

Joint Governance Arrangements Agreement

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Joint Governance Arrangements Agreement

Dated

Between the Parties listed in Schedule 1.

Recitals

- A Each Party is a holder of a Transporter's Licence and is a Relevant Gas Transporter.
- B Pursuant to Standard Special Condition A12 (entitled "Joint Office Governance Arrangements") of the Transporter's Licence each Relevant Gas Transporter is required, together with the other Relevant Gas Transporters, to establish, operate and develop joint governance arrangements for:
- (i) matters specified in the Transporter's Licence;
 - (ii) other matters to be undertaken by them on a common, joint or coordinated basis;
 - (iii) the promotion of efficiency in the implementation and administration of the network code of a Relevant Gas Transporter and/or the Uniform Network Code; and
 - (iv) such other matters as they may decide.
- C The Parties are entering into this Agreement, pursuant to Standard Special Condition A12(1)(b), to provide for the establishment, operation and development of the Joint Governance Arrangements, the form of which has been approved by the Authority.

It is agreed

1 Definitions and Interpretations

1.1 Definitions

1.1.1 In this Agreement:

Accession Agreement means an agreement of that name, in the form set out in Schedule 2. Act means the Gas Act 1986 (as amended).

Additional Party has the meaning given in Clause 2.1.1.

Affiliate in relation to a Party means any holding company or subsidiary company of that Party or any company which is a subsidiary company of the holding company of that Party and the expressions holding company and subsidiary shall have the meanings respectively given to them by section 1159 of the Companies Act 2006.

Aggregate Approved Expenditure has the meaning given in Paragraph B2 of Schedule 9.

Agreement means this agreement including the Recitals and the Schedules.

Approved Expenditure means the Expenditure approved by the Committee under Schedule 9.

Authority means the Gas and Electricity Markets Authority as established by Section 1 of the Utilities Act 2000.

Budget means an annual forecast of expenditure, prepared and revised in accordance with Clause 8.2 and in the form set out in Schedule 8 (Part II).

Chair has the meaning given in Clause 6.3.1.

Chief Executive has the meaning given in Clause 7.2.1.

Central Data Services Provider (or **CDSP**) has the meaning given in the Uniform Network Code.

Code has the meaning given in the Uniform Network Code.

Code Administration Code of Practice has the meaning given in the Uniform Network Code.

Committee has the meaning given in Clause 6.1.1.

Confidential Information means all information received or obtained by a Party as a result of entering into, implementing or performing this Agreement, except insofar that the information relates to the Code, the AS Agreement or the Offtake Arrangements Document (but without prejudice to the confidentiality provisions set out in those agreements).

DSC Committee has the meaning given in the Uniform Network Code.

Data Services Contract (or **DSC**) has the meaning given in the Uniform Network Code.

Distribution Network (or **DN**) has the meaning given in the Uniform Network Code.

Draft Statement of Expenses has the meaning given in Schedule 9.

Employer has the meaning given in Schedule 11.

Expenditure means costs and expenses (including Staff remuneration and costs under Schedule 8 (Part IB)), incurred by or on behalf of a Party, wholly and necessarily in the performance of its obligations or exercise of its rights under this Agreement.

Expenses Claim has the meaning given in Paragraph B1 of Schedule 9.

Expenses Period means the First Expenses Period, and thereafter, each subsequent period of three calendar months, or such other period as the Committee may agree from time to time.

Final Statement of Expenses has the meaning given in Schedule 9.

First Expenses Period means the period starting on the date of this Agreement and ending on 30 June 2005.

Individual Network Code has the meaning given in the Uniform Network Code.

Intellectual Property Rights means all intellectual property rights at any time protected by statute or common law anywhere in the world, whether legal or beneficial, including, but not limited to copyright.

Joint Governance Arrangements means the arrangements made between the Parties pursuant to Clause 5.1.

Joint IP has the meaning given in Clause 10.1.2.

Joint Liability Provision has the meaning given in Schedule 5.

Joint Matters has the meaning given in Schedule 5.

Joint Modification Rules Matters has the meaning given in Schedule 4.

Joint Office (or **JO**) has the meaning given in Clause 7.1.1.

Loss means any loss howsoever described or characterised and whenever and however arising (including loss of profit, loss of revenue, loss of use, loss of contract, loss of goodwill, and indirect and consequential loss, including economic loss), cost (including any cost of enforcement), expense, payment, liability (including tax liability), claim, demand, damage, proceedings, penalty, fine, fee, rates, levy, charge, royalty, interest, insurance premium, call, judgment, order or other sanction or amount payable and the amount by which any right or entitlement to an amount has been reduced as a result of the matter in question.

Modification Panel has the meaning given in the Modification Rules.

Modification Rules has the meaning given in the Uniform Network Code.

National Grid means National Grid Gas plc (company number 2006000).

National Transmission System (or **NTS**) has the meaning given in the Uniform Network Code.

Network means a Distribution Network or the NTS as listed in Column 1 of Schedule Three.

Network Code Modification Procedures means the procedures in the Modification Rules for the modification of the Uniform Network Code and each Individual Network Code.

Network Ownership has the meaning given in Clause 9.1.2.

Offtake Arrangements Document has the meaning given in the Uniform Network Code.

Panel Chair has the meaning given in Clause 8.1.2.

Relevant Contract has the meaning given in Schedule 11.

Relevant Gas Transporter means a person holding a Transporter's Licence in which Standard Special Condition A12 is effective.

Representative means each representative appointed under Clause 6.2.1 (and Schedule 3) and shall include any proxies.

Resource Plan means the resource plan established under Clause 8.1.

SEC means the Smart Energy Code as amended from time to time.

Secundee has the meaning given in Schedule 11.

Secondment has the meaning given in Schedule 11.

Secondment Terms means the secondment terms set out in Schedule 11.

Secretary has the meaning given in Clause 7.3.1.

SPAA means the Supply Point Administration Agreement entered into by the Parties as amended from time to time.

Staff means the staff appointed by the Parties under Clause 7.4.

Staff Remuneration means all payments constituting the total remuneration of the Staff under this Agreement, including the costs set out in Schedule 10.

Transporter's Licence means a licence granted under Section 7 of the Act.

UNC Committee has the meaning given in the Uniform Network Code.

Uniform Network Code means the uniform network code issued from time to time by the Parties in accordance with the terms of each of their Transporter's Licences.

Working Day means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.

1.2 Interpretation

In this Agreement:

- (a) the list of contents and headings are for ease of reference only and shall not be taken into account in construing this Agreement;
- (b) references to this Agreement or any other document shall be construed as references to this Agreement or that other document, as amended, varied, novated supplemented or replaced from time to time;
- (c) unless otherwise stated, references to any recital, Clause, Paragraph or Schedule are to those contained in this Agreement and all Schedules and Annexes to this Agreement are an integral part of this Agreement;
- (d) the expression **this Clause** shall, unless followed by reference to a specific provision, be deemed to refer to the whole clause (not merely the sub-clause, paragraph or other provision) in which the expression occurs;
- (e) references to a **Party** are references to a party to this Agreement including that party's successors in title and assigns or transferees permitted in accordance with the terms of this Agreement;
- (f) references to a **person** (or to a word importing a person) shall be construed so as to include that person's successors in title and assigns or transferees; and references to a **person** shall also be construed as including an individual, firm, partnership, trust, joint venture, company corporate, body corporate, unincorporated body, association, organisation, any government, or state or any agency of a government or state, or any local or municipal authority or other governmental body (whether or not in each case having separate legal personality);
- (g) the words **include**, **including** and **in particular** shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding words;
- (h) the words **other** and **otherwise** shall not be construed ejusdem generis with any foregoing words where a wider construction is possible;
- (i) **in writing** means any communication made by letter or fax or, where the Parties agree, electronic mail;
- (j) where a word or expression is defined, cognate words and expressions shall be construed accordingly;
- (k) references to **amendment** include changes, alteration and modification;
- (l) references to an **agreed form** of a document means the document initialed by the Parties;

- (m) references to **Standard Special Condition** are to a standard special condition of each Party's Transporter's Licence; and
- (n) references to a **contractor** includes a sub-contractor.

2 Accession and Exit Arrangements

2.1 Accession

- 2.1.1 The Parties shall admit any person who becomes a Relevant Gas Transporter after the date of this Agreement (an **Additional Party**) as an additional party to this Agreement.
- 2.1.2 Each Party (other than National Grid) hereby irrevocably authorises National Grid to sign on its behalf and deliver an Accession Agreement with an Additional Party and undertakes not to withdraw, qualify or revoke such authority.
- 2.1.3 On execution of an Accession Agreement between National Grid and an Additional Party, the Additional Party shall become a Party to this Agreement and shall, as soon as possible thereafter, notify the Authority of its accession to this Agreement.

