : Once the change has been accepted it will be provided with a unique Acceptance Reference Number. It is anticipated that this number will reflect the Proposal Reference Number described earlier.
- Signatures : when the TOL change has been implemented, Form TOL\_P will be signed and dated by representatives of both parties.
- Copies of the Form will be held by each of the parties and by the Database Manager.
- A proposed modification may be withdrawn by the issuing Party by that Party re-issuing Form TOLC\_P with the words 'WITHDRAWN' or similar written on it and signed by a representative of the withdrawing party.

## **Challenge Process**

Should the receiving party challenge a proposed change to a TOL, Form TOLC\_C will be used to record the process.

Form TOLC\_C will contain the following data which is in excess of that provided in TOLC\_P :

- Reason for Challenge : The challenging party will formally reply to the proposing party with its reasons for disagreeing with the proposed change. Should it be required, additional information may be presented on sheets appended to Form TOLC\_C.
- Reply from Proposing Party : The proposing party may reply to the challenge. As above, the reply may be on a separate document appended to Form TOLC\_C. This process may continue for a number of iterations until either the proposal is agreed, the proposed change is withdrawn or no agreement can be reached and the issue is in Dispute.
- If the Proposal is accepted, the Transmission Asset List is modified and signed off by representatives of both parties as described above.
- Change Reference Number : Once the change has been accepted it will be provided with a unique Acceptance Reference Number. It is anticipated that this number will reflect the Proposal Reference Number described earlier.
- If the proposal is withdrawn, the date of withdrawal will be noted on Form TOLC\_C and again, the form will be signed as above.
- Copies of the Form will be held by each of the parties and by the Database Manager.

Finally, if no agreement is possible, the issue is referred to Dispute Resolution using Form TOL\_D.

## **Dispute Resolution**

Should the parties be unable to agree on the change it will be submitted for Dispute Resolution using form TOLC\_D.

Form TOLC\_D will contain the following data which is in excess of that provided in previous forms :

- Date submitted for resolution

- Outcome of Resolution process : either the proposal is accepted on it is rejected.
- Date of issue of dispute resolution decision
- If the Proposal is accepted as a result of the Dispute Resolution process, the Transmission Asset List is modified and signed off by representatives of both parties as described above.
- Change Reference Number : Once the change has been accepted it will be provided with a unique Acceptance Reference Number. It is anticipated that this number will reflect the Proposal Reference Number described earlier.
- Copies of the Form will be held by each of the parties and by the Database Manager

**PROPOSAL FOR CHANGE TO TECHNICAL OPERATING LIMIT**

Form TOLC\_P

**Issuing Party**

**Proposal Reference No :**

**Asset to which TOL Change is proposed :**

**Asset ID :**

**Existing Technical Operating Limit :**

**Proposed Operating Limit :**

**Reason for Change :**

**Additional Information :**

**Date of Issue to Receiving Party**

**Date of Reply from Receiving Party**

**If Proposal accepted :**

**Date Asset List Changed :**

**Change Reference No :**

**Signed**

\_\_\_\_\_  
**For Board**

\_\_\_\_\_  
**For TSO**

**Date :**

**If proposal challenged, date of challenge :**  
(Refer to Form TOLC\_C)

\_\_\_\_\_  
**Circulation : A. N. Other (For Board)**  
**B. N. Other (For TSO)**  
**Database Manager**



**PROPOSAL FOR CHANGE TO TECHNICAL OPERATING LIMIT**  
**Challenge Resolution Process**

Form TOLC\_C

**Proposal Reference Number :**

**Asset to which TOL Change is proposed :**

**Asset ID :**

**If Change proposal challenged reason for challenge :**

**Reply from proposing party :**

**Outcome of Challenge Resolution Process**

Change Proposal Agreed	[ ]
Change Proposal Withdrawn	[ ]
Issue in Dispute	[ ]

**If Change Proposal accepted :**

**Date Asset List Changed :**

**Change Reference No :**

**If Change Proposal withdrawn : date of withdrawn**

**Signed**

\_\_\_\_\_

**For Board**

\_\_\_\_\_

**For TSO**

**Date :**

**If no agreement, date referred to Dispute Resolution Process :**

(Refer to Form TOLC\_D)

\_\_\_\_\_  
**Circulation : A. N. Other (For Board)**  
**B. N. Other (For TSO)**  
**Database Manager**

**PROPOSAL FOR CHANGE TO TECHNICAL OPERATING LIMIT**  
**Dispute Resolution**

Form TLC\_D

**Proposal Reference Number :**

**Date Submitted for Dispute Resolution :**

**Outcome of Dispute Resolution**

Change to be Implemented [  ]

Change Rejected [  ]

**Date of Decision of Dispute Resolution Process :**

**Change Reference No :**

**Signed**

\_\_\_\_\_ **For Board**

\_\_\_\_\_ **For TSO**

**Date :**

**If Change to be implemented :**

**Date Asset Register Changed :Signed:\_\_\_\_\_**  
**Data Manager**

---

**Circulation :** A. N. Other (For Board)  
B. N. Other (For TSO)  
Database Manager

## APPENDIX 1

**[Note: Insert wording when available at end of Appendix]**

### **Definition of Transmission Assets:**

Both parties agree that, in line with CER Direction (CER/01/59), the Carrickmines 110kV busbar and 220/110kV transformers are by definition Transmission Assets. However, for operational reasons and in line with current practice, both the Board and TSO agree that that Carrickmines 110kV busbar and 220/110kV transformers will continue to be classified as if they were Distribution Assets. It is furthermore agreed that the DSO will afford the TSO, particularly in respect of Carrickmines 110kV busbar and 220/110kV transformers, every co-operation in the discharge by the TSO of its statutory obligations.

