



31/01/2024

(1) **NOTTINGHAM CITY COUNCIL**

**and**

(2) **GOVERNMENT PROPERTY AGENCY**

**COMMERCIAL ELECTRIC SUPPLY AGREEMENT  
for Electricity Supply to Apex Court, City Link, NOTTINGHAM NG2 4LA.**

## CONTENTS

1. Definitions and interpretation	4
2. Duration	11
3. NCC's obligations	11
4. The Customer's responsibilities	13
5. Title and risk	16
6. Metering & Access	16
7. Charges and terms of payment	18
8. Benefits	20
9. Insurance	20
10. Liability	20
11. Interruption of the Services	22
12. Force Majeure	22
13. Suspension	23
14. Dispute resolution	23
15. Termination	24
16. Consequences of termination	24
17. Assignment	25
18. Sub-contracting	26
19. Confidentiality	26
20. Anti-bribery compliance	27
21. Waiver	27
22. Notices	27
23. General	27
SCHEDULE 1	1
The HV Plant	1
SCHEDULE 2	3
ENERGY SPECIFICATION – ELECTRICITY	3
SCHEDULE 3	4
PERFORMANCE PARAMETERS	4
SCHEDULE 4	6
The Charges	6

## Version Control

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2.0	13/11/2023	Internal changes and updated date	██████
3.0	17/01/2023	Final Version	██████
4.0			
5.0			

**Commercial Electricity Supply Agreement****Agreement Particulars**

Supplier	Nottingham City Council (NCC) being an independent local authority council. Registered address of Loxley House, Station Street, Nottingham, NG2 3NG		
Customer	The Minister for the Cabinet Office on behalf of the Crown represented by the Government Property Agency, an Executive Agency of the Cabinet Office, whose office is 9 <sup>th</sup> Floor, c/o Government Property Agency, 23 Stephenson Street, B2 4BH		
Premises usage description	Office Accommodation		
Address of Premises for Supply	Apex Court (including extension), City Link, NOTTINGHAM NG2 4LA.		
Billing Address and billing contact (leave blank if same)	Government Property Agency, C/O BNP Paribas Real Estate 9 Colmore Row, Birmingham, B3 2BJ		
Customer Contact Details	Telephone: [REDACTED] Email: [REDACTED] [REDACTED]		
Energy Supplied to Premises	Electricity		
Energy Meter	Electricity Supply device number [REDACTED] & [REDACTED]		
Import Limit for the Connection	Capacity of 300 kV		
At date of agreement charges	Electric Standing Charge: [REDACTED] Electric Unit Charge [REDACTED] per MWh		
Supply Start Date	31/01/2024		
Initial Term end	28/01/2025		
Emergency Reporting contact	[REDACTED]		
Authorised representative for Switching Schedule	[REDACTED] [REDACTED] Control Room [REDACTED] for NCC		
Signed by Customer	Sign	Print Name	Date
Signed by NCC	Sign	Print Name	Date

**THIS AGREEMENT** is dated

31/01/2024

**BETWEEN**

- (1) **NOTTINGHAM CITY COUNCIL** being an independent local authority council. Registered address of Loxley House, Station Street, Nottingham, NG2 3NG ("**NCC**");
- (2) **THE MINISTER FOR THE CABINET OFFICE**, on behalf of the Crown represented by the Government Property Agency, an Executive Agency of the Cabinet Office, whose office is 9th Floor, c/o Government Property Agency, 23 Stephenson Street, B2 4BH ("**Customer**");

Together the "Parties"

**BACKGROUND**

- (A) NCC owns and operates the Private Wire Network to which the Customer is connected and is able to supply electricity from its generating station to customers connected to the Private Wire Network in the City of Nottingham.
- (B) The Customer has agreed to take a supply of Energy through the Private Wire Network exclusively from NCC, unless otherwise agreed and NCC has agreed to endeavour to supply Energy through the Private Wire Network to the Customer on the terms and conditions of this Agreement.

**TERMS AGREED**

**1. Definitions and interpretation**

1.1 In this Agreement the following words shall have the following meanings:

<b>"Additional Charges"</b>	any extra charges entitled to be charged by NCC to the Customer listed in Schedule 4 section 2 and according to clause 7.5 to 7.9.
<b>"Agreement"</b>	this agreement and the schedules;
<b>"Agreement Date"</b>	the date of signature of this Agreement;
<b>"Applicable Taxes"</b>	any current and future taxes (including value added tax), levies, duties at the prevailing rates from time to time applicable to the supply of Energy;
<b>"Authorised Representatives For The Switching Schedule"</b>	The individual(s) responsible for confirming the Switching Schedule for the Premises between NCC and the Customer. As confirmed in the Agreement Particulars, for the Customer this is [REDACTED], for NCC this is the control room. Either Authorised

Representative may change from time to time to be confirmed to the other party in writing.

<b>"Benefits"</b>	all current and future payment, relief, credit, rebate, grant, certificate, allowance, incentive, entitlement, exemption, tariff, benefit (including energy efficiency and/or carbon saving benefit) or any other financial support available under a contract, governmental scheme or at law received or accruing (or capable of being received or accrued) associated with the generation of Energy by NCC and any successors to those benefits unless such benefits relate to electricity, electricity and/or another form of energy (as may be applicable) generated by the Customer;
<b>"Billing Information"</b>	any billing information to be provided by NCC to the Customer as required by law including but not limited to the Electricity & Gas Billing Regulations 2014 (as applicable);
<b>"Charges"</b>	Means the Energy Charges and Additional Charges as set out in schedule 4 and determined in accordance with the provisions in clause 7;
<b>"Control"</b>	the right to control, directly or indirectly the activities of a Party through ownership or the ability to control the voting powers of shares, the ability to control the board or management of such person or otherwise;
<b>"Customer Cap on Liability"</b>	has the meaning given to it in clause 10.5
<b>"Customer Distribution System"</b>	As per clause 4.1.4, the electricity system of the Customer that distributes the Private Wire Energy around the Customer's Premises
<b>"Customer Plant"</b>	all internal distribution electrical wiring, equipment, and any other infrastructure equipment in connection with the distribution of the Energy Services to the Premises and not forming part of the HV Plant;
<b>"Customer Plantroom"</b>	any building or part of a building at the Premises where HV Plant and Customer Plant is located;
<b>"Disputed Invoice"</b>	means an invoice disputed in accordance with clause 7.7
<b>"Electric Standing Charge"</b>	The charge for Energy Services per MWh used at the Premises. This is varied in accordance with clause 7.11.