2.2 Exit

- 2.2.1 A Party who ceases to be a Relevant Gas Transporter shall, with effect from that date, cease to be a Party without prejudice to the rights and obligations of it and each of the other Parties accrued up to that date, which shall continue to be enforceable.

3 Commencement, duration and termination

3.1 Commencement and duration

- 3.1.1 This Agreement shall be effective from the date of this Agreement, and shall continue in force until Standard Special Condition A12 ceases to have effect in all of the Parties' Transporter's Licences.

3.2 Termination

- 3.2.1 The termination of this Agreement (for whatever reason) shall be without prejudice to the rights and remedies of any Party that have accrued up to the date of termination (including the obligation to pay, and right to receive payment of, any amounts that have become payable under this Agreement).
- 3.2.2 Any termination of this Agreement (for whatever reason) shall not affect the coming into force or the continuance in force of any provision of this Agreement which is expressly or by implication intended to come into force or continue in force on or after such termination, including Clauses, 11, 17, 18, 22 and 25.

4 Initial obligations

4.1 Uniform Network Code

- 4.1.1 Each Party now agrees to adopt, or has already adopted, the Uniform Network Code, and each Additional Party upon execution of an Accession Agreement agrees to adopt the Uniform Network Code.
- 4.1.2 The Parties shall procure that a copy of the Uniform Network Code (and any amendments made to it) is submitted by the Secretary to the Authority in the form (or forms) required by the Authority and in accordance with the requirements of each Party's Transporter's Licence.

5 Joint Governance Arrangements

5.1 Responsibilities

- 5.1.1 Each Party agrees with each other Party to implement:

- (a) the Network Code Modification Procedures;
- (b) the Joint Matters;
- (c) the SPAA Executive Committee Matters;
- (d) the SEC Matters; and
- (e) the DSC Committee Matters.

in accordance with the further provisions of this Agreement.

- 5.1.2 The Parties agree that:

- (a) Schedule 4 shall apply to the Network Code Modification Procedures;
- (b) Schedule 5 shall apply to the Joint Matters; and
- (c) Schedule 6 shall apply to:
 - (i) the SPAA Executive Committee Matters;
 - (ii) the SEC Matters; and
 - (iii) the DSC Committee Matters.

5.2 Implementation

- 5.2.1 For the purpose of the Joint Governance Arrangements, the Parties shall:

- (a) establish a committee of representatives in accordance with Clause 6; and
- (b) establish a joint office in accordance with Clause 7.

5.3 Compliance with licences

- 5.3.1 The Parties acknowledge that the ability of each Party to comply with the conditions of the Transporter's Licence applicable to this Agreement is, or may be, dependent on each of the other Parties complying with their obligations under this Agreement.
- 5.3.2 Within the scope of this Agreement, each Party undertakes not to cause (by its act or omission) any other Party to be in breach of its Transporter's Licence.

5.3.3 No Party shall be required under this Agreement to do, or refrain from doing, anything that will or is likely to result in breach by that Party of its Transporter's Licence and any provision of this Agreement which, after the date of this Agreement, is in conflict with the Transporter's Licence shall be treated as an invalid provision to which Clause 17 shall apply.

5.3.4 The Parties agree that the terms of this Agreement are such as are calculated to:

- (a) promote administrative efficiency in the matters to which this Agreement relates; and
- (b) avoid undue discrimination or preference as between them.

6 The Committee

6.1 Establishment of the Committee

6.1.1 Not later than the date of this Agreement, the Parties shall establish a permanent committee to undertake the functions set out in Clause 6.4.1 (**Committee**).

6.1.2 The Committee shall comprise:

- (a) the Representatives; and
- (b) the Chair,

and shall be supported administratively by the Joint Office and the Secretary.

6.1.3 Notwithstanding the absence of the Chair or one or more Representative from the Committee from time to time the Committee shall continue to, and shall, carry out its functions under this Agreement and shall be capable of making valid decisions under Clause 6.5.4.

6.2 Representatives

6.2.1 Subject to Clause 6.2.4, Representatives shall be appointed to the Committee in accordance with Schedule 3.

6.2.2 The appointing Party (or Parties) may remove and reappoint its (or their) Representative, and shall give notice to the other Parties of any such removal and reappointment.

6.2.3 It is expected that each Representative shall represent, and inform the Committee of, the views of the Party (or Parties) appointing it, in relation to the Joint Governance Arrangements.

6.2.4 Each Representative appointed under Clause 6.2.1 shall be:

- (a) an employee or a contractor of a Party appointing it;
- (b) suitably senior to act in the capacity of a representative of that Party (or Parties);
- (c) automatically removed (including in its capacity as Chair) on the date that its appointing Party (or Parties) ceases to be a Party under Clause 2.2,

and shall not be appointed as a Staff member.

6.2.5 A Party (or Parties) appointing a Representative shall give notice to each of the other Parties of such appointment.

6.2.6 A Party (or, as the case may be, Parties) shall give each of the other Parties prior notice of its (or their) Representative ceasing to comply with Clauses 6.2.4(a) and 6.2.4(b), and shall as soon as practicable thereafter appoint a replacement under Clause 6.2.1.

- 6.2.7 All Representatives from time to time appointed to the Committee shall rank equally with each other in seniority for the purposes of this Agreement.
- 6.2.8 Representatives shall not be, and shall not be deemed to be, employees or contractors of the Committee or the Joint Office or the Parties jointly, and the Parties shall make their Representatives aware of this prior to appointing them under Clause 6.2.1.
- 6.2.9 Representatives appointed under this Agreement shall not, merely as a result of that appointment, be considered to be representatives or members of the Modification Panel.

6.3 Chair

- 6.3.1 The Parties shall, in accordance with this Clause, appoint (and, as the case may be, reappoint) one of the Representatives to be chair of the Committee (**Chair**).
- 6.3.2 The following shall apply to the appointment of a Representative as Chair under Clause 6.3.1:
- (a) the term of appointment shall be one (1) year (from the date of appointment);
 - (b) the entitlement shall rotate between the Representatives in the alphabetical order of their company names, commencing with the first appointment, and thereafter, either upon expiry of the existing Chair's term or when a vacancy arises; and
 - (c) if a vacancy arises (for whatever reason) during a term of the existing Chair's appointment, the Party who appointed the outgoing Chair may appoint a replacement Chair, for the remainder of that term of appointment.
- 6.3.3 For the duration that the Parties fail to appoint a new Chair under Clause 6.3.1, the existing Chair shall continue to be Chair.
- 6.3.4 The Chair shall not have a second or casting vote at Committee meetings.
- 6.3.5 The Chair shall chair meetings of the Committee and shall have such other functions (if any) as the Committee may decide.

6.4 Functions of the Committee

- 6.4.1 Subject to Clause 6.4.2, the functions of the Committee shall include:
- (a) the supervision and monitoring of the Joint Governance Arrangements;
 - (b) the supervision of the Joint Office and the Chief Executive;
 - (c) the preparation and development of the Resource Plan in accordance with Clause 8.1;
 - (d) the preparation, revision and development of the Budget in accordance with Clause 8.2;
 - (e) the review and approval of Expenditure; and
 - (f) any other functions that the Parties agree from time to time.
- 6.4.2 Except as otherwise provided in this Agreement:
- (a) the Committee; and

- (b) any Representative (by virtue only of being a Representative),

shall have no ability to determine any matter, no competence to discharge any function or to exercise any power, and no power or authority to bind any Party, other than by virtue of the effect of any decisions of the Committee in relation to matters within the scope of its functions.

6.5 Meetings, Decisions and Processes of the Committee

6.5.1 All necessary internal processes governing the conduct and functions of the Committee and the frequency and processes relating to its meetings shall be established, and from time to time, developed, by the Committee and circulated to the Parties.

6.5.2 Any Party may, via its Representative, call a meeting of the Committee on not less than ten (10) Working Days' notice.

6.5.3 Meetings of the Committee shall:

- (a) provide a forum for discussion and dissemination of the views of the Parties; and
- (b) subject to this Clause 6, provide a forum for joint decision making of the Parties.

6.5.4 Decisions of the Committee shall be made by the affirmative vote of all Representatives present at a validly called meeting of the Committee at which at least three (3) Representatives are present (and references to the unanimous decision of the Committee shall be construed accordingly).

6.5.5 In respect of any matter in relation to which a unanimous decision is not reached by the Committee, unless the Committee decides to defer further consideration of that matter to a later meeting:

- (a) any Representative may (by notice to each other Party) and if it does so, each Representative shall, refer the matter to a director of the Party (or Parties, as the case may be) appointing it, for determination, in which case the nominated directors shall meet to consider the matter; and
- (b) if a unanimous decision is not reached by those directors within ten (10) Working Days after such notice, any Party may refer the matter to the Authority under Clause 21.