# CIRCUITS

## OVERHEAD LINES

PHYSICAL CHARACTERISTICS										Technical Operating Limits							ADMINISTRATION					
UNIQUE ASSET IDENTIFIER	CIRCUIT NAME	STRAIGHT NUMBERS	CONDUCTOR TYPE & SIZE	CIRCUIT TYPE	YEAR OF INSTALLATION	NO. EARTH WIRES	STRUCTURE TYPE	STRAIGHT LENGTH (KM)	RATED VOLTAGE (kV)	MAXIMUM ALLOWED CONDUCTOR OPERATING TEMPERATURE TO ACHIEVE REQUIRED GROUND CLEARANCE (°C)	RATED SHORT-TIME WITHSTAND CURRENT (kA)	RATED DURATION OF SHORT CIRCUIT (seconds)	RATED NORMAL CURRENT 3°C AMBIENT (A)	RATED NORMAL CURRENT 19°C AMBIENT (A)	RATED NORMAL CURRENT 25°C AMBIENT (A)	TECHNICAL STANDARD	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	Asset Status		
OCT0178	CSH-PRO	1-6	600 ACSR-CURLEW	DC			1 Steel masts	1.64	220kV	50										01/01/1979		
OCT0178	CSH-PRO	6-16	600 ACSR-CURLEW	SC			0 Steel masts		220kV	50											01/01/1979	
OCT0178	CSH-PRO	16-27	600 ACSR-CURLEW	SC			0 Steel masts		220kV	50											01/01/1979	
OCT0178	CSH-PRO	27-39	600 ACSR-CURLEW	SC			Steel masts		220kV	50											01/01/1979	
OCT0178	CSH-PRO	39-53	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	53-87	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	87-98	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	98-107	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	107-119	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	119-148	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	148-165	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	165-174	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	174-199	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	199-208	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	208-216	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	216-252	600 ACSR-CURLEW	SC			0 Steel masts		220kV	80											01/01/1979	
OCT0178	CSH-PRO	252-253	600 ACSR-CURLEW	SC			0 Steel masts	86.891	220kV	80											01/01/1986	
OCT0179	PRO-TB	1-2	600 ACSR-CURLEW	SC			Steel masts		220kV	80											01/01/1975	
OCT0179	PRO-TB	2-9	600 ACSR-CURLEW	SC			Steel masts		220kV	80											01/01/1975	
OCT0179	PRO-TB	9-20	600 ACSR-CURLEW	SC			Steel masts		220kV	80											01/01/1975	
OCT0179	PRO-TB	20-21	600 ACSR-CURLEW	SC			2 Steel masts	7	220kV	80											01/01/1975	
OCT0179	PRO-TB	21-24	600 ACSR-CURLEW	SC			2 Steel masts	0.563	220kV												01/01/1975	

## CABLES

PHYSICAL CHARACTERISTICS							TECHNICAL OPERATING LIMITS						ADMINISTRATION					
UNIQUE ASSET IDENTIFIER	CIRCUIT NAME	CORE TYPE	CORE CSA	CABLE CONSTRUCTION TYPE	YEAR OF MANUFACTURE	CABLE SECTION LENGTH (KM)	LOCATION OF STOP or TRANSITION JOINTS	RATED VOLTAGE (kV)	RATED NORMAL CURRENT (A)	RATED SHORT-TIME WITHSTAND CURRENT (kA)	RATED DURATION OF SHORT CIRCUIT (seconds)	PERMISSIBLE OVERLOAD RATINGS (A)	TECHNICAL STANDARD(S)	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	STATUS OF ASSET	TOL Change Ref.
	PRO-TB	Al pipe	1647			2.6							IEC 60287					

# STATION EQUIPMENT

**PRIMARY PLANT**

**Disconnects**

PHYSICAL CHARACTERISTICS				TECHNICAL OPERATING LIMITS						ADMINISTRATION				
UNIQUE ASSET IDENTIFIER	MANUFACTURER	MODEL NO.	TYPE	YEAR OF MANUFACTURE	RATED VOLTAGE (KV)	RATED NORMAL CURRENT (A)	RATED SHORT-TIME WITHSTAND CURRENT (KA)	RATED DURATION OF SHORT CIRCUIT (seconds)	TECHNICAL STANDARD(S)	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	Status	TOL Change Ref.
PRO-CSH-220-DA	AEG	Z-7585			220KV	1250						31/01/1986		
PRO-MP-220-DA	AEG	Z-7585			220KV	1250						31/01/1986		
PRO-TB-220-DA	AEG	Z-7585			220KV	1250						31/01/1986		
PRO-CSH-220-DLE	AEG	SEP-245-1600			220KV	1600						31/01/1986		
PRO-MP-220-DLE	AEG	SEP-245-1600			220KV	1600						31/01/1986		
PRO-TB-220-DLE	AEG	SEP-245-1600			220KV	1600						31/01/1986		

**Circuit Breakers**

PHYSICAL CHARACTERISTICS				TECHNICAL OPERATING LIMITS						ADMINISTRATION				
UNIQUE ASSET IDENTIFIER	MANUFACTURER	MODEL NO.	TYPE	YEAR OF MANUFACTURE	RATED VOLTAGE (KV)	RATED NORMAL CURRENT (A)	RATED SHORT CIRCUIT WITHSTAND CURRENT (KA)	RATED DURATION OF SHORT CIRCUIT (seconds)	DUTY CYCLE	TECHNICAL STANDARD(S)	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	Status
PRO-CSH-220-CB	BROWIN BOVERI	ELF-SL-4-2	SF6 OUTDOOR		220KV	3150	40						01/01/1986	
PRO-MP-220-CB	BROWIN BOVERI	ELF-SL-4-2	SF6 OUTDOOR		220KV	3150	40						01/01/1986	
PRO-TB-220-CB	BROWIN BOVERI	ELF-SL-4-2	SF6 OUTDOOR		220KV	3150	40						01/01/1986	

**Voltage Transformer**

PHYSICAL CHARACTERISTICS				TECHNICAL OPERATING LIMITS			ADMINISTRATION					
UNIQUE ASSET IDENTIFIER	MANUFACTURER	MODEL NO.	TYPE	YEAR OF MANUFACTURE	RATED VOLTAGE (KV)	RATED VOLTAGE FACTOR	TECHNICAL STANDARD	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	Status	TOL Change Ref.
PRO-CSH-220-VT	HAEFELY	WEOT-245			220KV					31/01/1986		
PRO-MP-220-VT	HAEFELY	WEOT-245			220KV					31/01/1986		
PRO-TB-220-VT	HAEFELY	WEOT-245			220KV					31/01/1986		

**Current Transformer**

PHYSICAL CHARACTERISTICS				TECHNICAL OPERATING LIMITS						ADMINISTRATION				
UNIQUE ASSET IDENTIFIER	MANUFACTURER	MODEL NO.	TYPE	YEAR OF MANUFACTURE	RATED VOLTAGE (KV)	RATED NORMAL CURRENT (A)	RATED OVERCURRENT FACTOR	RATED SHORT-TIME WITHSTAND CURRENT (KA)	RATED DURATION OF SHORT CIRCUIT (seconds)	TECHNICAL STANDARD	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	Status
PRO-CSH-220-CT	HAEFELY	IOSK-245				220KV							31/01/1986	
PRO-MP-220-CT	HAEFELY	IOSK-245				220KV							31/01/1986	
PRO-TB-220-CT	HAEFELY	IOSK-245				220KV							31/01/1986	