	The standing charge at the date of agreement is as per the Agreement particulars and schedule 4
<b>"Electric Unit Charge"</b>	The charge for energy services each month regardless of the Energy used at the Premises. This is varied in accordance with clause 7.11. The unit charge at the date of agreement is as per the Agreement Particulars and schedule 4
<b>"Energy"</b>	Means electricity as specified in schedule 2
<b>"Energy Charges"</b>	the energy charges as set out in schedule 4;
<b>"Energy Meter"</b>	the remote electricity meter with serial reference no: [REDACTED] & [REDACTED] or such other replacement provided, installed and maintained by NCC;
<b>"Energy Meter Reading"</b>	the actual or estimated reading taken from the Energy Meter for the Premises as determined in accordance with the provisions in clause 6
<b>"Energy Services"</b>	the supply of Energy to the Customer through the Private Wire Network;
<b>"Force Majeure"</b>	<ul style="list-style-type: none"><li>(a) lightning, fire, flood, storm, earthquake, lack of water arising from weather or environmental problems, explosion, fault or failure of plant and apparatus which could not reasonably have been prevented by Prudent Operating Practice;</li><li>(b) sabotage, riot, civil commotion or disorder, public blockade or act of vandalism;</li><li>(c) rebellion, revolution, insurrection, military or usurped power or civil war;</li><li>(d) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;</li><li>(e) war, hostilities (whether war be declared or not), invasion or act of foreign enemies;</li><li>(f) ionising radiation or contamination by radioactivity from any nuclear fuel or from nuclear waste from the combustion of nuclear fuel;</li></ul>

- (g) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or any nuclear component thereof;
  - (h) any strike lock-out or other form of industrial dispute by persons employed at the Premises which is not specific to their employer;
  - (i) act of God; or
  - (j) any other circumstance or event which is beyond the reasonable control of either of the Parties;
- “Government Finance”** Means such financial assurance and assistance provided by the UK government to cover debts or insurance provision
- “HV Equipment”** Means such equipment as owned and installed by NCC required to provide the Energy Services.
- “HV Plant”** Means such District Energy plant and equipment belonging to NCC and more particularly defined within schedule 1 and the schematic therein or any replacement plant or equipment of the HV Plant.
- “HV Safety Rules”** As set by NCC, a set of rules that anybody working on the HV Plant must follow.
- “Import Limit”** The maximum amount of Electricity through the Point Of Connection at any particular time.
- "Initial Term"** the period from the Supply Start Date till 28/01/2025 being the end of the initial period of supply, subject to the terms of this Agreement, as confirmed in the Agreement Particulars;
- "Insolvency Event"** means, in respect of the relevant Party, any of the following occurring:
- (a) a court makes an order for that Party to be wound up or a resolution for a voluntary winding-up of the Party is passed (or a meeting for the passing of such resolution is summoned);
  - (b) a petition for a winding-up order is presented and not withdrawn, dismissed, discharged, stayed or restrained in each case within 10 Working Days of the presentation thereof;
  - (c) any administrator, receiver, administrative receiver or receiver manager (or any similar



officer) is appointed (or any step is taken to make such an appointment);

- (d) possession is taken by or on behalf of any creditor of any property that is the subject of a charge where such property is not returned or such process is not dismissed, discharged, stayed or restrained, in each case within 10 Working Days thereafter;
- (e) the Party making a voluntary arrangement for a composition of debts or a scheme of arrangement is approved under the Insolvency Act 1986 or the Companies Act 2006 in respect of the Party;
- (f) the Party entering into any other arrangements with its creditors or any of them or, by reason of actual or anticipated financial difficulties, commencing negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness;
- (g) the Party entering into liquidation whether compulsory or voluntarily (save for the purpose of amalgamation or reconstruction of a solvent company not involving the realisation of assets);
- (h) the Party being unable or admitting its inability to pay its debts for the purposes of section 123 of the Insolvency Act 1986 (as updated from time to time);
- (i) any distress, execution or other process being levied upon the whole or a substantial part of the Party's assets where such assets are not returned or such process is not dismissed, discharged, stayed or restrained, in each case within 10 Working Days thereafter; and
- (j) anything analogous or with a substantially similar effect to any of the foregoing under the law of any applicable jurisdiction;

**"Inspection Authority"** A separate authority that for compliance purposes requires access to check on the standards of the HV Plant, HV Equipment and Customer Plantroom for regulatory purposes

**"Installation Date"** the date of the original installation of HV Plant and HV Equipment situated in the Customer Plant, being 30/06/2012 for these Premises;