6.5.6 The Parties shall ensure that minutes of the Committee's meetings and records of its proceedings are kept and made available to each Representative and each Party.

7 Joint Office

7.1 Composition

7.1.1 Not later than the date of this Agreement, the Parties shall establish a joint office (the **Joint Office**).

7.1.2 The Joint Office shall comprise the Staff.

7.2 Chief Executive

7.2.1 In accordance with any rules that the Committee may determine, one of the Staff members shall be appointed (and, as the case may be, removed and reappointed) as the senior Staff member of the Joint Office (**Chief Executive**).

7.2.2 For the duration that the Committee fails to appoint a new Chief Executive under Clause 7.2.1, the existing Chief Executive shall continue to be the Chief Executive.

7.2.3 Subject to Clause 7.2.4, the Chief Executive:

- (a) shall have the authority and responsibility to undertake the functions delegated to him by the Committee pursuant to this Agreement, without further approval of the Committee or the Parties;
- (b) shall, together with the Staff, carry out the functions imposed on or delegated to him pursuant to this Agreement; and
- (c) may, subject to Schedule 7, delegate the performance of his functions.

7.2.4 At any time, the Committee may, in relation to any function which is delegated to the Chief Executive, withdraw from him the authority and responsibility to undertake that function.

7.2.5 The Chief Executive's authority and responsibility shall be subject to the limitations set out in Schedule 7, or as otherwise prescribed by the Committee from time to time.

7.3 Secretary

7.3.1 In accordance with any rules that the Committee may determine:

- (a) not later than the date of this Agreement,
 - (i) one of the Staff shall be appointed as the secretary (**Secretary**) of the Committee; and
- (b) the Secretary may be removed and re-appointed.

7.3.2 For the duration that the Parties fail to appoint a new Secretary under Clause 7.3.1, the existing Secretary shall continue to be Secretary.

7.4 Staff

7.4.1 Members of Staff shall be appointed to the Joint Office (and, as the case may be, removed), by way of secondment and in accordance with:

- (a) the Resource Plan; and
- (b) the Secondment Terms.

7.4.2 Staff members (including the Chief Executive and Secretary) shall not be, and shall not be deemed to be, employees or contractors of the Joint Office or the Committee. The Parties shall ensure that their Staff members are aware of this prior to appointing them under Clause 7.4.1.

7.5 Role of the Joint Office

7.5.1 The functions of the Joint Office shall include:

- (a) the functions attributed to the Code Administrator in the Uniform Network Code Modification Procedures and the Code Administration Code of Practice;
- (b) the functions relating to the implementation and administration of the Network Code Modification Procedures as set out in, or determined pursuant to, Schedule 4;
- (c) the functions relating to the Joint Matters as set out in, or determined pursuant to, Schedule 5;

- (d) the provision of facilities, resources and other support as may be required in the discharge of their functions by the Committee, the Modification Panel and the UNC Committee (including any sub-committee of the UNC Committee);
- (e) the provision of secretarial and administrative services in connection with meetings of the Committee, the Modification Panel and the UNC Committee (or any sub-committee of the UNC Committee);
- (f) the provision of a copy of this Agreement, from time to time, to the Authority;
- (g) the provision of a copy of, and any modification made to, the Uniform Network Code to the Authority and any other person in the manner required under each Party's Transporter's Licence;
- (h) the preparation and publishing of a summary of the Uniform Network Code; and
- (i) any other functions that the Committee agrees from time to time, under the direction and supervision of the Committee.

7.5.2 Except as otherwise provided in this Agreement, the Joint Office shall have no ability to determine any matter, no competence to discharge any function or to exercise any power and no power or authority to bind any Party.

7.6 Processes of the Joint Office

7.6.1 All necessary internal processes governing the conduct and obligations of the Joint Office shall be established, and from time to time developed, by the Joint Office and made available to each of the Representatives.

8 Resources and Budget

8.1 Resource Plan

8.1.1 Not later than the date of this Agreement, a resource plan shall be prepared by the Committee:

- (a) in the form set out in Schedule 8 (Part I); and
- (b) which addresses the matters set out in Clause 8.1.2

(the **Resource Plan**).

8.1.2 The Resource Plan:

- (a) shall include provision for:
 - (i) an independent Modification Panel chair (**Panel Chair**);
 - (ii) the manpower staff requirement for the Joint Office, including:
 - (aa) the aggregate number of staff required;
 - (bb) the qualifications and/or experience of the staff required; and
 - (cc) the number and type of staff to be provided by a Party (having regard to Clause 8.3.1(a));
 - (iii) suitable facilities for business purposes, including:

- (aa) secure office space to which controlled access is installed;
 - (bb) meeting rooms and conference facilities; and
 - (cc) secure file storage facilities;
 - (iv) office equipment necessary for the Joint Office workplace, including telephones and other communication devices, computer workstations and office furniture; and
 - (v) any applications developed for internal or external business purposes, including business software; and
- (b) may provide for any item of resource to be provided by one, or more but not all, of the Parties only.

8.1.3 The Resource Plan shall be developed by the Committee:

- (a) upon an Accession Agreement being executed pursuant to Clause 2.1;
- (b) upon a Party ceasing to become a Party under Clause 2.2; and
- (c) from time to time,

as is necessary to ensure that the Joint Office is properly resourced and has access to sufficient resources to undertake its functions.

8.2 Budget

8.2.1 Not later than the date of this Agreement, a Budget shall be agreed by the Committee in the form set out in Schedule 8 (Part II), which shall set out:

- (a) the itemised maximum expenditure cap for each line item of resource to be provided;
- (b) the itemised budget forecast expenditure for each line item of resource to be provided;
- (c) the estimated aggregate funds required to implement the Resource Plan; and
- (d) such other costs and expenses to be incurred or likely to be incurred by or on behalf of any of the Parties pursuant to this Agreement.

8.2.2 The Budget agreed under Clause 8.2.1:

- (a) shall be revised annually by the Committee; and
- (b) may be developed and revised by the Committee from time to time.

8.3 Provision by the Parties of Resources

8.3.1 Without prejudice to Clause 8.1.2(b), each Party:

- (a) may provide a reasonable proportion and range of the members of staff required to work in the Joint Office; and
- (b) shall provide to the Joint Office the number and type of staff identified to be provided by it (if any) in the Resource Plan.

8.3.2 Each Party shall provide to the Joint Office the other resources stipulated to be provided by it in the Resource Plan.

9 Sharing of costs, expenses etc.

9.1 Funding obligation

9.1.1 Each Party (or Parties, as the case may be) appointing a representative shall bear the remuneration for its Representative(s).

9.1.2 Each Party shall be responsible for funding a proportion of the Aggregate Approved Expenditure equal to:

$$\frac{\text{Aggregate Approved Expenditure} \times \text{Network Ownership}}{\text{nine (9)}}$$

where:

Network Ownership = number of Networks owned by that Party.

9.1.3 The allocation of funding between the Parties under Clause 9.1.2 shall be reviewed from time to time on request by any Representative.

9.2 Entitlement to recover

9.2.1 To the extent that a Party incurs Expenditure under this Agreement, its entitlement to recover that Expenditure from the other Parties shall be in accordance with this Clause 9 and Schedule 9.

9.3 Payment and invoicing

9.3.1 Without prejudice to Clause 9.3.2, following receipt from the Committee of its Final Statement of Expenses for an Expenses Period, a Party may invoice each of the other Parties for its Approved Expenditure (if any), together with VAT, for each Expenses Period, as determined by the Committee under Schedule 9.

9.3.2 Each Party shall pay any amount due under this Agreement to another Party within thirty (30) days of the amount being invoiced to it.

9.3.3 If any amount remains unpaid after the due date, interest shall accrue on the amount unpaid at the annual rate of 2 per cent (2%) over the base lending rate of Barclays Bank plc.

9.3.4 All payments due under this Agreement shall be made in pounds sterling, being the currency of the UK.

9.3.5 A Party may, in good faith, withhold from payment any disputed amount set out in an invoice. The payment of any disputed amount shall be resolved by the Parties in accordance with Clause 21 (Dispute Resolution).

9.3.6 Upon settlement or determination of a dispute raised under Clause 9.3.5, any amount agreed or determined to be payable by the Party that withheld the amount (together with interest under Clause 9.3.3) shall be paid by that Party within fourteen (14) days of such settlement or determination.

9.4 Set-off

9.4.1 For any sums payable under this Agreement to another Party, the paying Party may first deduct any sums payable by the other Party to it under this Agreement provided that it accompanies such payment with a statement of all reasonably necessary details of the set-off.