**Busbar**

PHYSICAL CHARACTERISTICS				TECHNICAL OPERATING LIMITS						ADMINISTRATION				
UNIQUE ASSET IDENTIFIER	BUS BAR CONSTRUCTION ARRANGEMENT	CONDUCTOR TYPE & SIZE	YEAR OF INSTALLATION	RATED VOLTAGE (KV)	RATED VOLTAGE (KV)	RATED NORMAL CURRENT (A)	RATED SHORT-TIME WITHSTAND CURRENT (KA)	RATED DURATION OF SHORT CIRCUIT (seconds)	TECHNICAL STANDARD(S)	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	Status	TOL Change Ref.
PRO-220KV-BUSBAR		2 x 600sq.SCA				220kv								

**Real Estate Ownership**  
**Buildings**  
**Land**

Owner  
 TAO  
 TAO

**Secondary Plant**  
**Protection**  
**Control**  
**Shared Services**

Standard installation  
 Standard installation  
 None



## PHASE SHIFTING TRANSFORMERS

### Power Transformer

PHYSICAL CHARACTERISTICS						TECHNICAL OPERATING LIMITS											ADMINISTRATION							
Unique Asset Identifier	Manufacturer	Model No.	Year of manufacture	Winding Arrangement	Winding Connections	MAX CONT. RATING					TEMP. RISE OVER AMBIENT						Applicable Overload Standard	Maximum Overfluxing (V/Hz)	Technical Standards	Cert. Of Acceptance No.	Date of Acceptance	Date of Commissioning	Asset Status	TOL Change Ref.
						Rated Voltage (kV)	Voltage Ratio	Power Rating (MVA)	Short-time Withstand Current (kA)	Duration of short circuit (seconds)	ONAN for each tap (MVA)	ONAF/ OFAF for each tap (MVA)	Top Oil (°C)	Winding (°C)	Hot Spot (°C)									
KLN T2101						220/110		63																

### Tap Changer

PHYSICAL CHARACTERISTICS					TECHNICAL OPERATING LIMITS								ADMINISTRATION				
Unique Asset Identifier	Manufacturer	Model No.	Year of manufacture	No. of Tap Positions	Tap Voltage Range (kV)	Tap Changer Current Rating	Phase Shifting range (kV)	Phase angle regulation range + (advance) - (retard)	Short-time Withstand Current (kA)	Duration of short circuit (seconds)	Applicable Overload Standard	Technical Standard	Cert. Of Acceptance No.	Date of Acceptance	Date of Commissioning	Asset Status	TOL Change Ref.

### Bushing

PHYSICAL CHARACTERISTICS				TECHNICAL OPERATING LIMITS							ADMINISTRATION				
Unique Asset Identifier	Manufacturer	Model No.	Year of manufacture	Bushing Nominal Voltage (kV)	Bushing Nomal Current Rating	Bushing Power Rating	Applicable Overload Standard	Short-time Withstand Current (kA)	Duration of short circuit (seconds)	Technical Standard	Cert. Of Acceptance No.	Date of Acceptance	Date of Commissioning	Asset Status	TOL Change Ref.

## REACTIVE DEVICES

### CAPACITOR BANKS

PHYSICAL CHARACTERISTICS				TECHNICAL OPERATING LIMITS							ADMINISTRATION				
Unique Asset Identifier	Manufacturer	Model No.	Year of Manufacture	Rated Voltage (kV)	MVAR Range	Overvoltage Rating (kV)	Overcurrent Rating (kA)	Short-time Withstand Current (kA)	Duration of short circuit (seconds)	Technical Standard	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	Status	TOL Change Ref.

### SHUNT REACTOR

PHYSICAL CHARACTERISTICS						TECHNICAL OPERATING LIMITS								ADMINISTRATION							
Unique Asset Identifier	Manufacturer	Model No.	Year of Manufacture	Single or Three Phase	No. of Phases	Rated Voltage (kV)	Rated Normal Current (A)	Short-time Withstand Current (kA)	Duration of short circuit (seconds)	Inductance of each Phase (mH)	Frequency (Hz)	TEMP. RISE OVER AMBIENT			Technical Standard	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	Status	TOL Change Ref.	
												Top Oil (°C)	Winding (°C)	Hot Spot (°C)							

### STATIC VAR COMPENSATOR

PHYSICAL CHARACTERISTICS				TECHNICAL OPERATING LIMITS									ADMINISTRATION				
Unique Asset Identifier	Manufacturer	Model No.	Year of Manufacture	Rated Voltage	Short-time Withstand Current (kA)	Duration of short circuit (seconds)	MVAR Range	Overvoltage Rating (kV)	Overcurrent Rating (kA)	Range of Set Points	Range of Slope Settings	Technical Standard	Cert. Of Acceptance No.	Date of Cert. Of Acceptance	Date of Commissioning	Status	TOL Change Ref.





# **Infrastructure Agreement Schedule 4 – Project Agreement**

**Dated** \_\_\_\_\_

**EIRGRID plc**

**And**

**THE ELECTRICITY SUPPLY BOARD**

---

**PROJECT AGREEMENT**

---

**Project Number:** \_\_\_\_\_

**Relevant Committed Project Name:** \_\_\_\_\_

---

## Contents

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**THIS PROJECT AGREEMENT** is made on.....

**BETWEEN:**

- (1) EirGrid plc, a company incorporated in Ireland whose registered office is at 27, Lower Fitzwilliam Street, Dublin 2 (the “**TSO**”); and
- (2) The Electricity Supply Board, a statutory corporation of Ireland with its principal offices at 27, Lower Fitzwilliam Street, Dublin 2 (the “**Board**”).

**WHEREAS:**

- (A) The TSO and the Board have entered into an Infrastructure Agreement dated [ ] pursuant to the Statutory Instrument and with the approval of the Commission to govern and regulate the relationship between the TSO and the Board and to set out their respective roles in relation to the Transmission System in the Republic of Ireland (the “**Infrastructure Agreement**”).
- (B) In accordance with the provisions of the Infrastructure Agreement the TSO and the Board have agreed to undertake the Relevant Committed Project.
- (C) Pursuant to Clause 7 of the Infrastructure Agreement, the TSO and the Board wish to enter into this Project Agreement in relation to the Relevant Committed Project.

**THE PARTIES HAVE AGREED AS FOLLOWS:**

**1 INTERPRETATION**

- 1.1 In this Project Agreement (including the recitals), the following expressions shall have the following meanings:-
  - (a) “**Project End Date**” has the meaning set out in Clause 5;
  - (b) “**Relevant Committed Project**” means the Committed Project in respect of which this Agreement is entered into and which is described in the Schedules to this Project Agreement.
  - (c) “**Relevant Milestones**” means the Milestones for the Relevant Committed Project as set out in Schedule 4.
- 1.2 Except as set out in this Project Agreement, captilised words and phrases shall have the same meanings given to them in the Infrastructure Agreement.
- 1.3 Clause 1.2 of the Infrastructure Agreement shall apply to this Project Agreement as if the same had been set out in full herein.