<b>“Limit Of Responsibility”</b>	A limitation condition where the Party is not responsible for any arising matters (such as defects of or maintenance requirements) not intended to be included within that set condition. For the purposes of this Agreement this is set at the Point Of Connection.
<b>“Longer Interruptions”</b>	An interruption of longer than 5 days is expected to be required to the Energy Services at the Point Of connection.
<b>"Material Breach"</b>	an act or omission or series of acts or omissions on the part of a Party to this Agreement (the "Defaulting Party") which does or may in the opinion (acting reasonably) of the Party to this Agreement who is not the Defaulting Party (the "Non-Defaulting Party") have a significant adverse effect on the business of the Non-Defaulting Party;
<b>“NCC Cap on Liability”</b>	has the meaning given to it in clause 10.3.
<b>"Parties"</b>	the parties to this Agreement and "Party" shall be construed accordingly;
<b>“Performance Parameters”</b>	has the meaning given to it in Schedule 3 (Performance Parameters).
<b>“Planned Interruption”</b>	An interruption, discontinuance or reduction in Energy Services where at least 5 days 48 hours' written notice has been given of such interruption, discontinuance or reduction
<b>"Point of Connection"</b>	the demarcation point to which the Energy Services are provided in accordance with this Agreement and as set out in schedule 1.
<b>"Premises"</b>	the Customer's premises as defined in the Agreement Particulars;
<b>“Private Wire Network”</b>	NCC's electricity network through which it supplies Energy Services to its customers.
<b>"Prudent Operating Practice"</b>	practices which would be adopted by an operator exercising in the general conduct of its undertaking that degree of skill and prudence which would ordinarily and reasonably be expected from an operator engaged in the business of operating plant of the same or similar type as the HV Plant in the same or similar circumstances or

	conditions in the United Kingdom. Any dispute about what constitutes such practices shall be determined pursuant to clause 14;
<b>“Repayment Plan”</b>	means an alternative payment arrangement offered at the complete and sole discretion of NCC to the Customer, where there has been a underestimation of 10% or more as a result of an inaccurate or defective Energy Meter
<b>“Safety Management System”</b>	The procedure adopted by NCC to ensure the safe operation of and the safety of personnel required to work on the Private Wire Network
<b>"Services"</b>	the Energy Services and any other services to be provided by NCC in accordance with the terms of this Agreement;
<b>“Service Failure”</b>	Means a failure to meet a Performance Parameter as set out in Schedule 3
<b>“Supply Start Date”</b>	The date the Energy Services commence to the Point of Connection for the Premises, as confirmed in the Agreement Particulars. If this Agreement replaces a previous agreement or is a continuation of supply, this is the start date of Energy Services for this agreement
<b>“Switching Operations”</b>	A scheduled or planned action regarding the switching arrangements, carried out on the Private Wire Network
<b>“Switching Schedule”</b>	A schedule which defines the agreed sequence of Switching Operations. Provision is made on the Switching Schedule to allow the name of the operator and time of the Switching Operation to be filled in as they are completed. This is to be agreed from time to time between the Authorised Representatives For The Switching Schedule depending on the switching required
<b>“System Control”</b>	The administrative and other arrangements established to maintain as far as possible the proper safety and security of the Private Wire Network.
<b>"Term"</b>	as defined in clause 2;
<b>“Unplanned Supply Interruption”</b>	An interruption in the Energy Services where less than 48 hours' notice has been given
<b>"Working Day"</b>	any day that is not a Saturday, Sunday or public holiday in England;

1.2 In this Agreement, unless otherwise specified:

- 1.2.1 references to "clauses" and "schedules" are to clauses and schedules to this Agreement;
- 1.2.2 headings to the clauses and schedules are for convenience only and do not affect the interpretation of this Agreement;
- 1.2.3 the schedules form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement, and any reference to this Agreement shall include the schedules;
- 1.2.4 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, consolidated or re-enacted; and
- 1.2.5 references to "writing" or "written" shall include any modes of reproducing words in legible and non-transitory form.

2. **Duration**

This Agreement shall come in to effect on the Agreement Date and remain in force for the Initial Term subject to earlier termination in accordance with clause 15 and shall continue until 28/01/2025 being the end of the Initial Term(the "Term"). In the event of termination pursuant to any such notice of termination under this clause 2, the provisions of clause 16 shall apply.

3. **NCC's obligations**

3.1 Subject to the Customer complying with its obligations under this Agreement, NCC shall, subject to the terms of this Agreement (and in particular subject to clause 11), from the Supply Start Date and continuing throughout the Term, endeavour to provide the Energy Services within the Performance Parameters to the Point of Connection in accordance with the provisions of this Agreement. The Parties acknowledge and agree that:

- 3.1.1 Subject to paragraph 3.1 of Schedule 3 (Performance Parameters) NCC may be liable to pay the Customer Service Failure compensation payments in the event that a particular Performance Parameter is not achieved; and
- 3.1.2 Such Service Failure payments are the Customer's sole remedy in the event that a particular Performance Parameter is not achieved.

3.2 NCC shall in accordance with Prudent Operating Practice:

- 3.2.1 operate the HV Plant with all necessary skilled labour and supervision;
- 3.2.2 carry out routine mechanical and electrical maintenance of the HV Plant with all necessary skilled labour and supervision including the supply of consumable materials;

- 3.2.3 prepare the HV Plant for statutory and/or insurance inspections, carry out remedial work required by the Inspection Authority and reinstate the HV Plant to normal operating status as soon as is reasonably practicable;
- 3.2.4 periodically test, and as required, maintain, repair and replace the Energy Meter(s);
- 3.2.5 carry out the repair or replacement of the HV Plant so that such items are maintained in good condition consistent with their age and extent of use subject to the following conditions:
  - 3.2.5.1 any repair or replacement shall be at the sole discretion of NCC as and when judged necessary by NCC in its sole and absolute discretion unless such repairs or replacements are necessary to ensure the operation of the HV Plant;
  - 3.2.5.2 any such replacement plant, equipment and components will be of a make and design specified by NCC;
  - 3.2.5.3 the costs of maintenance or replacement of any HV Plant shall be apportioned as follows:
    - (a) for those items of HV Plant maintained or replaced within 10 years of the Installation Date, the full cost shall be borne by NCC;
    - (b) for those items of HV Plant maintained or replaced within 10 years and one day to 15 years of the Installation Date, the costs shall be equally borne by the Parties and NCC shall be entitled to recover half its costs of doing so from the Customer provided that such costs are agreed by the Parties in advance with both Parties acting reasonably at all times;
    - (c) in the period of 15 years and one day of the Installation Date until the termination of this Agreement, the Customer shall be responsible in full for the cost of NCC maintaining and replacing any items of HV Plant.