10 Intellectual Property Rights

- 10.1.1 Save as expressly set out in this Clause 10, nothing in this Agreement shall:
- (a) confer any Intellectual Property Rights on any Party, the Committee, the Representatives, the Panel Chair, the Joint Office or its Staff; or
 - (b) assign any Intellectual Property Rights existing at the date of the Agreement.
- 10.1.2 All Intellectual Property Rights (excluding any Intellectual Property Rights in any hardware or software) created by any of the Parties in pursuance of the Joint Governance Arrangements (**Joint IP**) shall be owned jointly by all of the Parties as tenants in common.
- 10.1.3 Each Party undertakes to the extent any Joint IP has been created by it, to procure, to the extent and where possible by law, unconditional and irrevocable waivers of any moral rights that exist in any country relating to such Joint IP.
- 10.1.4 Each Party shall execute any further documents and do all such acts as the other Parties may reasonably require to evidence, confirm or give full effect to Clauses 10.1.2 and 10.1.3.
- 10.1.5 Each Party shall ensure that in the performance of this Agreement it will not knowingly infringe and will not knowingly permit any infringement by its Representatives or Staff of any Intellectual Property Rights and, subject to a Party's total liability under Clause 14.2, each Party shall indemnify each other Party from and against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever in any way arising from any breach of this Clause 10.

11 Confidentiality

11.1 Duty of Confidentiality

- 11.1.1 Save as provided by Clause 11.2 each Party shall keep confidential and not disclose to any person any Confidential Information without the prior written consent of each other Party.
- 11.1.2 For the purposes of this Clause 11, references to a **person** shall be construed as including an individual, firm, partnership, trust, joint venture, corporate body, unincorporated body, association, organisation or any governmental body (whether or not in each case having separate legal personality).

11.2 Permitted disclosures

- 11.2.1 A Party (the **Disclosing Party**) may disclose Confidential Information acquired by it under this Agreement without the prior written consent of each other Party if such disclosure is made:
- (a) for the purposes of this Agreement, to an officer, employee or servant (including any Representative or Staff member) or Affiliate of the Disclosing Party;
 - (b) for the purposes of this Agreement, to the Panel Chair;
 - (c) for the purposes of this Agreement, to a professional adviser, contractor, consultant or agent of the Disclosing Party;
 - (d) to the extent that the Confidential Information has become publicly available or generally known to the public at the time of such disclosure otherwise than as a result of a breach of this Clause 11; or
 - (e) when required to do so by law or by or pursuant to the rules or any order or decision of the Authority or any English or Scottish court, tribunal or agency of competent jurisdiction,

and in any such case, in accordance with the requirement in Clause 11.3.

11.2.2 A Disclosing Party shall ensure that the person to whom the Confidential Information is disclosed is aware of the Disclosing Party's obligations under Clause 11.2.1 and does not use or disclose the Confidential Information other than as permitted by the Disclosing Party under Clause 11.2.1 above.

11.3 Terms of permitted disclosure

Confidential Information shall not be used by any Party for any purpose other than the performance of this Agreement.

12 No partnership

Nothing in this Agreement, and no action taken under this Agreement, shall create a partnership or establish a relationship of principal and agent between any of the Parties or otherwise authorise any Party to bind any other Party for any purpose.

13 Changes

13.1 This Agreement may only be amended:

- (a) with the prior written consent of each Party; and
- (b) with the Authority's consent (or deemed consent) in accordance with, and in the manner set out in, Standard Special Condition A12(3).

13.2 The Parties shall review this Agreement from time to time and in any event annually to decide whether or not any changes are required to be made to this Agreement.

13.3 Upon:

- (a) a Party ceasing to become a Party to this Agreement; or
- (b) an Additional Party becoming a Party to this Agreement,

the details of the Parties in Schedule 1 shall be deemed to have been amended accordingly to reflect that cessation or accession event (as the case may be).

14 Liability and Indemnity

14.1 Subject to Clause 14.2, no Party (nor any of its Representatives or Staff) shall in any circumstances whatsoever and whether in contract, tort (including negligence and breach of statutory duty), statute, or otherwise howsoever be liable to any other Party for any Losses under this Agreement, unless it causes, by breach of its obligations under this Agreement, any other Party to be in breach of its Transporter's Licence.

14.2 Each Party's total liability to each other under this Agreement whether in contract, tort (including negligence and breach of statutory duty), statute, or otherwise howsoever in any one calendar year shall not exceed £0.5million (half a million pounds sterling).

14.3 Notwithstanding any other provision in this Agreement, nothing in this Agreement shall exclude or limit the liability of any Party for death or personal injury resulting from its negligence or the negligence of any of its representatives.

15 VAT

- 15.1 Unless otherwise stated, all amounts payable under this Agreement are exclusive of Value Added Tax or any similar tax or duties which shall be payable in addition at the rate (if any) from time to time properly chargeable.

16 Remedies and waivers

16.1 No waiver or discharge

- 16.1.1 No default by any Party in the performance of or compliance with any provision of this Agreement shall be waived or discharged except with the express written consent of each other Party. A waiver by a Party of a default by another Party will not prevent the first Party from subsequently requiring compliance with the waived obligation.

16.2 Saving for future waivers

- 16.2.1 No waiver by any Party of any default by another in the performance of or compliance with any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default whether of a like or different character.

16.3 Failure to exercise etc. not a waiver

- 16.3.1 No failure to exercise, nor delay or omission by any Party in exercising, any right, power or remedy conferred on it under this Agreement or provided by law shall except with the express written consent of that Party:

- (a) affect that right, power or remedy; or
- (b) operate as a waiver of it.

- 16.3.2 No single or partial exercise by any Party of any right, power or remedy shall prevent any further exercise of that right, power or remedy or the exercise of any other right, power or remedy.

16.4 Rights and remedies cumulative

- 16.4.1 The rights, powers and remedies conferred on the Parties by this Agreement are cumulative and not exclusive of any rights, powers and remedies provided by law or otherwise.

17 Invalidity

17.1 Effect of invalidity

- 17.1.1 If at any time any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

17.2 Modifications

- 17.2.1 If any provision of this Agreement is so found to be invalid, illegal or unenforceable but would be valid, legal or enforceable if some part of the provision were deleted, the provision in question shall apply with such modifications as may be necessary to make it valid, legal or enforceable.

17.3 Substitutions

17.3.1 The Parties agree, in the circumstances referred to in Clause 17.1 and provided that Clause 17.2 does not apply, to attempt to substitute for any invalid, illegal or unenforceable provision a valid, legal or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid, illegal or unenforceable provision. The obligations of the Parties under any invalid, illegal or unenforceable provision of this Agreement shall be suspended whilst an attempt at such substitution is made.

18 Third Party rights

The Parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party.

19 Assignment, transfer and agency

19.1 Except as permitted by this Clause 19, no Party may assign, charge or otherwise encumber, create any trust over or deal in any other manner with this Agreement or any right, benefit or interest under it, or transfer any of its obligations under it.

19.2 A Party may assign or transfer the whole or any part of this Agreement or any right, benefit, interest or obligation under this Agreement to any person:

- (a) to which that Party has transferred part or all of its Transporter's Licence under Section 8AA of the Act; and
- (b) who is a Relevant Gas Transporter.

19.3 A Party may sub-contract all or any of its obligations under this Agreement provided that it shall be liable for the acts, defaults and negligence of its sub-contractor and personnel or agents of such sub-contractor as fully as if they were the acts, defaults or neglects of that Party.

19.4 Nothing in this Agreement shall prevent or restrict a Party from appointing another person to be the agent of the Party for the purposes of this Agreement and where a Party wishes to appoint an agent it shall give notice to each other Party specifying the identity of the proposed agent, the purposes in respect of which the agent is to be appointed and the date from which the appointment is to take effect.

19.5 Where a Party terminates the appointment of an agent it shall give notice to each other Party specifying the date from which the termination is to take effect.

20 Entire Agreement

20.1 Entire Agreement

20.1.1 This Agreement sets out the entire agreement between the Parties with respect to the subject matter contained in this Agreement.

20.1.2 No other term, express or implied, and no usage, custom or course of dealing forms part of or affects this Agreement.

20.2 Representations and reliance

20.2.1 The only claim, right or remedy available to a Party in respect of a representation expressly set out in this Agreement shall be damages for breach of contract.

20.2.2 Each Party agrees and acknowledges that in entering into this Agreement it does not rely on any representation not expressly set out in this Agreement of any nature made to it by any

person (whether a Party or not). Each Party irrevocably waives all claims, rights and remedies in relation to any such representations made to it before entering into this Agreement.

20.2.3 This Clause 20 does not exclude or restrict any liability or remedy for fraudulent misrepresentation or fraudulent concealment.