## **2 INCORPORATION INTO INFRASTRUCTURE AGREEMENT**

2.1 This Project Agreement shall be read as supplemental to the terms and conditions of the Infrastructure Agreement. In the event of any conflict between the provisions of this Project Agreement and the provisions of the Infrastructure Agreement, the provisions of the Infrastructure Agreement shall prevail.

2.2

2.2 For the avoidance of doubt this Project Agreement and the Infrastructure Agreement shall together form a single agreement.

2.3 The procedures for amending this Project Agreement (including the Schedules) are set out in clause 7.8 of the Infrastructure Agreement.

## **3 RELEVANT COMMITTED PROJECT**

3.1 This Project Agreement for the Relevant Committed Project has been prepared in accordance with the terms of the Infrastructure Agreement and incorporates, in respect of the Relevant Committed Project:

3.2

3.1.1 the finalised Committed Project Parameters; and

3.1.2 the finalised Project Implementation Plan.

3.3

## **4 GENERAL OBLIGATIONS**

4.1 Each Party shall Perform its role in relation to the Relevant Committed Project in accordance with the terms of the Infrastructure Agreement and this Project Agreement (other than Schedule 1, which is incorporated for ease of reference only and is not intended to create binding obligations on either Party).

4.2

4.2 Milestones for the Relevant Committed Project are set out in Schedule 4.

4.3 The Parties shall meet to review progress of the Relevant Committed Project in accordance with Clause 7.14 of the Infrastructure Agreement the timetable for progress meetings set out in Schedule 5.

4.4 The Parties shall provide the standard form reports as described in Schedule 5.

**5 DURATION**

This Project Agreement shall be come into effect on the date hereof and shall continue in force until the earlier of the following dates:-

- (i) the date on which the TSO has issued a Project Completion Certificate in respect of the Relevant Committed Project (the “**Project End Date**”); or
- (ii) upon termination of the Infrastructure Agreement.

**THIS AGREEMENT** has been duly executed on the date written above.

**The TSO  
EIRGRID PLC  
By:**

**The Board  
ELECTRICITY SUPPLY BOARD  
By: )**

## **Attachment 1**

### **Description of the Relevant Committed Project**

The Parties agree that, for the purposes of preparing a Project Agreement for signature in accordance with clause 7.7.7 of the Infrastructure Agreement, this Schedule 1 shall take the form of a general description of the Relevant Committed Project which shall be incorporated for ease of reference.



## Attachment 2

### Finalised Committed Project Parameters for the Relevant Committed Project

The Parties agree that, for the purposes of preparing a Project Agreement for signature in accordance with clause 7.7.7 of the Infrastructure Agreement, this Schedule 2 shall incorporate the Committed Project Parameters in respect of the Relevant Committed Project finalised in accordance with clause 7.7.2 (except to the extent incorporated into Schedule 4 or Schedule 5 of the Project Agreement). As described in clause 7.7.1 and subject to any modification in accordance with the terms of clause 7.7.2 of the Infrastructure Agreement, these Committed Project Parameters are:

- (a) the functional specification for the Development Project;
- (b) the functional specifications for primary and secondary plant and systems;
- (c) the Outline Design;
- (d) the Indicative Programme, amended to reflect the terms on which Planning Permission (if any) was granted and any other necessary revisions;
- (e) a list of all applicable Generic Design Standards;
- (f) any additional design standards that the TSO requires the Development Project to comply with;
- (g) costs of the TSO in connection with the Development Project up to the time that the Project Agreement is agreed and other relevant financial information for capitalisation purposes, based on actual costs incurred, estimated projected costs yet to be incurred and Schedule 7 of the Infrastructure Agreement.
- (h) the entire application for Planning Permission including drawings, Environmental Impact Statement, agreements and arrangements with third parties;
- (i) a copy of the decision of the Planning Authority including any conditions and special requirements;
- (j) Commissioning Procedures and Energisation Procedures (if available) or a list of indicative Milestone dates by which the draft and final Commissioning Procedures and Energisation Procedures will be delivered to the Board;
- (k) Transmission System operational information (if available), concerning relevant constraints and outage availability (including those needed during construction and commissioning);
- (l) Operating Procedures for the Development Project once complete, insofar as required by the Board or indicative Milestone dates by which the draft and final Operating Procedures will be delivered to the Board;
- (m) list of landowners and where available details of all landowner agreements and arrangements including those pertaining to surveys, wayleaves, easements, tree

- opping, access arrangements, access compensation, compensation for damage and any other arrangements including associated costs for capitalisation purposes;
- (n) the name of the Client Engineer and an alternate nominated by the TSO.
  - (q) Payment arrangements for connection projects] subject to Schedule 7.

For ease of reference, the Parties may divide this Schedule 2 into separate parts (Schedule 2A, Schedule 2B, etc.).

## Attachment 3

### Finalised Project Implementation Plan for the Relevant Committed Project

The Parties agree that, for the purposes of preparing a Project Agreement for signature in accordance with clause 7.7.7 of the Infrastructure Agreement, this Schedule 3 shall incorporate the agreed or determined Project Implementation Plan in respect of the Relevant Committed Project (except to the extent incorporated into Schedule 4 or Schedule 5 of the Project Agreement). As described in clause 7.7.3 of the Infrastructure Agreement, the Project Implementation Plan comprises:

- (a) *A critical path analysis (CPA) programme in an agreed computer format setting out the order and estimated duration of each identified task which the Board proposes to implement the Development Project, including detailed design, manufacture, delivery to site, construction works, testing and commissioning;*
- (b) Milestones for submission of the Board's detailed designs to the TSO for review and assessment and the times within which the TSO will be required to express its view on the detailed designs;
- (c) the project resource plan including outsourcing proposals;
- (d) the programme for procurement and management of Materials;
- (e) the proposed project review mechanisms (a schedule of meetings and standard format reports);
- (f) the Board's method statement for delivery of the Committed Project;
- (g) the Board's indicative requirements with respect to outages or other operational requirements;
- (h) The Board's proposed management arrangements for delivery of the Committed Project.
- (i) the name of the Owner's Engineer and an alternate;
- (j) the name of the Project Supervisor (Construction) for the construction stage;
- (k) an estimate of the total cost of the Development Project;
- (l) an indication of any operational training that the Board may request the TSO to provide to officers, employees, agents and contractors of the Board in relation to the Committed Project;
- (m) the times by which the Board wishes the TSO to furnish any drawings and designs for which the TSO is responsible, complete any reviews and assessments, clear wayleaves and consents and provide access to the site;
- (n) any requests or comments about Transmission System operational arrangements in connection with construction and completion of the Development Project.
- (o) the name of the Project Supervisor Design.

For ease of reference, the Parties may divide this Schedule 3 into separate parts (Schedule 3A, Schedule 3B, etc.).