Where NCC is entitled to recover any of its costs from the Customer it shall invoice the Customer accordingly and such invoices shall become due and payable in accordance with clause 7.5;

- 3.2.5.4 For the avoidance of doubt, the Energy Meter will be maintained and repaired and may be updated from time to time by NCC but any update or upgrade to the meter requested by the Customer will be at the expense of the Customer.

- 3.2.5.5 Any request by the Customer for NCC to visit site to maintain or repair plant or equipment that NCC reasonably deems to be unnecessary will be at the expense of the Customer, NCC shall be entitled to charge reasonable costs for the visit even if no repair/maintenance is undertaken.
  - 3.2.6 provide a telephone facility for 24 hours per day every day to receive emergency call-out requests and respond to such requests as soon as reasonably practicable. If NCC responds to an emergency call-out request from the Customer and the emergency is found not to have been caused by a failure in the HV Plant for which NCC is responsible, then NCC reserves the right to charge the Customer for such call-outs at its then standard rates for such work which NCC shall provide to the Customer on written request from the Customer; and
  - 3.2.7 endeavour to provide the Customer with 5 Working Days' notice of any proposed routine mechanical and electrical maintenance of the HV Plant or when they need to access the HV Plant for any reason whatsoever.
  - 3.2.8 NCC endeavours to access the Premises at a mutually convenient time unless NCC requires immediate access in emergencies, to avoid danger or where NCC is required by law to obtain access sooner. NCC shall use its reasonable endeavours to give the Customer not less than five (5) Working Days' notice in respect of any planned or routine maintenance where such access is required.
  - 3.3 NCC shall not be responsible for any failure or defect of the Customer Plant.
4. **The Customer's responsibilities**
- 4.1 The Customer shall with effect from the Supply Date, for the Term and at no cost to NCC:
    - 4.1.1 maintain in good condition and repair the Customer Plant, Customer Plantroom and any items in or under the Customer Plantroom other than the HV Plant to a standard and condition of not worse than existed at the Installation Date so as not to prevent or interfere with NCC's obligations under this Agreement;
    - 4.1.2 maintain the Customer's Distribution System to such standards as may reasonably be required to enable NCC to carry out its obligations under this Agreement.
    - 4.1.3 co-operate with NCC and take such steps as may be reasonably necessary to enable NCC to comply with its obligations under clause 3;
    - 4.1.4 ensure that the Customer Plant and Customer equipment complies with all relevant current and future statutory and regulatory requirements generally and those relevant to the provision of the Services;

- 4.1.5 be responsible for the distribution of the Energy within the Premises via the Customer Distribution System;
- 4.1.6 ensure that all equipment connected to the Private Wire Network from the Point Of Connection is rated correctly and installed by a reputable installer. The instantaneous load should not exceed the Import Limit as given in schedule 2.
- 4.1.7 Ensure that the Customer's Distribution System, and updates to this, are installed and maintained by competent individuals that are experienced in systems similar to the Private Wire Network. The Customer's Distribution System shall comply with all relevant statutory and regulatory requirements as updated from time to time.
- 4.1.8 Shall be responsible for any maintenance of all equipment in the Customer Plantroom that is not the responsibility of NCC. NCC's Limit of Responsibility terminates at the Point of Connection for the Premises, this Point of Connection being the outgoing tails for the Energy Meter with the Customer being responsible for any equipment on the Secondary/Customer side. A diagram of the Point of Connection and where the Limit Of Responsibility is, is detailed in Schedule 1 as the HV Plant Schematic. A table of HV equipment NCC is responsible for at the premises is as confirmed in Schedule 1. For the avoidance of doubt, HV equipment not on this list is the responsibility of the Customer to maintain. This includes but is not limited to any maintenance of, or defects associated with and arising from fouling/blockage, contamination, corrosion, underperformance, leakage or damage to any other equipment/building structure or contents.
- 4.1.9 undertake any necessary or required extensions or upgrades to the Customer's Distribution System and Customer Plant (subject at all times that any extensions will not exceed the maximum Import Limit as set out in Schedule 2);
- 4.1.10 provide NCC as and when reasonably requested with copies of all drawings and documents in the Customer's custody or possession relevant to the Customer Plant;
- 4.1.11 shall not make changes or alterations to the Customer Plant that fundamentally changes how the system operates such as changing the interface requirements between the Customer Plant and the HV Plant without NCC's prior written consent such consent not to unreasonably be withheld or delayed, and for the avoidance of doubt any consent given by NCC shall not give rise to any acceptance of liability by NCC in respect of any such changes or alterations;
- 4.1.12 require consent from NCC, not to be unreasonably withheld, for any planned major changes to the Customer Distribution System, including the addition of loads at the earliest reasonable opportunity. NCC have the right to not provide additional capacity where requested

- 4.1.13 procure for NCC free, safe and uninterrupted access at all times to the Premises to the extent that NCC reasonably requires and for all purposes connected with the discharge of NCC's obligations pursuant to this Agreement. This is including but not limited to the laying and/or maintenance of new HV Plant to the Premises and/or Customer Plantroom and for the installation of such new HV Plant as may be required and provide such safety measures as NCC may reasonably require to carry out such obligations or for any other general maintenance to the Private Wire Network. For the avoidance of doubt the Customer shall not, by reason of the provisions of this clause 4, be granted any interest in such HV Plant and such HV Plant may be utilised by NCC for the supply of Energy Services to other customers;
- 4.1.14 not interfere or tamper with, damage or remove the Energy Meter(s) or any equipment belonging to NCC including any NCC signage;
- 4.1.15 do nothing which could lead to the disconnection or de-energisation of the HV Plant save that the Customer shall be able to isolate the Customer Plant during an emergency;
- 4.1.16 use the Energy for its own purposes and not convey, distribute or supply any other third party save for the purpose of granting any leases at the Premises (provided that there such lease is granted the Customer shall remain responsible for payment of all Charges due under this Agreement);
- 4.1.17 ensure the full co-operation of the Customer's employees in connection with the provision of the Services and prevent its employees from taking any steps which adversely affect the obligations of NCC under this Agreement or its ability to discharge them. For the avoidance of doubt no person other than NCC's authorised personnel shall operate or in any way disturb or interfere with the HV Plant; Any interference or disturbance to HV Plant part of the Customer, its employees or any third party acting under the control or supervision of the Customer persons, other than in accordance with this clause, may be the subject of investigation and possible prosecution for Criminal Damage and will entitle NCC to disconnect the Customers Energy supply.
- 4.1.18 make reasonably available secure and convenient workspace around the HV Plant. For the avoidance of doubt the Customer Plantroom the HV Plant is in cannot be used for storage for any reasons and there should be free, unhindered access available at all times with at least 0.8m free space surrounding the HV Plant at all times with vehicle parking and storage space available when required by NCC in order for them to discharge their obligations under this Agreement.
- 4.1.19 make available to NCC's employees representatives and agents suitable welfare facilities and utility services; and