21 Dispute Resolution

21.1 Initial resolution

21.1.1 Without prejudice to Clause 6.5.5, if the Committee (acting through the Representatives), notwithstanding the use of reasonable endeavours to do so, is unable to resolve amicably a difference or dispute arising out of or in connection with this Agreement within thirty (30) days of such difference or dispute arising, then any Party to that dispute may require such matter be referred to a director of each Party (or Parties, as the case may be) appointing a Representative for determination, in which case the Parties shall ensure that their nominated directors meet to seek to resolve the dispute or difference.

21.2 Referral to the Authority

21.2.1 The following may be referred by a Party to the Authority for determination:

- (a) any difference or dispute for which a Party is not satisfied with the outcome of a decision under Clause 21.1; and
- (b) any matter which falls to be referred to the Authority under Clause 6.5.5.

21.2.2 For the purposes of Clause 21.2.1, any question arising as to whether a dispute or difference is one which falls within the jurisdiction of the Authority shall be determined by the Authority.

22 Jurisdiction

22.1.1 The Parties irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement.

22.1.2 Each Party irrevocably waives any objection to the English courts, whether on the grounds of venue, or on the grounds that the forum is not appropriate.

22.1.3 Any Party which is not a company incorporated under the Companies Act 1985 shall provide to the other Parties an address in England or Wales for service of process on its behalf in any proceedings.

23 Counterparts

23.1 This Agreement may be executed in any number of counterparts, and by the Parties on separate counterparts. Each counterpart shall constitute an original of this Agreement, but together the counterparts shall constitute one document.

24 Notices

24.1 Service

24.1.1 Subject to 24.3, any notice or other communication to be given under this Agreement shall be in writing and shall be delivered by hand, sent by prepaid first class post, or transmitted by fax, and shall be addressed to the Party at its registered office (marked for the attention of its

Representative) for the time being or to such other address as a Party may have previously notified to the other Parties in writing as being its address for such purpose.

24.1.2 A notice to be given to the Committee under this Agreement shall also be served on each of the Representatives.

24.2 Receipt

24.2.1 For the purpose of Clause 24.1.1, any notice or communication delivered by hand shall be deemed to have been received at the time of delivery, any notice or communication sent by post shall be deemed to have been received on the second Working Day (for inland mail) after the date of posting, and any notice or communication transmitted by fax shall be deemed to have been received on the Working Day following the date of transmission.

24.3 Electronic communication

24.3.1 Any notice or communication to be given under this Agreement may be made by electronic mail or other electronic means, if the Party to whom the communication is sent (the **Receiving Party**) and the Party from whom the communication originates (the **Sending Party**):

- (a) notify each other of the address to which such electronic mail and/or any other information required to enable the sending and receipt of information by that means; and
- (b) notify each other of any change to their address or any other such information supplied by them.

24.3.2 Any electronic communication made between a Sending Party and a Receiving Party will be effective only when actually received by the Receiving Party in readable form.

25 Governing law

25.1 This Agreement shall be governed by and construed in accordance with English law.

Signed by the Parties or their duly authorised representatives

Signed by
duly authorised for
and on behalf of
National Grid Gas plc

Signed by
duly authorised for and
on behalf of
National Grid Gas Distribution Limited

Signed by
duly authorised for and
on behalf of
Northern Gas Networks Limited

Signed by
duly authorised for and
on behalf of
Scotland Gas Networks plc

Signed by
duly authorised for and
on behalf of
Southern Gas Networks plc

Signed by
duly authorised for and
on behalf of
Wales & West Utilities Limited

Schedule 1 – Parties

Party Name: National Grid Gas plc

Company details: National Grid Gas plc, registered in England with number 2006000 whose registered office is at 1-3 Strand, London WC2N 5EH a corporation organised and existing under the laws of England.

Party Name: National Grid Gas Distribution Limited

Company details: National Grid Gas Distribution Limited, registered in England with number 10080864 whose registered office is at 1-3 Strand, London WC2N 5EH a corporation organised and existing under the laws of England.

Party Name: Northern Gas Networks Limited

Company details: Northern Gas Networks Limited registered in England with number 5167070 whose registered office is at 1100 Century Way, Colton, Leeds LS15 8TU a corporation organised and existing under the laws of England.

Party Name: Scotland Gas Networks plc

Company details: Scotland Gas Networks plc registered in Scotland with number SC264065 whose registered office is at Axis House, 5 Lonehead Drive, Newbridge, Edinburgh EH28 8TG a corporation organised and existing under the laws of Scotland.

Party Name: Southern Gas Networks plc

Company details: Southern Gas Networks plc registered in England with number 05167021 whose registered office is at St Lawrence House, Station Approach, Horley RH6 9HJ a corporation organised and existing under the laws of England.

Party Name: Wales & West Utilities Limited

Company details: Wales & West Utilities Limited registered in England with number 5046791 whose registered office is at Wales & West House, Spooner Close, Celtic Springs, Coedkernew, Newport NP10 8FZ a corporation organised and existing under the laws of England.

Schedule 2 – Form of Accession Agreement

THIS ACCESSION AGREEMENT is made on []

Between

- (1) National Grid Gas plc (**National Grid**) a company registered under number 2006000 whose principal office is at 1-3 Strand, London WC2N 5EH, on its own behalf and on behalf of all the other parties to the Joint Governance Arrangement Agreement dated [] made between National Grid and the other Parties named therein (the **JGAA**); and
- (2) []

Background

- (A) Under Clause 2.1 of the JGAA, the Parties agreed to admit any person who becomes a Relevant Gas Transporter after the date of signature of the JGAA as an additional party to the JGAA.
- (B) The Applicant is a Relevant Gas Transporter and now wishes to be admitted as an Additional Party to the JGAA.
- (C) National Grid is authorised under the JGAA to sign, on behalf of the Parties to the JGAA, this Accession Agreement with the Applicant.

It is agreed

1. In this Accession Agreement, words and expression defined in or for the purposes of the JGAA and not otherwise defined in this Accession Agreement shall have the meanings ascribed to them under the JGAA. Any capitalised terms used, but not defined, in this Accession Agreement or the JGAA shall have the meaning given to them in the Uniform Network Code.
2. National Grid (acting on its own behalf and pursuant to Clause 2.1 of the JGAA on behalf of each of the other Parties to the JGAA) hereby admits the Applicant as an Additional Party to the JGAA on the terms and conditions of this Accession Agreement.
3. The Applicant hereby accepts its admission as a Party to the JGAA and undertakes with National Grid (acting on its own behalf and pursuant to Clause 2.1 of the JGAA on behalf of each of the other Parties to the JGAA) to perform and to be bound by the JGAA as a Party as from the date of this Accession Agreement.
4. For all purposes in connection with the JGAA, with effect from the date of this Accession Agreement, the Applicant shall be treated as a signatory and a Party to the JGAA.
5. National Grid and the Applicant shall each, from time to time on being reasonably required to do so by the other and at the cost of the other, now or at any time in the future, do or procure the doing of all such acts and/or execute or procure the execution of all such documents in a form satisfactory to the other as the other may consider necessary for giving full effect to this Accession Agreement and securing to the other the full benefit of the rights, powers and remedies conferred upon the other in this Accession Agreement.
6. Each of the provisions of this Accession Agreement is severable. If any such provision is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or enforceability in that jurisdiction of the remaining provisions of this Accession Agreement shall not in any way be affected or impaired as a result.

Schedule 3 – Representatives

A. Entitlement to appoint Representatives

1. The Party (or if there is more than one Party, the Parties) who is (or are) the owner(s) for the time being of the Networks identified in Column 1 of the table below may appoint to the Committee the number of representatives stated in Column 2 of the table below:

Column 1 - Networks	Column 2 - Number of Representatives
NTS	One (1)
North of England	One (1)
Scotland and South of England	One (1)
Wales and West	One (1)
East of England, West Midlands, London, North West	One (1)