## **Attachment 4**

### **Milestones**

The Parties agree that, for the purposes of preparing a Project Agreement for signature in accordance with clause 7.7.7 of the Infrastructure Agreement, this Schedule 4 shall comprise a timetable setting out project milestone dates prepared in accordance with clause 7.

## **Attachment 5**

### **Timetable for Progress Meetings**

The Parties agree that, for the purposes of preparing a Project Agreement for signature in accordance with clause 7.7.7 of the Infrastructure Agreement, this Schedule 5 shall comprise the project review mechanisms (a schedule of meetings and standard format reports) as agreed or determined as part of the Project Implementation Plan.

**SCHEDULE (5)**

**Prior Non-Energy Rights**

[To Be Completed]

**SCHEDULE (6)**

**Not used**



# **Infrastructure Agreement Schedule 7 – Remuneration**

# Schedule 7 – Remuneration

## 1. Payments Due To Board Under IA

### 1.1 Board Charge

The TSO shall in respect of each calendar month pay to the Board the amount calculated as set out in this paragraph (“the Board Charge”).

The Board Charge shall be one twelfth of the annual Allowed Revenue. Allowed Revenue is the figure determined by the Commission in its annual Determination on TUoS as the amount due to the Board from the TSO in respect of TAO activities.

If the Commission has not determined the Allowed Revenue for any year by the 15<sup>th</sup> day of November in the previous year, the Parties shall jointly request the Commission in writing to produce such determination.

Until such time as the Commission in response to the request made by the Parties or otherwise determines the Allowed Revenue, the Board Charge for each month shall be the same as it was in the same month of the preceding year.

If the Commission makes a determination of Allowed Revenue after the start of the calendar year to which it relates, the Board Charge in respect of the remaining months of that year shall be adjusted as necessary in order to permit recovery by the Board within that year of the entirety of the Allowed Revenue in respect of that year.

### 1.3 Payment of the Board Charge

Payment of the Board Charge shall be in accordance with paragraph 3.1 of this Schedule.

### 1.4 Specific Payments

For invoicing and payments purposes all payments due to the Board from the TSO under the Infrastructure Agreement other than the Board Charge shall be regarded as Specific Payments under paragraph 3.5 of this Schedule.

## **2. PAYMENTS DUE TO TSO UNDER IA**

### **2.1 Cost of Bringing Projects to Project Agreement Stage**

The costs incurred by the TSO in bringing a project to the stage at which a Project Agreement is concluded in accordance with the Infrastructure Agreement are to be recovered at the Project Agreement stage. The Board will pay to the TSO the costs as invoiced, in accordance with paragraph 3.5 of this Schedule.

The TSO shall issue an invoice for projects which achieve a Project Agreement as soon as possible after the Project Agreement has been executed. For payment purposes the cost of bringing a project to project agreement stage shall be regarded as a Specific Payment under paragraph 3.2 of this Schedule.

### **2.2 Projects That Terminate Before Project Agreement**

In the event that a project does not proceed to Project Agreement stage the costs incurred by the TSO will be a matter between the TSO and the Commission.

### **2.3 Specific Payments**

For invoicing and payments purposes all payments due to the TSO from the Board under the Infrastructure Agreement shall be regarded as Specific Payments under paragraph 3.5 of this Schedule.

## **3. INVOICING & PAYMENT**

3.1 The TSO shall pay to the Board the Board Charge in accordance with paragraph 1 and paragraph 3.4 of this Schedule notwithstanding that any User of the Transmission System shall not have paid to the TSO all of the charges or other amounts payable in respect of that User's use of the Transmission System..

3.2 Connection Charges are payable by a Customer connecting to the Transmission System under a Transmission Connection Agreement. The TSO shall pay to the Board the Connection Charges payable by the Customer, other than those charges which pursuant to the terms of the Transmission Connection Agreement are payable to the TSO, in accordance with paragraph 3.5 of this Schedule notwithstanding that the customer shall not have paid to the

TSO all of the Connection Charges payable by him under the Transmission Connection Agreement.

3.3 Ongoing Service Charges are payable to the Board by the Customer under the Transmission Connection Agreement. If a Customer shall fail to pay to the TSO all or any of those Ongoing Service Charges the TSO shall have no liability to the Board to make any payment to the Board in respect of any such payment not made by the Customer.

### **3.4 Invoicing and Payment of Board Charge**

Payment terms of the Board Charge will be the later of (a) and (b) as follows:

(a): 10 Business Days after the TSO receives a valid VAT invoice from the Board in respect of the Board Charge; or

(b): the earlier of:

- 36 business days after the month end; or
- 11 business days after the TSO issues the TUoS invoices.

Payment will be made to a designated Board account.

Payments will be made gross with no netting on payment day.

Subject always to the Parties acknowledging and agreeing that in the case of payment default of TUoS user the Board will allow the TSO an additional 5 business days credit to pay that shortfall to enable the TSO draw down the security cover over and above the periods specified herein.

### **3.5 Invoicing and Payment of Specific Payments**

The Payee shall issue an invoice to the other Party when the amount becomes due.

The invoice shall be paid to the Payee not later than the last Business Day of the month following the month of the invoice date.

Payments will be made to accounts designated by the Parties.

Payments will be made gross with no netting on payment day.

### **3.6 Payments by the Board to the Customer**

Payments, including without limitation connection charge credits and refunds of capital contributions, made by the Board to a Customer shall be paid in the first instance by the Board to the TSO which will remit the monies to the Customer in their entirety with no netting-off. For invoicing and payments purposes all payments to the TSO from the Board shall be regarded as Specific Payments under paragraph 3.5 of this Schedule.

3.7 Capitalised terms used in this paragraph have the meaning given to them in the Transmission Connection Agreement or the Transmission Use of System Agreement, as the case may be.

#### **4. EU Capital Grants**

EU capital grants in relation to capital projects shall be applied for, collected, and administered by the Board.

EU grants for system studies and similar exercises shall be dealt with directly between TSO and the EU.

#### **5. Step In Rights**

Costs properly incurred by the TSO in accordance with clause 21 ("Step-In Rights") shall be borne by the Board. Payments will be made to the TSO or directly to the contractor as appropriate.

#### **6. Transitional Arrangements**

The Parties shall observe the procedures provided for in Schedule (1) Transitional Arrangements.

**SCHEDULE (8)**

**Standard Man Day**

[To Be Completed]

**SCHEDULE (9)**

**Maintenance Policies and Standards as at the Effective Date**

[To Be Completed]

# **Infrastructure Agreement Schedule 10 – Reportable Events**



## Schedule 10

### Reportable Events

In this Schedule

“Fault” means an unplanned occurrence which has caused protection equipment on the Transmission System to isolate a line or an item of plant.