- 4.1.20 indemnify NCC on a full indemnity basis against any loss of or damage to the HV Plant due to any, deliberate act, negligence, neglect, error or omission on the part of the Customer or any third party acting under the control or supervision of the Customer.
  - 4.1.21 The Authorised Representatives for the Switching Schedule shall agree upon the Switching Operations to be undertaken in accordance with the Switching Schedule. This includes which Authorised Representatives for the Switching Schedule will carry out which Switching Operations and which Safety Management System will be used. All Switching Operations shall be carried out under the respective System Control & HV Safety Rules
- 4.2 The Customer shall report any faults or failures of the HV Plant or the Customer Plant relating to the distribution of the Energy Services that come to its notice (which shall include any apparent damage or failure to any of the recording devices or if anyone other than the customer or NCC's agents has interfered with or removed the Energy Meter) and shall use any faulty HV Plant or Customer Plant at its own risk. Any delay longer than 4 hours in reporting such failures that the Customer should notice, shall entitle NCC to claim Additional Charges from the Customer, including, but not limited to, any additional costs NCC may face from loss or damage caused, in full or in part, by the delay in notice and/or continued use of damaged Plant.
- 4.3 The Customer acknowledges that the Private Wire Network has been developed on the basis that NCC will be the sole provider of electricity to the Customer. The Customer shall (subject to clause 4.4) not generate electricity which has the ability to spill onto the Private Wire Network.
- 4.4 The Customer shall be permitted to generate electricity for its own use and export such energy via its own export connection which is not connected to the Private Wire Network in the following circumstances:
  - 4.4.1 In the event of a Longer Interruption;
  - 4.4.2 where NCC has to carry out any repair, maintenance, testing, or other work as specified under clause 11.1; and
  - 4.4.3 where such electricity generated does not exceed 5Kw.
- 5. **Title and risk**
  - 5.1 Title and risk to the Energy Services shall pass to the Customer at the Point of Connection.
  - 5.2 All tools, plant and equipment provided and utilised by NCC, including the HV Plant, in the provision of the Services shall remain the property of NCC at all times.
- 6. **Metering & Access**
  - 6.1 NCC will meter actual consumption of the Energy Services measured by the Energy Meter. Where the consumption cannot be determined due to an inaccurate or defective

Energy Meter, NCC may, always acting reasonably, estimate the Energy Meter Reading based on either:

- 6.1.1 historical consumption data of the Premises by the Customer having regard at all times to any previous levels of Energy Services consumption invoiced to the Customer and where such data is not available;
  - 6.1.2 the consumption data of a Customer with a similar energy consumption profile as the one of the Customer for the relevant period.
- 6.2 The Customer shall accept as accurate all Energy Meter readings taken or estimated by NCC in accordance with clause 6.1 unless it reasonably considers there to be a material error in the Energy Meter readings or estimate or that the Energy Meter is defective.
- 6.3 Where the Customer reasonably believes that an Energy Meter produces inaccurate readings or is defective, the Customer can ask NCC to check the Energy Meter. Alternatively the Customer may ask for an independent expert to examine the Energy Meter.
  - 6.3.1 Where the Customer has requested that NCC check the Energy Meter and NCC find that the Energy Meter reads accurately and is not defective NCC shall charge to the Customer any costs and expenses reasonably incurred by NCC to check the Energy Meter.
  - 6.3.2 Where the Customer has asked for an independent expert to examine the Energy Meter, NCC and the Customer with jointly agree and appoint this independent expert. Where the independent expert determines there is no fault with the Heat Meter, the Customer will be fully liable for the costs of such independent expert.
  - 6.3.3 Where following examination either by an independent expert or by NCC, an Energy Meter reads inaccurately or is defective, the Customer will not be required to pay any costs or expenses incurred for such examination of the relevant Energy Meter.
- 6.4 If following examination, the Energy Meter is found to read inaccurately or be defective, NCC will endeavour to procure a repair or replacement of the Energy Meter and make the relevant adjustments to the Customer's subsequent invoice to account for the inaccurate Energy Meter reading. If the Energy Meter is found to have underestimated the Customer's Energy Consumption, NCC will adjust the next invoice to reconcile any underpayment of the Energy Charges, except where the underestimation is 10% or more, where the Parties may instead agree a Repayment Plan for the underpayment amount. the Customer has requested
- 6.5 If the Energy Meter is found to have overestimated the Customer's Energy consumption, NCC will adjust the next invoice to reconcile any overpayment of the Energy Charges. NCC will adjust incorrect Energy Meter readings based on a reasonable estimate of the Customer's Energy consumption and if this is not available

NCC will base its estimate on the average Energy consumption for another Customer with a similar energy consumption profile as the Customer for the relevant period.

- 6.6 If the Parties cannot resolve any dispute arising under this clause 6 the provisions of clause 14 shall apply.
- 6.7 From time to time and subject to clause 4.1.13, NCC may require access to the Premises to install, maintain, repair or replace any equipment connected to the HV Plant, to read, replace, exchange or inspect any Energy Meters, suspend or disconnect the supply of Energy Services or in case of emergencies, danger or where NCC is required to do so by law.