Schedule 4 – Network Code Modification Procedures

A. General

1. The provisions of this Schedule are the arrangements required to be made by the Parties for the administration of the Network Code Modification Procedures, pursuant to Standard Special Conditions A11 and A12(4) and A12(1)(a)(i) and the Code Administration Code of Practice.
2. The Parties agree that:
 - (a) each Representative may nominate one (1) of the five (5) representatives to be appointed (or as the case may be reappointed) by the transporters as transporters' representatives on the Modification Panel;
 - (b) For so long as the Parties remain responsible under the UNC for the appointment of the Panel Chair, the Representatives will propose to the Authority an individual to be, and undertake the role of, Panel Chair pursuant to the Modification Rules. If the Authority does not approve the Representatives' proposal, the Representatives will propose an alternative individual to be, and undertake the role of, Panel Chair pursuant to the Modification Rules; A Panel Chair shall be appointed in accordance with the document entitled "Appointment Process for an Independent Panel Chair" as published on the website of the Joint Office of Gas Transporters.
 - (d) the Joint Office Chief Executive will undertake the role of deputy chair of the Modification Panel pursuant to the Modification Rules;
 - (e) the Secretary (with the support of the Staff) shall be, and undertake the role of, the secretary to the Modification Panel pursuant to the Modification Rules;
 - (f) a decision as to the disapplication of the Modification Rules pursuant to paragraph 12.7 of the Modification Rules shall be made on a case by case basis by the Committee; and
 - (g) they shall jointly seek the consent of the Authority under Standard Special Condition A11(13)(b) for any proposed modification to the Uniform Network Code.
3. The Parties agree that the following functions arising pursuant to the Network Code Modification Procedures shall be delegated by the Committee to the Chief Executive:
 - (a) subject to Clauses 7.2.4 and 7.2.5, and except as provided in Paragraph A2 above, the administration and implementation of the Joint Modification Rules Matters;
 - (b) preparation, publication (where required) and issue of such document pursuant to the Modification Rules as the Committee notifies to the Chief Executive, from time to time;
 - (c) procuring the provision of necessary legal resources pursuant to the processes agreed by the Committee; and
 - (d) determining when to seek a View from the Authority, and administering the process required for any such application to the Authority, under paragraph 12.8 of the Modification Rules.

B. Development of process

1. The Chief Executive shall develop (and from time to time review and revise), for approval by the Committee, a process for the implementation and administration of the Network Code

Modification Procedures and the Joint Modification Rules Matters as is consistent with the Modification Rules.

C. Implementation of process

1. The processes developed under Paragraph B1 shall be implemented and administered by the Joint Office.

D. Definitions

1. In this Schedule 4, the following definitions have the meaning given in the Uniform Network Code:
 - (a) Modification Rules;
 - (b) Modification Panel; and
 - (c) View.
2. In this Schedule 4, **Joint Modification Rules Matters** means those matters under the Modification Rules which are, or are required to be, undertaken by the Parties on a joint basis.

Schedule 5 – Uniform Network Code Joint Matters

1 General

1.1 Introduction

1.1.1 The provisions of this Schedule 5 are the arrangements made by the Parties pursuant to Standard Special Condition A12(1)(a)(iii).

1.1.2 In this Schedule:

(a) **Joint Matters** means matters which the Code provides to be implemented by the Parties on a common, joint or collective basis; and

(b) **TPD** means Transportation Principal Document,

and unless otherwise defined in this Agreement, capitalised terms shall have the meaning given to them in the Code.

1.1.3 The Parties shall implement the Joint Matters (and the Committee shall take any decisions in respect of Joint Matters) in such manner as will ensure compliance by the Parties with the provisions of the Code and the requirements of their respective Transporter's Licences, and (so far as consistent therewith) in accordance with the further provisions of this Schedule 5.

1.2 Categorisation of Joint Matters

1.2.1 The Parties agree that Joint Matters can be considered as falling into the following categories (**Categories**), which are not intended to be mutually exclusive, of provisions of the Code (in each case, to the extent to which the Code provides for a common, joint or collective basis of implementation):

Category	Description of Matter
Administrative	Provisions of an administrative nature (including for the notification or publication of things determined by the Parties pursuant to other provisions)
Code Documents	Provisions for the preparation and publication of documents referred to in (and having effect for the purposes of) the Uniform Network Code, whether of a technical or other nature
Demand Estimation	Provisions related to short-term demand modelling under TPD Section H5
Liability Sharing	Requirements to determine and pay amounts to Users pursuant to Compensation Rules, or for Users to pay comparable amounts to the Parties
Invoicing	Provisions of TPD Section S relating to invoicing
Audit	Requirements related to the appointment of auditors in connection with Compensation Rules
Authority approvals / disapprovals	Provisions of the TPD under which the Transporters jointly apply to the Authority for approval or disapproval (as the case may be) under Standard Special Condition A11(18)
Agency Functions of the CDSP	Provisions relating to matters which the CDSP will perform as a Joint Matter

Modification Rules	Provisions of the Modification Rules
Offtake Arrangements	Provisions (if any) of the Offtake Arrangements Document under which the Parties are to act together
Miscellaneous	Provisions of the Code which do not fall into any of the above categories

1.2.2 The Chief Executive shall prepare, keep under review and from time to time revise, with the approval of the Committee, a statement of all Joint Matters (by reference to the relevant provisions of the Code), allocating each such matter to one of the above Categories on the most appropriate basis.

1.2.3 The allocation of Joint Matters to Categories shall be consistent with the Code, the DSC and the further provisions of this Schedule 5.

2 Implementation of Joint Matters

2.1 General

2.1.1 Unless the Parties otherwise decide, the implementation of Joint Matters within each Category shall be as provided in this Paragraph 2.

2.1.2 Where the implementation of any Joint Matter requires any contract or other commitment to be made with or to a third party (not including, for the avoidance of doubt, the CDSP or any User):

- (a) any of the Parties may (and the Chief Executive may designate one of the Parties which shall) enter into such contract or make such commitment on behalf of the Parties, subject to the prior consent of the Committee and any conditions it may impose as to the scope or value of that contract or commitment;
- (b) such Party shall perform and exercise its rights under such contract or commitment in accordance with (and so as to give effect to) the further provisions of this Paragraph 2;
- (c) the terms of such contract or commitment shall be such as are determined in accordance with the further provisions of this Paragraph 2;
- (d) the costs incurred by any Party or Parties pursuant to such contract or commitment shall be treated as (and allocated between the Parties as) Expenditure in accordance with Clause 9 and Schedule 9; and
- (e) the Parties shall bear, and each Party shall indemnify the Party entering into such contract or commitment in respect of, any liability incurred under or in connection with such contract or commitment, in the proportions in which Aggregate Approved Expenditure is allocated between the Parties in accordance with Clause 9 and Schedule 9.

2.1.3 Where:

- (a) a Joint Matter is not within a Category which (in accordance with Paragraph 2.5) is to be implemented in accordance with the DSC; but

- (b) the implementation of such Joint Matter requires any notice to be given to the CDSP and/or and other procedure or other step to be implemented or taken under the DSC,

the Chief Executive shall secure that such notice is given or (as the case may be) such step or procedure initiated.

2.2 Administrative Joint Matters

- 2.2.1 Joint Matters within the Administrative Category shall be implemented by the Joint Office.

2.3 Uniform Network Code Documents

- 2.3.1 The preparation of documents within the Code Documents Category, and the revision from time to time of such documents, shall be a matter for (and decided by) the Committee, which may delegate such matter to (or obtain advice from) such technical or other experts as it shall decide.
- 2.3.2 Any Party may propose a revision to such a document by notice to each other Party, copied to the Secretary, setting out the proposed revision and the rationale for the proposal; and the Secretary shall ensure that the proposal is placed on the agenda for a meeting of the Committee.
- 2.3.3 Requirements for consultation in respect of, and the publication of, any such document shall be administered by the Joint Office.

2.4 Liability Sharing

- 2.4.1 Paragraph 3 shall apply in respect of Joint Matters within the Liability Sharing Category.

2.5 Joint Matters to be dealt with under the DSC

- 2.5.1 Joint Matters falling within any of the following Categories are implemented pursuant to and in accordance with the DSC:
 - (a) Invoicing; and
 - (b) Agency Functions of the CDSP.

2.6 Audit Provisions

- 2.6.1 The selection and appointment of persons pursuant to provisions within the Audit Category shall be a matter for (and decided by) the Committee.
- 2.6.2 The administration of the appointment of such persons (and the giving of any Code Communications in connection therewith) shall be implemented by the Joint Office.
- 2.6.3 For avoidance of doubt the Audit Category will not include any provision for appointment of a person which is a matter within the Agency Functions of the CDSP Category.

2.7 Authority Approval/Disapprovals

2.7.1 All applications to the Authority for a Condition A11(18) Approval or Condition A11(18) Disapproval (as the case may be) under the following sections of the Code shall be Joint Matters and shall be administered by the Joint Office:

Code Reference	
TPD Section B1.10	TPD Section V10.7.3(a)
TPD Section I2.3.4(b)(ii)	TPD Section V10.7.3(b)(ii)
TPD Section J3.11.7(a)	TPD Section V10.8.1
TPD Section J6.6.1	TPD Section V10.9
TPD Section M5.3.3	-
TPD Section N3.1.8	-
TPD Section V10.7.2(b)(ii)	-

2.7.2 The Chief Executive shall keep under review and from time to time revise as appropriate, the list of sections of the Code in Paragraph 2.7.1.