“Incident” means an unplanned occurrence including the occurrence of an alarm and the operation of a transmission asset outside its Technical Operating Limit on or in relation to a transmission asset which is capable of adversely affecting the safety of any person, or of causing damage to a transmission asset or of adversely affecting the security, reliability, or effectiveness of the Transmission System, whether or not actually causing such damage or having such adverse effect.

“Relevant Asset” means that part of the Transmission System or that transmission asset in respect of which an incident or condition arises which is capable of constituting a Reportable Event.

“Reportable Event” means a Fault or an Incident, including any Discovered Work subject to clauses 8.10 and 8.11.

“Reportable Event Process” means the report made to the NCC by the Board, including the TSO instructions and subsequent confirmation of resolution of the Reportable Event.

#### **Reportable Event Register**

The TSO shall establish a register (“Reportable Event Register”) in electronic form in which shall be recorded in accordance with this Schedule all Reportable Events as they are received and all material information concerning decisions by the TSO or actions by the Board in relation to Reportable Events.

Each Reportable Event in the Reportable Event Register shall be uniquely numbered by reference to the time of first receipt of the report in respect of that Reportable Event from the Event Reporter.

#### **Report to TSO by Board**

If the Board forms the opinion that a Reportable Event has occurred, it shall procure that the Reportable Event be reported to the NCC as soon as possible.

The report to the NCC by a person acting on behalf of the Board (“Event Reporter”) may be effected by telephone and shall contain the following information:

- The name of the Event Reporter
- The location of the Fault or place of occurrence of the Incident
- Summary description of the Reportable Event
- Details of any investigation already conducted into the Reportable Event by the Board
- Description of any remedial measures taken by the Board in accordance with the Safety Rules, clause 17 (“Emergencies”) or with any general authorisation by the TSO to the Board in respect of [Discovered Works].

The TSO shall give the Event Reporter such instructions (“NCC Instructions”) as it considers appropriate as to the measures to be taken by the Board to further investigate or to remedy the Reportable Event

The NCC staff member receiving the report shall on the day on which the Reportable Event is reported make an entry in the Reportable Event Register. The entry shall contain all the information contained in the bullets points above plus the following information:-

- any NCC Instructions
- the time of such NCC Instruction, and, if such Instruction is given at a later date or is supplemented by further NCC Instructions at a later date, any such later date and details of such Instructions
- whether that Instruction requires immediate work and/or deferred work
- Contact Details of Event Reporter
- Relevant NCC’s or DCC’s alarm signals if available.

In the event that the Reportable Event is Discovered Work it shall be dealt with in accordance with clause 8.10 of the Infrastructure Agreement.

In the event that the Reportable Event is an Operational Service it shall be dealt with in accordance with Schedule 2.

[Following completion of the NCC Instruction the Board shall provide to NCC the findings of any activity carried out under the terms of such NCC Instruction.

#### **Report to Board by TSO**

If the TSO becomes aware of a Reportable Event, which has not been reported to the TSO by the Board, then the TSO shall procure that the Reportable Event be reported to the Board as soon as possible. The following details shall be provided for Reportable Events concerning breaches of Technical Operating Limits:-

- identification of assets involved;
- degree of excess operation over the TOL;
- the time period the TOLs were exceeded;
- Actions taken or to be taken by TSO to prevent recurrence.

**Conclusion of Reportable Event Process**

When a Reportable Event is concluded, its conclusion shall be recorded on the Reportable Event Register.

**Exchange of Information:-**

On a basis to be agreed between the Parties, the Parties shall agree to co-operate fully in developing a process for the exchange of information generated under this Schedule.

**SCHEDULE (11)**

**TSO Outage Request Procedure**

[To Be Completed]

**SCHEDULE (12)**

**General Authority to the Board to deal with Discovered Works**

[To Be Completed]

**SCHEDULE (13)**

**Indemnities / Insurance Issues**

Not used

# **Infrastructure Agreement**

## **Schedule 14 – Connection Offer Procedure**

## Schedule 14

### CONNECTION OFFER PROCEDURE

#### Definitions

In this Schedule:

“Contestable Connection Assets” means those of the Shallow Connection Assets, constructed pursuant to a Customer’s Connection Agreement, which the Customer has him/herself constructed or arranged to have constructed.

“Customer’s Facility” means the premises occupied by the Customer and which is connected to or the subject of an offer from the TSO for connection to the Transmission System.

“Shallow Connection Assets” means those assets constructed on foot of the Shallow Connection Works.

#### Cost information to be provided by Board

The TSO shall, in consultation with the Board, develop and fully document a statement of standard connection configurations whereby a Customer’s Facility may be connected to the Transmission System.

In respect of each standard connection configuration, the Board shall make Standard Development Costs available to the TSO, and shall develop and maintain those Standard Development Costs, in accordance with clause 7.3.

The Board shall provide to the TSO such information about costs and lead times for non-standard configurations and non-standard lead times and for new standard configurations as the TSO may reasonably request.

If, in respect of any connection which the TSO intends to make to an Applicant, the TSO intends to use a non-standard configuration, the TSO shall declare the intended connection to be a Complex Connection and shall notify the Complex Connection to the Board and to the applicant accordingly. The Parties shall confer and agree a timetable consistent with circumstances of each case and the



offer process timetable. The TSO shall advise the Applicant of such extended time as may be required to make the Connection Offer.

### **Notification by the TSO to the Board**

When an Applicant accepts an offer made by the TSO for connection to the Transmission System, the TSO shall give the Board the Indicative Programme in respect of the Development Project constituted by the connection, in accordance with clause 7.4.2.

### **Payments to Board**

The capital contribution including any revised costs due to the Board shall be payable in accordance with Schedule 7 by the TSO to the Board .

Where, in order to meet system or customer's requirements, it may be desirable for the Board to enter into certain commitments (such as for the procurement of materials) before planning permission has been obtained, a Project Agreement shall be entered into following notification to the Board by the TSO of the Indicative Programme. The capital contributions due to the Board shall be payable in full at that time.

Following completion of Outline Design and receipt of Planning Permission and on delivery of the Committed Project Parameters by the TSO to the Board, the TSO will provide to the Board an analysis of any known variances between the costs of connection as indicated to the Customer in the Connection Agreement and the revised projected costs of the connection, whether payable by the Customer or otherwise, following completion of Outline Design and receipt of Planning Permission. These revised costs shall be prepared in accordance with the Board's Standard Development Costs and shall be broken down to provide the Board with the information specified in paragraph above. Where revised costs give rise to additional contributions, such additional contributions shall be payable to the Board.

### **TSO to collect full payment from Customer and remit to Board**

The TSO shall be responsible for collecting from the Customer all amounts payable by him, whether in a single or in stage payments, and shall remit to the Board all amounts due to the Board in accordance with Schedule 7.