## **7. Charges and terms of payment**

- 7.1 The Customer shall pay to NCC any Charges due under this Agreement and in accordance with the provisions of this clause 7 any Applicable Taxes and any other costs, expenses or charges which may have become due under this Agreement.
- 7.2 The Energy Charges shall be calculated by way of Energy Meter Readings which shall be taken by NCC at monthly intervals.
- 7.3 The Energy Charges included in the invoice may be based on a reasonable estimated Energy Meter Reading determined by NCC following clause 6.1
- 7.4 The Charges shall be invoiced to the Customer monthly in arrears and NCC shall provide Billing Information with each invoice to the Customer.
- 7.5 All payments to be made by the Customer to NCC pursuant to this Agreement shall (unless the content otherwise requires) be made by BACS, free from any deductions whatsoever and received as cleared funds within 20 Working days of the date of the invoice from NCC and time shall be of the essence in respect of any such payment.
- 7.6 NCC shall be entitled to charge interest on overdue Charges at a rate of 4% per annum above the Bank of England base rate current from time to time from the due date until payment whether payment is made before or after any judgement. In addition NCC may suspend the provision of the Services until payment in full is received in accordance with clause 13.
- 7.7 Should the Customer dispute any invoice (the "Disputed Invoice") it shall notify NCC in writing as soon as reasonably practicable stating the reason for the dispute whereon the Parties shall endeavour to resolve the dispute. If such notice is not given within two months of the date of the invoice the Customer shall be conclusively deemed to accept the Charges detailed in the invoice. If the Parties cannot resolve any dispute arising under this clause 7 the provisions of clause 14 shall apply.
- 7.8 Until any dispute in respect of the Disputed Invoice is resolved and in the absence of manifest error the Customer shall remain liable to make payments to NCC in accordance with this Agreement. Upon resolution of the dispute NCC shall if appropriate amend the Disputed Invoice. Within 20 Working Days of such resolution

NCC shall repay to the Customer any amounts overpaid and the Customer shall pay to NCC any amounts underpaid (as the case may be).

- 7.9 All Energy Charges are exclusive of value added tax and the Customer shall pay to NCC all value added tax properly chargeable on such amounts subject to the receipt of a proper VAT invoice.
- 7.10 Notwithstanding the provisions of clause 7.11, NCC shall be entitled either to adjust the Charges or to require payment of Additional Charges to reflect any local or governmental taxes Change in Law or similar impositions (or any changes thereto) taking effect after the Agreement Date. For the avoidance of doubt no adjustment shall be made pursuant to this clause in respect of any changes in rates of corporation tax.
- 7.11 NCC shall be entitled to vary the Charges annually on the 1<sup>st</sup> January. Where NCC intends to vary the Charges it shall notify the Customer in writing within 10 Working Days from the 1<sup>st</sup> December of its intention to make such variation. The variation for the Charges are:
- 7.11.1 The Electric Standing Charge will change depending on the total units of electricity distributed to our Private Wire customers compared to the units used for the Premises for the previous year. The total amount charged by NCC will change in accordance with the published RPI all items indexation, comparing September to September figures. As a total amount each year it therefore does not follow a set indexation method.
- 7.11.2 For the Electric Unit Charges, the number of units and the cost to NCC of all utilities (including the cost of steam) used in the generation of the Energy Services each year will determine the Electric Unit Charge. It does not follow a set indexation method.
- 7.11.3 Additional charges shall vary in accordance with the published RPI all items indexation comparing September to September figures.
- 7.12 NCC shall not be liable for any costs resulting from any changes in the law (other than rises in the national minimum wage) and/ or the implementation of new laws which relate to the Services (or its obligations under this Agreement) and impact directly on the Services (or its obligations under this Agreement) ("Change in Law").
- 7.12.1 In the event of a Change in Law which affects NCC's cost of supplying the Services, NCC (and without prejudice to clause 7.11) shall:
- (a) where such Change in Law reduces NCC's costs proportionately decrease the Charges; and
  - (b) where such Change in Law increases NCC's costs, NCC shall be entitled to increase the Charges.

7.12.2 Where the Charges are increased or decreased pursuant to clause 7.12.1, such increase or decrease shall take effect from the date of the relevant Change in Law coming into effect.

7.12.3 Upon publication of a Change in Law which has or will affect the Charges, notwithstanding the effective date of such Change in Law, NCC shall promptly notify the Customer of the anticipated effect on the Charges and the date such change will take or has taken effect.

## **8. Benefits**

8.1 NCC shall be entitled to the benefit of all Benefits associated with the HV Plant and the provision of Energy Services to the Customer.

8.2 The Customer shall use all reasonable endeavours to assist NCC in obtaining and maximising Benefits associated with the HV Plant and the provision of Energy Services to the Customer.

8.3 Where and to the extent that the Customer receives any Benefits as a result of the provision of the Energy Services, the Customer shall procure that such benefits are immediately transferred to NCC or, where incapable of transfer, the Customer shall pay to NCC a sum equivalent to the value of the Benefits received by the Customer each month within 20 Working Days of the end of that month.

## **9. Insurance**

9.1 Without prejudice to the provisions of clause 10, the Customer shall be responsible for arranging and maintaining all appropriate categories of insurance at sufficient levels (or have equivalent cover levels managed through Government Finance) to cover its obligations under this Agreement including in respect of all risks of damage to or loss of the HV Plant, the Customer Plant, the Customer Plantroom and all buildings (including their contents) and other property in or on the Premises throughout the Term. Satisfactory evidence of such Government Finance agreement or insurance and payment of the current premiums shall be provided to NCC on written request.