2.8 Modification Rules

2.8.1 The administration of the Network Code Modification Procedures is provided for in Schedule 4.

2.9 Offtake Arrangements

2.9.1 The implementation of any Joint Matters under the Offtake Arrangements Document is provided for in the Offtake Arrangements Document.

2.10 Miscellaneous

2.10.1 In respect of any Joint Matters within the Miscellaneous Category, the Committee shall decide whether such matters shall be implemented:

- (a) by the Joint Office;
- (b) by decision of the Committee; or
- (c) otherwise,

and such matters shall be implemented accordingly.

3 Liability Sharing

3.1 Uniform Network Code Provisions

3.1.1 In this Paragraph 3:

- (a) a **Joint Liability Provision** is a Compensation Rule (or other provision of the TPD) under which the Transporters collectively are liable to pay to or (as the case may be) entitled to receive any amount from a User or Users as a result of any failure (on the part of any Transporter(s) or User) to achieve a standard prescribed in the Code.

3.1.2 (b) the allocation between Parties provided for in this Paragraph 3 of the Liability Sharing The **Liability Sharing Category** shall comprise all Joint Liability Provisions.

3.1.3 At the date of this Agreement, the **Joint Liability Provisions** are:

- (a) the Compensation Rules in the following provisions of the TPD:
 - (i) TPD Section G4.1.3, which provides for liability in respect of failures to respond to referred Supply Point Nominations;
 - (ii) TPD Section M5.2.2, which provides for liability in respect of failures to provide Valid Meter Readings; and
- (b) TPD Section M3.8.10, which provides for liability on the part of a User in respect of failures to provide Opening Meter Readings.

3.2 Liability Sharing

3.2.1 The Parties agree that they will inter se be liable for or (as the case may be) entitled to amounts payable pursuant to the Joint Liability Provisions in accordance with the Liability Sharing Rules.

3.2.2 The **Liability Sharing Rules** are the rules set out in the Annex to this Schedule, or such revised rules as may from time to time be determined in accordance with Paragraph 3.2.3.

3.2.3 Where as a result of any modification of the Code:

- (a) there is or is to be any change in any of the Joint Liability Provisions as a result of which the allocation provided for in the Liability Sharing Rules is no longer appropriate; or
- (b) there is or is to be any new Joint Liability Provision,

the Committee shall decide upon an appropriate revision of or (as the case may be) addition to the Liability Sharing Rules, to provide for an allocation on principles consistent with the principles reflected in the current Liability Sharing Rules, and shall issue a revised version of Liability Sharing Rules which shall be effective from the effective date of the relevant Code Modification.

3.3 Implementation

3.3.1 The DSC provides for the implementation of:

- (a) the Joint Liability Provisions; and
- (b) Rules.

3.3.2 Each Transporter undertakes:

- (a) to provide to the CDSP such information as may be required in accordance with the DSC for such implementation under Paragraph 3.3.1; and
- (b) to give such instructions to its Committee Representative(s) (as defined in the DSC) as are necessary to give effect to this Paragraph 3.

3.3.3 The Parties intend (as provided in the DSC) that the amounts for which they are liable to each User pursuant to Joint Liability Provisions in respect of any month will be credited to the User (by way of credit in respect of amounts payable by the User under an Invoice) in the proportions in which such amounts (or the aggregate of such amounts) are allocated between the Parties pursuant to the Liability Sharing Rules.

- 3.3.4 For the avoidance of doubt the obligations of the Parties between themselves (in relation to Joint Liability Provisions) shall be governed by this Paragraph 3 and not the DSC; and the Parties shall make any adjustment payments between themselves as may be necessary to give effect to this Paragraph 3 in the event of any failure in the implementation of this Paragraph 3 under the DSC.

Annex (to Schedule 5) – Liability Sharing Rules

1 Section G4.1.3

- 1.1 The **G4.1.3 Amount** in respect of a User and a month is the amount payable in the month by Parties to the User pursuant to TPD Section G4.1.3, after taking account of TPD Section V13.2.
- 1.2 The amount of the G4.1.3 Amount payable to a User in respect of a month for which each Party shall be liable shall be calculated as:

$$A_{G4.1.3} * \{(A' - B' - C') / (A - B - C)\}$$

where

$A_{G4.1.3}$ is the G4.1.3 Amount;

A, B, C are the terms A, B and C in TPD Section G4.1.3; and

A', B', C' are those terms on the basis that TPD Section G4.1.3 is construed as if references to Supply Point Nominations were to Supply Point Nomination in respect of a Supply Point on any of that Party's Systems.

2 Section M5.2.2

- 2.1 The **M5.2.2 Amount** in respect of a User and a month is the amount payable in the month by Parties to the User pursuant to TPD Section M5.2.2, after taking account of TPD Section V13.2.
- 2.2 The amount of the M5.2.2 Amount payable to a User in respect of a month for which each Party shall be liable shall be calculated as:

$$A_{M5.2.2} * \{(A' - B') / (A - B)\}$$

where

$A_{M5.2.2}$ is the M5.2.2 Amount;

A, B are the terms A and B in TPD Section M5.2.2; and

A', B' are those terms on the basis that TPD Section M5.2.2 is construed as if references to Performance Relevant Supply Meters were to Performance Relevant Supply Meters on any of that Party's Systems.

3 Section M3.8.10

- 3.1 Each Party shall be entitled to a proportion of any amount payable by a User pursuant to Section M3.8.10 in a calendar month calculated as (A / B) where A and B are the respective numbers of LDZ Supply Points referred to in Paragraph 3 of this Annex (relating to TPD Section S4.7) for that month.
- 3.2 In accordance with Paragraph 5.1 National Grid will not be entitled to any part of such amount.

Schedule 6 - SPAA Executive Committee Matters, SEC Matters and DSC Committee Matters

1. If no candidates are otherwise put forward for election to:
- (a) the SPAA Executive Committee as Large Transporter Members (as defined in the SPAA); or
 - (b) to the Panel or the Change Board as Gas Network Party (as defined in the SEC),
- then the Representatives will seek to ensure that candidates are put forward by the following Parties, and that they will nominate an alternative, as indicated in the table below:

	Supply Point Administration Agreement				Smart Energy Code		
	Member	Alternative	Member	Alternative	Panel	Alternative	Change Board
2016/17	NGD	WWU	WWU	NGN	SGN	NGD	NGD
2017/18	NGD	NGN	WWU	SGN	NGD	NGN	NGN
2018/19	NGN	SGN	WWU	NGD	NGD	NGN	NGN
2019/20	NGN	NGD	SGN	WWU	NGN	SGN	SGN
2020/21	NGD	WWU	SGN	NGN	NGN	SGN	SGN
2021/22	NGD	NGN	WWU	SGN	SGN	WWU	WWU
2022/23	NGN	SGN	WWU	NGD	SGN	WWU	WWU
2023/24	NGN	NGD	SGN	WWU	WWU	NGD	NGD
2024/25	NGD	WWU	SGN	NGN	WWU	NGD	NGD
2025/26	NGD	NGN	WWU	SGN	NGD	NGN	NGN
2026/27	NGN	SGN	WWU	NGD	NGD	NGN	NGN
2027/28	NGN	NGD	SGN	WWU	NGN	SGN	SGN
2028/29	NGD	WWU	SGN	NGN	NGN	SGN	SGN

2. Any candidate elected as a Large Transporter Member/Gas Network Party will be expected to represent the views of all Parties, and Representatives will ensure Members are made aware of this expectation.
3. The DNO representative to be appointed to a DSC Committee by each of the Larger DN Operators and the Smaller DN Operators shall be appointed by the following Parties:

	Larger DN Operator	Smaller DN Operator
Contract Management Committee	SGN	NGN
Change Management Committee	NGD	WWU

4. Changes to the process for the appointment of any DN candidate or representative under this Schedule 6 may be made by the unanimous decision of the Committee.

Schedule 7 – Chief Executive

A. General

1. This Schedule applies to the individual from time to time appointed by the Committee to be the Chief Executive.

B. The authority and responsibility of the Chief Executive

1. Except as otherwise provided in this Agreement, the Chief Executive:
 - (a) shall manage the Joint Office and do anything that is requisite for the management and conduct of the Joint Office;
 - (b) shall engage with the Panel Chair and ensure he/she is appropriately equipped to deal with the role;
 - (c) may delegate (in writing) any of the functions imposed on, or delegated to, him pursuant to this Agreement to a member of Staff whose position and authority is appropriate to such delegation;
 - (d) may, on behalf of the Parties and with their consent (received via the Committee), subject to Schedule 11, enter into and terminate Secondment contracts;
 - (e) shall not:
 - (i) secure any resource which is not authorised by the Committee pursuant to the Resource Plan;
 - (ii) incur any expenditure (whether or not on behalf of a Party or Parties) in the management of the Joint Office, except expenditure authorised by the Committee pursuant to the Budget;
 - (iii) enter into a Secondment contract otherwise than in accordance with Schedule 11; or
 - (iv) commence any litigation or arbitration on behalf of the Parties (or their Representatives).
2. The Chief Executive shall undertake his functions:
 - (a) in a manner best calculated to promote efficiency; and
 - (b) in compliance with the Transporter's Licence and all applicable legal requirements.