### **Material and conditions to be included in TSO's offer to Applicant**

In offering terms or entering into an agreement for connection to the Transmission System, the TSO shall in the offer or agreement:

- specify the boundaries between

- the Transmission System and Contestable Connection Assets owned by the Customer, and between
- the Transmission System and the Customer's Facility.
- calculate the amount chargeable to the Customer in respect of all components of the connection offer, including but not limited to works, the cost of procuring Relevant Consents, Ongoing Service Charges, and Chargeable Decommissioning Costs, by reference to all Standard Development Costs relevant to the configuration offered to the Applicant.
- where the Applicant, under the TSO's connection charging policies, is not liable to pay the full cost of the shallow connections, and where the customer has exercised a right to contestable construction of Connection Assets, provide that any amounts payable by the Board to the Applicant in respect of the cost of the connection Assets shall become payable only when title to the connection asset constructed on foot of the Customer's Connection Agreement is transferred to the Board in accordance with the Connection Agreement.

**Additional material and conditions specific to contestable connections**

In offering terms or entering into an agreement for connection to the Transmission System, where the offer relates to a connection in respect of which the Customer has invoked Regulation 33 of the Statutory Instrument, the TSO shall in the offer or agreement:

- identify the physical boundaries of each of (i) the Shallow Connection Works and (ii) those of the Shallow Connection Works which are contestable in accordance with Regulation 33 of the Statutory Instrument.
- require that the Customer accept that, in the event that ownership of the Direct Line constructed in accordance with the Customer's Connection Agreement is transferred to the Board in accordance with the provisions of section 37 of the Act, the valuation of that Direct Line, for the purposes of determining the amount payable by the Board to the owner of the Direct Line in accordance with the TSO's connection charging policy, shall be the amount indicated by the Standard Development Costs (or if the configuration is non-standard, the development costs indicated to the TSO by the Board) minus the amount of depreciation of the Direct line in accordance with the Board's standard accounting policies minus the cost of any works or outlay which the Board is required to undertake, procure, or incur in order to ensure that the specification and condition of the Direct Line are consistent with the those required by the standards governing the Transmission System.

- require that the Customer agree to co-ordinate the conduct of the works testing and commissioning carried out by him or on his behalf on or in the vicinity of the Customer's Facility or the Contestable Connection Assets (if applicable) with those of the Board in accordance with the Safety, Health and Welfare at Work Acts, 1989 to 2001 and with Regulations made thereunder and with the Safety Rules.
- the TSO shall at the same time as it submits the Indicative Programme to the Board indicate to the Board any intention it has formed as to whether it will be seeking the transfer to the Board of ownership of the Connection Asset.

### **Transfer of Direct Lines**

- The TSO shall have the exclusive right to determine whether or not and when an application should be made to the Commission for a direction that a Direct Line become part of the Transmission System.
- If the TSO decides that an application should be made to the Commission for a direction that a Direct Line become part of the Transmission System, it shall notify the Board accordingly.
- The TSO and the Board shall jointly prepare for submission to the Commission an application, by way of separate submissions constituting a single application, for the transfer of the Direct Line to the ownership of the Board.
- The Parties acknowledge and agree that
  - the Board shall not be required to assume ownership of any Direct Line unless the Parties shall
    - (a) have carried out with due diligence an enquiry as to the technical specification and condition of the Direct Line, and as to any obligation or financial liability associated with the Direct Line; and
    - (b) each have satisfied itself as to the compatibility of the Direct Line with the Transmission System;

- the Board shall be entitled to recover the entirety of any cost it may incur in ensuring such compatibility;
- The TSO shall recover and remit to the Board any costs that will be reasonably incurred by the Board arising out of its assuming ownership of the Direct Line or with carrying out remedial works or other liabilities the responsibility of the Third Party.
- The Board may at its discretion include in its submission to the Commission such terms and conditions as it may reasonably propose that the Commission include in its Direction on the transfer of ownership;
- any dispute between the TAO and the TSO as to the compatibility of the Direct Line with the Transmission System shall be resolved by determination of the Commission.

# **Infrastructure Agreement Schedule 15 – Access Protocol**

## **1. Definitions**

“Contact Details” in respect of a Board employee means that employee’s name, home address, work address, fax number, work telephone number, mobile telephone number, and home telephone number.

“Means of Access” means the wherewithal permitting a TSO Authorised Person to gain access to a Site, and shall include without limitation keys, security cards, and the code numbers associated with security alarms.

“Person in Charge of Work” means in respect of any Site the person designated by the Board to be in charge of the Site for the time being.

“Relevant Supervisor” means the employee of the Board who for the time being is or exercises the functions of the Line Supervisor or Station Supervisor with responsibility for the Site.

“Site” means a place (including without limitation an open terrain where the only right enjoyed by the Board is a wayleave permitting the Board to lay and maintain an electric line) on which Transmission Assets are situated.

“Site Visit” means a visit by one or more employees of the TSO, or by one or more persons TSO Invitees, to a Site.

“TSO Authorised Person” means an employee or agent of the TSO or contractor to the TSO who has the training and expertise necessary to enable him carry out a Site Visit and who is designated by the TSO by notice to the Board as a person authorised to require a Site Visit.

“TSO Invitee” means a person who is not an employee of the TSO who is invited by a TSO Authorised Person to be present during a Site Visit.

## **2. Safety Rules**

During a Site Visit and while on or in the vicinity of Transmission Assets, every TSO Authorised Person and every TSO Invitee shall at all times observe the Safety Rules and shall take all measures relating to health and safety which are required by legislation or by regulations and rules made thereunder.

The TSO shall be responsible for ensuring that all TSO Authorised Persons and all TSO Invitees who are present during a Site Visit are fully conversant with and observe the Safety Rules.

### **3. Relevant Supervisors**

On the Effective Date or as soon as may be thereafter the Board shall notify to the TSO the name of each Relevant Supervisor appointed by the Board and of each Relevant Supervisor's Contact Details. Where no Relevant Supervisor is for the time being appointed to any area in which Transmission Assets are situated, the Board shall notify to the TSO the Contact Details of the person who for the purposes of this Schedule shall exercise the functions of Relevant Supervisor for that area.

The Board may at any time appoint a different person to be the Relevant Supervisor for any Area, and not later than two (2) Business Days after such appointment shall notify the TSO of such new appointment and of the Contact Details of the new Relevant Supervisor.

### **4. TSO Authorised Persons**

On the Effective Date or as soon as may be thereafter the TSO shall notify to the Board the name of each TSO Authorised Person.

The TSO may at any time appoint further or other TSO Authorised Persons, and not later than two (2) Business Days after any such appointment shall notify the TSO of such new appointment.

TSO Authorised Persons shall be entitled to hold Means of Access to one or more Sites and to gain access, for the purpose of performing the TSO's Transmission System Obligations, to those Sites.