9.2 NCC shall maintain a public liability policy throughout the Term, in respect of all risks including those referred to in clause 10.2 with a limit of indemnity of £10,000,000 (ten million pounds) to cover the terms of this Agreement

9.3 The Customer shall (subject to clause 9.1) maintain a public liability policy throughout the Term, in respect of all risks including those referred to in clause 10.4 with a limit of indemnity of £10,000,000 (ten million pounds) to cover the terms of this Agreement

## **10. Liability**

10.1 Subject to clauses 10.2 to 10.6 each Party shall indemnify the other Party from and against all and any claims made against the other Party for personal injury to or the death of any person or loss of or damage to any property real or personal insofar as such injury, death, loss or damage arises in the course of or by reason of the

indemnifying Party carrying out its obligations under this Agreement and provided always and only to the extent that the same is due to negligence by the indemnifying Party.

- 10.2 Subject to clause 10.9 the liability of NCC to the Customer in respect of the risks covered by the policy referred to in clause 9.2 and in respect of any claim alleged or otherwise referred to in clause 10.1 shall not exceed £10,000,000 (ten million pounds).
- 10.3 Subject to clause 10.9 and to the extent already covered under clause 10.2 NCC's total aggregate liability in respect of all claims, losses or damages, whether arising from contract, tort under an indemnity or otherwise under or in connection with this Agreement shall in no event exceed GDP £10,000,000 (ten million pounds). ("the NCC Liability Cap"). The NCC Liability Cap shall not apply to any liability in respect of which insurance proceeds are recoverable under the policy referred to in clause 9.2.
- 10.4 Subject to clause 10.9 the liability of the Customer to NCC in respect of the risks covered by the policy referred to in clause 9.3 and in respect of any claim alleged or otherwise referred to in clause 10.1 shall not exceed £10,000,000 (ten million pounds).
- 10.5 Subject to clause 10.9 the Customer's total aggregate liability in respect of all claims, losses or damages, whether arising from contract, tort under an indemnity or otherwise under or in connection with this Agreement shall in no event exceed GDP £10,000,000 (ten million pounds). ("the Customer Liability Cap"). The Customer Liability Cap shall not apply to any liability in respect of which insurance proceeds are recoverable under the policy referred to in clause 9.3.
- 10.6 NCC shall have no liability to the Customer for any reduction in the Performance Parameters due to any planned or emergency works.
- 10.7 Neither Party shall be entitled to limit or exclude its liability in respect of any of the following:
- 10.7.1 death or personal injury caused by a party's negligence (but neither party will be liable for death or personal injury caused by the other party's negligence);
- 10.7.2 fraudulent misrepresentation;
- 10.7.3 any other matter in respect of which, as a matter of Law, liability cannot be excluded or limited.
- 10.8 None of the foregoing provisions nor any other provision in this Agreement shall operate to exclude or restrict either Party's liability for death or personal injury resulting caused by its negligence or that of its employees, agents or sub-contractors (as applicable).
- 10.9 The limits of liability set out in this clause 10 shall continue to bind the Parties notwithstanding any termination or expiration of this Agreement and the Customer agrees that such limits are reasonable in all circumstances.

10.10 Neither Party shall be entitled to make any recovery by way of indemnity or otherwise under this Agreement or any of the agreements relating to the constructions, installation, development, maintenance or supply of Energy Services to the Customer by way of the Customer Plant or in relation to the Private Wire Network (collectively referred to as the 'Project Agreements' for the purpose of this clause) if and to the extent it would thereby recover more than once in respect of the same right or liability. Each Party shall be under a duty to mitigate its loss in relation to any loss, or liability for which it seeks to be indemnified under any of the Project Agreements and shall give credit for any amounts which shall have been recovered from third parties by way of claims for contributory negligence or otherwise.

10.11 Neither Party shall be liable to the other for loss of profit, loss of revenue, loss of business opportunity or any indirect losses howsoever caused.

## **11. Interruption of the Services**

11.1 The Customer acknowledges that work of repair, maintenance, testing or any work that is required to provide enhancement or revisions to the Private Wire Network is essential and that the Services may be interrupted to accommodate such work. NCC shall reasonably endeavour to keep all planned maintenance works within scope of the Performance Parameters but provide the Customer with at least 5 Working Days' notice of any such Longer Interruption requirements with expected timescales for those Longer Interruptions. These Longer Interruptions are excluded from the Performance Parameter requirements as long as at least 5 Working Days' notice has been given.

11.2 In the event that an emergency arises which in the opinion of NCC could give rise to danger to health or damage to property, or where NCC is required to do so by law or at the direction of a competent authority, NCC shall be entitled to interrupt the Services without notice. In such an event, NCC shall use reasonable endeavours to minimise the effect of any such interruption.

## **12. Force Majeure**

12.1 If by reason of Force Majeure it is not reasonably practicable for either NCC or the Customer to fulfil their respective obligations under this Agreement then, save as mentioned below, such obligations shall be suspended until such time as the Force Majeure no longer applies and it is practical for NCC or the Customer (as the case may be) to resume performance of such obligations. If NCC or the Customer is prevented by Force Majeure from performing any of their obligations under this Agreement, NCC or the Customer (as the case may be) shall forthwith give notice within ten (10) Working Days to the other providing full details of the Force Majeure event that has occurred.

12.2 A Party affected by Force Majeure shall use reasonable endeavours to reduce or remove the impact of such Force Majeure event and resume their obligations under this Agreement.

- 12.3 If the Force Majeure continues for a period of more than one month, NCC shall prepare a proposal for the protection of the HV Plant throughout the period of the Force Majeure. Upon receipt of the written consent of the Customer (such consent not to be unreasonably withheld) NCC shall implement the proposal and any additional costs incurred in so doing by NCC shall be reimbursed by the Customer on a full indemnity basis.
- 12.4 In the event that the Force Majeure shall apply for a continuous period in excess of six months either Party may forthwith terminate this Agreement by written notice to the other (subject to any written agreement to the contrary) whereon the provisions of clause 15.1.3 shall apply.