C. Removal of the Chief Executive

1. The removal of the Chief Executive by the Committee shall be justified:
 - (a) if the Chief Executive has acted materially or persistently outside the scope of his authority and responsibility under this Agreement;
 - (b) if the Chief Executive has failed to undertake his functions to the requisite standard; or
 - (c) on the grounds set out in rules determined by the Committee pursuant to Clause 7.2.1.

2. Remuneration		

Schedule 9 – Recovery of Expenditure

A. General Principles

1. The Committee shall, in accordance with the principles and processes set out in this Schedule, be responsible for deciding, and may decide, whether or not to approve any Expenditure in whole or in part in respect of each Expenses Period.
2. The principles and processes set out in this Schedule seek to ensure that each Party:
 - (a) can recover; and
 - (b) shall neither gain nor lose by reason of, its Expenditure under this Agreement.
3. Notwithstanding Paragraph A2 above, remuneration of Representatives shall be paid in accordance with Clause 9.1.1.
4. Recovery of any cost incurred by a Party under Schedule 8 (Part IB) shall be limited to the open market value of the relevant item at the date that such cost was incurred.

B. Cost Sharing

1. Each Party seeking to recover its Expenditure shall submit an expenses claim to the Committee within one (1) month of the end of each Expenses Period:
 - (a) setting out the details of its Expenditure (net of VAT) during that Expenses Period; and
 - (b) together with reasonable supporting evidence as the Committee may require, (an **Expenses Claim**).
2. On receipt of the Parties' Expenses Claim, the Committee shall, within 14 days prepare and circulate to the Parties a statement setting out for the relevant Expenses Period its determination of:
 - (a) the budgeted expenditure under the Resource Plan;
 - (b) each Party's Expenditure;
 - (c) the Parties' aggregate Expenditure;
 - (d) Approved Expenditure for each Party;
 - (e) the Parties' aggregate Approved Expenditure (**Aggregate Approved Expenditure**);
 - (f) taxes or duties chargeable, if any;
 - (g) the proportion of the Aggregate Approved Expenditure recoverable by, and payable by, each Party in accordance with Clause 9.1.2; and
 - (h) any other information the Committee, in its reasonable discretion, considers relevant, (**Draft Statement of Expenses**)
3. Any Expenditure not set out in an Expenses Claim for the previous Expenses Period may be submitted in an Expenses Claim for the subsequent Expenses Period.

C. Disputes

1. If a Party disputes the Draft Statement of Expenses (or any part of it), it shall, within five (5) days of the date of the Draft Statement of Expenses notify the Committee with details of the dispute (a **Dispute Notification**) and, within a further seven (7) days, provide such supporting evidence as the Committee may reasonably require.
2. Within seven days of the notice period for disputes under Paragraph C1 expiring, the Committee shall:
 - (a) (where no Dispute Notice has been made) notify the Parties that the Draft Statement of Expenses is final; or
 - (b) (where one or more Dispute Notifications have been made) circulate to the Parties a revised statement of expenses which shall reflect the undisputed part of the Statement of Expenses only,

(**Final Statement of Expenses**).
3. The Committee shall consider all disputes under Paragraph C1 and shall make a determination, which shall be notified to the Parties within twenty-one (21) days of the notice period for disputes under Paragraph C1 expiring.
4. Determinations under Paragraph C3 shall be reflected in the next following Draft Statement of Expenses to be issued under Paragraph B2, and any Party that made a Dispute Notification may not make a Dispute Notification in respect of that part or parts of the Draft Statement of Expenses that were subject to the earlier dispute.

D. Further Rules

1. The Committee may develop further rules on recovery of Expenditure as it considers reasonably necessary, save that such rules shall not be inconsistent with the general principles in Paragraph A.

Schedule 10 – Staff Remuneration

A Staff Remuneration

1. Without prejudice to any other payments constituting the remuneration of the Staff under this Agreement, Staff Remuneration shall include:
 - (a) Secondees' salaries under their Relevant Contracts;
 - (b) associated costs under Paragraph A1(a) above, including employers national insurance contributions and superannuation, if applicable;
 - (c) FRS17 pensions charges, if applicable;
 - (d) the value of Secondees' benefits under their Relevant Contracts (if any); and
 - (e) other costs as may be agreed by the Committee from time to time.

Schedule 11 – Terms of Secondment

A. General

1. The appointment of a Staff member to the Joint Office, shall be by way of secondment. This Schedule 11 sets out the terms of the secondment of the Staff.

B. Initial Obligations

1. Prior to the commencement of any Secondment, the Employer shall establish in agreement with the Committee (and thereafter notify the Committee by letter of):
 - (a) the commencement date of the Secondment;
 - (b) the duration of the Secondment; and
 - (c) the scope of services to be performed by the Secondee.
2. Prior to the commencement of the Secondment, the Employer shall provide confirmation to the Committee that the Secondee has accepted the terms of Secondment set out in this Schedule 11.

C. Secondee's Obligations

1. During the course of the Secondment, the Secondee shall:
 - (a) be a party to a Relevant Contract with the Employer;
 - (b) not be contracted, employed, take employment or provide services elsewhere during the term of secondment where to do so would give rise to a conflict of interest with the Secondment;
 - (c) maintain the qualifications stipulated in the Resource Plan;
 - (d) comply with the Committee's and/or the Joint Office's reasonable instructions; and
 - (e) act independently in the performance of its services to the Joint Office.

D. Employer's obligations

1. During the course of the Secondment, the Employer shall:
 - (a) account to the appropriate authorities for all sums payable under the Relevant Contract (or by reason of its termination) by way of income tax and employers' national insurance contributions;
 - (b) subject to Paragraph D1(c) below), comply with its obligations (express and implied) under the Relevant Contract;
 - (c) ensure that the Relevant Contract is not inconsistent with this Agreement;
 - (d) take no steps to encourage or induce the Secondee to contravene any lawful direction of the Committee relating to the manner of the provision of the services to the Joint Office; and
 - (e) take no steps inconsistent with, or seek to influence, the Secondee's provision of services under the Secondment.

E. Termination of Secondment

1. The Secondment shall automatically terminate if at any time during the Secondment the Employer ceases to be a Party, or if the Secondee:
 - (a) is unable for any reason to perform his or her duties under the Secondment for one (1) consecutive month, or for thirty (30) Working Days in aggregate in any period of three (3) consecutive months;
 - (b) is or becomes of unsound mind or a patient for any purpose of any statute relating to mental health;
 - (c) is guilty of misconduct or commits any serious or persistent breach of any of his or her obligations under this Schedule 11; or
 - (d) is convicted of a criminal offence carrying a term of imprisonment (other than offences carrying only a fixed penalty under the Road Traffic Acts);
2. The Employer may terminate the Secondment for any reason by giving the lesser of:
 - (a) 120 days' notice; or
 - (b) such period of notice:
 - (i) expiring on the date that a replacement Secondee is available to commence a Secondment; or
 - (ii) as the Committee may agree.
3. The Employer shall immediately notify the Committee of any termination under this Paragraph E.

F. Secondment Fees

1. Staff Remuneration shall be paid in accordance with Clause 9.

G. Compliance with obligations

1. Each of the Parties shall take such reasonable steps as may be necessary so as to ensure that the Employer is able to comply with its obligations under the Relevant Contract (including any obligations relating to working time and holidays).

H. Grievance and Disciplinary Procedures

1. All matters relating to any grievances raised by the Secondee remain the exclusive responsibility of the Employer.
2. All matters relating to the discipline of the Secondee shall remain the exclusive responsibility of the Employer and shall be dealt with in accordance with the Employer's disciplinary procedures. If any of the other Parties, or if the Joint Office, raises any disciplinary matter relating to the Secondee with the Employer, the Employer shall deal with the matter promptly. Any action to be taken shall remain wholly within the Employer's discretion.

I. Definitions

1. In this Schedule 11:
 - (a) **Relevant Contract** means a contract of employment or, as the case may be, a contract for services between the Employer and a Secondee;

- (b) **Employer** means the Party that seconds the Secondee to the Joint Office;
- (c) **Secondee** means a person appointed under Clause 7.4.1; and
- (d) **Secondment** means secondment to the Committee or the Joint Office (as the case may be) under the terms of this Schedule 11.