All Means of Access to Sites held by TSO Authorised Persons shall be issued by the Board and held by TSO Authorised Persons for and on behalf of the TAO in accordance with the Safety Rules.

Possession of Means of Access to a Site by a TSO Authorised Person shall not confer on the TSO or on any TSO Authorised Person any right other than a right of access to the Site in order to permit the TSO perform its Transmission Asset Obligations.

#### **No obligation on TSO give notice**

5. The TSO shall not be obliged to give notice of an intended Site Visit.

### **6. Notification of intended Site Visit**

Although the TSO shall not be obliged to give notice of an intended Site Visit, a TSO Authorised Person intending to carry out a Site Visit shall in the normal course contact by telephone or fax the Relevant Supervisor giving reasonable notice of the of the intended Site Visit.

### **7. Notification Details**

Notification in the normal course shall include the following information:

- 1) the names of all TSO employees who will visit the Site
- 2) the name of any other person whom the TSO intends to invite to the Site
- 3) the date of the visit, the duration of the visit and the expected time of arrival on Site
- 4) the purpose of the visit
- 5) any equipment which the TSO employees or their invitees will bring to the site
- 6) any assistance which the TSO may seek from ESB Networks, including specialist skills and equipment

#### **8. Conduct of Site Visit**

When the TSO Authorised Person arrives on the Site he shall present himself to the Person in Charge of Work if such a person is present and shall identify himself and show the Person in Charge of Work his authorisation to carry out the visit. The TSO Authorised Person shall also identify any TSO Invitee to be present on the site in the course of the visit.

The Site Visit shall be conducted in accordance with the Safety Rules.

9. A TSO Authorised Person conducting a Site Visit shall in every case, acting for and on behalf of the TSO, record in the station log book [correct title?] or in [what is the appropriate register for Sites on which no log book is present?] in the course of the Site Visit the details corresponding to those set out in paragraph 7 above.

#### **10. No Site Work by TSO**

No TSO Authorised Person or TSO Invitee shall in the course of a Site Visit engage in any work normally carried out by the Board or by contractors to the Board. TSO Authorised Persons and TSO Invitees may carry out work on assets belonging to the TSO or work involved in the setting, testing and interrogation of protection relays in accordance with current practice. If a TSO Authorised Person requires that any work be carried out pursuant to the TSO's Transmission System Obligations, he shall instruct the Board to carry out such work in accordance with the Operational Services Arrangements or other provisions of the IA.

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# **Infrastructure Agreement**

## **Schedule 16 – Interface Undertakings**

The Interface Undertaking given by Customers in accordance with clause 6.1.3 to the TSO, on their own behalf and on behalf of their officers, employees, agents and contractors, shall include undertakings to the following effect given in relation to the Customer's connection to the Transmission System.

1. To comply with the technical requirements for connection to the Transmission System set out in the Connection Agreement and to install protection equipment as required by TSO to protect its facility from faults on the Transmission System.
2. To permit the Board to take any steps it is authorised to take by the Statutory Instrument or the Infrastructure Agreement and not to make any claim against the Board in connection with such steps except to the extent that such claim would be permitted under the Connection Agreement if the Board were a party to that Agreement in place of the TSO.
3. To comply with all safety rules, procedures and other requirements reasonably specified by the Board to ensure the health and safety of persons coming into contact with, or working in close proximity to, assets forming part of the Transmission System and to ensure that all persons under its control or direction working on or in close proximity to the Transmission System are adequately trained in those requirements.
4. To grant the Board access to the Customer's premises and facilities on reasonable notice and subject to the Customer's own health and safety requirements for the purpose of enabling the Board to fulfil its Transmission System Obligations.
5. To permit the TSO to give the Board information about the Customer's connection to the Transmission System reasonably required by the Board to fulfil its Transmission System Obligations subject always to the TSO's Transmission System Obligations and the provision of S.I. 445/2000.
6. To notify the Board promptly of any fault or other unusual circumstance that it discovers in relation to the Transmission System in connection with its connection.
7. To ensure that public liability insurance procured and maintained by it in accordance with its Connection Agreement with the TSO extends to damage suffered by the Board and its officers, employees, agents and contractors.
8. Except in the case of claims in respect of death and personal injury, and to the extent permitted by law, not to make, and to waive its rights now and for the future in respect of, any claim against the Board or any of its directors, officers, employees, agents or contractors for any loss, damage, cost, claim, demand, suit, liability, fine, penalty or expense, whether based in contract, tort, breach of duty or on any other grounds, in connection with the Customer's connection to the Transmission System except for

any such claim that, had the Board been a party to the Connection Agreement in place of the TSO, it would have been entitled to claim against the Board under the terms of the Connection Agreement, and then subject to the Board being entitled to rely on the limitations and exclusions of liability and indemnities available to a party to the Connection Agreement in the position of the TSO.

9. Except in the case of claims in respect of death and personal injury and other liability that cannot, by law, be excluded or limited, and without prejudice to paragraph 9 above and paragraph 10 below or to any right of indemnity in the Connection Agreement, not to make any claim against the Board arising from any act or omission of the Board or its officers, agents, employees or contractors in respect of any loss, damage, claim, liability, cost or expense in respect of:
  - a) physical damage being occasioned to the property of the Customer, its officers, employees or agents; or
  - b) the liability of the Customer to any other person for loss in respect of physical damage caused directly to the property of such other person; or
  - c) the disconnection or de-energisation of the Customer's connection in circumstances permitted under the Connection Agreement; or
  - d) negligence or breach of statutory duty on the part of the Board or of any of its officers, employees, agents, or contractors; or
  - e) any other matter connected with the Customer's connection to the Transmission System or with the Connection Agreement

for an amount in respect of any one event in excess of the Connection Liability Amount (as defined in the Connection Agreement) and further, for an amount in respect of all events during the term of the Connection Agreement in excess of the Connection Liability Cap (as defined in the Connection Agreement).

10. Except in the case of claims in respect of death or personal injury and without prejudice to paragraphs 8 and 9 above or to any rights of indemnity in the Connection Agreement, not to make any claim against the Board or its directors, officers, employees, contractors or agents for, and to waive its rights now and for the future in respect of, any:
  - (i) indirect or consequential loss, punitive, special, exemplary or incidental damages;

- (ii) loss of profit, loss of use, loss of contract, loss of goodwill or loss of revenue;
- (iii) Constraint Cost;
- (iv) loss resulting from the liability of the Customer to any other person howsoever and whensoever arising save as expressly provided in 9(b) above,

regardless of whether suffered by the Customer or not and regardless of whether such a claim is based on contract, warranty, tort (including negligence), breach of duty, strict liability or any other legal or equitable principle.

**SCHEDULE (17)**

**Telecommunications Assets**

[To Be Completed]

**SCHEDULE (18)**

**Telecommunications Services**

[To Be Completed]