**13. Suspension**

- 13.1 If the Customer shall fail to comply with any of its obligations including its payment obligations as set out in clause 7 and such failure shall remain un-remedied for 10 Working Days, or such other period detailed within this Agreement, (or otherwise referred to dispute resolution under clause 14), after NCC shall have given notice to the Customer requiring the same to be remedied, NCC shall be entitled forthwith to suspend performance of any of its obligations, which may include the suspension of the supply of Energy Services to the Customer until such time as the failure is remedied, without prejudice to any other rights or remedies which NCC may have.
- 13.2 In the event that NCC suspends the supply of Energy Services in accordance with clause 13.1 above, the Customer shall be liable to NCC for any and all costs associated with any such suspension and the subsequent cost of reconnection following the remedy of the relevant failure.
- 13.3 Without prejudice to NCC's rights under clause 13.2, NCC reserves the right to terminate this Agreement with the Customer if Services are suspended for longer than 30 days, which, for the avoidance of doubt shall be considered Customer Material Breach

**14. Dispute resolution**

- 14.1 Where any dispute arises between the Parties, the Parties shall reasonably endeavour to resolve such dispute in good faith between its operational level staff.
- 14.2 At any stage of the dispute, either Party may serve on the other written notification of the nature of the dispute and request the other to appoint a senior executive officer to endeavour to resolve the dispute. Within 21 Working Days of receipt of such notification the Parties shall procure that a senior executive officer from each Party shall meet and use their reasonable endeavours to resolve the dispute.
- 14.3 In the event that such senior executive officers shall fail to meet within such 21 Working Day period or in the event that the dispute remains unresolved 10 Working Days after such meeting, the dispute may next be referred at the request of either Party:
- 14.3.1 to mediation; or



14.3.2 for expert determination where the dispute relates to a technical nature associated with the Services, such expert to be appointed by the President for the time being of the Chartered Institution of Building Services Engineers

14.4 Any mediation will be in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure current at the time of referral to the CEDR. Unless otherwise agreed between the Parties the mediator will be nominated by CEDR.

14.5 Neither Party may commence any court proceedings in relation to any dispute arising out of this Agreement until they have attempted to settle it in accordance with 14.3 and that has failed.

## 15. Termination

15.1 Either Party may terminate this Agreement forthwith by written notice to the other at any time if:

15.1.1 the other Party is in Material Breach of its obligations hereunder and fails to remedy the same within 10 Working days after receiving written notice of the failure from the terminating Party requiring it to be remedied and notifying its intention to exercise the right of termination under this clause; or

15.1.2 in an Insolvency Event; or

15.1.3 for Force Majeure in accordance with clause 12.4.

15.1.4 the total aggregate liability of the relevant Party (pursuant to clauses 10.3 and 10.5 as applicable) reaches or exceeds the NCC Cap on Liability or Customer Cap on Liability (as applicable). the Customer reaches or exceeds its cap on liability

15.2 Either Party shall be entitled to terminate this Agreement in accordance with clause 2.

15.3 The right to terminate this Agreement given by this clause 15 does not affect any other right or remedy available to the terminating Party.

15.4 NCC may terminate this Agreement where the Customer is in breach of the exclusivity provisions under clause 4.3.

## 16. Consequences of termination

16.1 In the event that this Agreement is terminated in accordance with its provisions, the Customer shall reimburse, or (as the case may be), pay to NCC:

16.1.1 the reasonable cost of the Services supplied by NCC as at the date of termination not yet invoiced; and

16.1.2 the sum total of any and all outstanding invoices;

and where the termination is as a result of a breach by the Customer in accordance with clause 15.1:

16.1.3 any cancellation charges for which NCC shall be legally liable to pay as a result of such termination; and

16.1.4 any other costs reasonably incurred or losses suffered by NCC as a result of such termination

to the extent that such costs, charges and losses have been incurred or suffered by NCC directly and solely as a result of such termination.

16.2 On termination of this Agreement for any reason each Party shall return to the other any of the other Party's Confidential Information (as defined within clause 19) including any documents or other material containing or embodying the Confidential Information and any reports of analyses or other documents which contain or refer to the Confidential Information and each Party shall provide the other with a written notice, signed and otherwise completed by its duly authorised representative, to certify its compliance with the provisions of this clause 16.2.

16.3 Upon termination of this Agreement for any reason the Customer shall procure the provision of all necessary easements, wayleaves, licences, leases and rights of access (as applicable) to NCC to permit the continuing supply of services to customers of the wider Private Wire Network. For the avoidance of doubt, where NCC have terminated this Agreement in accordance with clause 15.1, it shall be entitled to recover its reasonable costs incurred as a consequence of this clause 16.3.

16.4 Where the Customer continues occupying the Premises and uses the Energy Services provided by NCC after this Agreement has terminated (for whatever reason), or allows anyone else to do so, including failure to secure Premises, the Customer shall be required to pay NCC for the Energy Services at a price NCC shall determine in its own discretion, taking into account any extra costs arising as a result of the customer taking the Energy Services at the premises without an agreement being in place

16.5 In the event that this Agreement is terminated for any reason the Customer shall allow NCC such access as NCC may reasonably require to enable NCC to disconnect, make safe, and/or recover NCC's equipment and/or assets within the Customer's premises.

## 17. **Assignment**

17.1 NCC may having notified the Customer in advance in writing, assign or novate this Agreement to any person for the time being owning and/or operating the Private Wire Network.

17.2 The Customer may assign or novate this Agreement to any person for the time being occupying the Premises subject to the Customer notifying NCC of such assignment or novation and the Customer procuring the provision of all necessary easements, wayleaves, licences, leases and rights of access (as applicable) to NCC to permit the continuing supply of services to consumers of the wider Private Wire Network. NCC has a right to refuse the Customer Assigning or novating this agreement within 10 Working days of receipt of notification from the Customer in which case one of the following will occur:

17.2.1 The assignment or novation of this agreement doesn't take place with the responsibility of this agreement remaining with the Customer

17.2.2 This Supply Agreement terminates immediately on the date of assignment or novation date with the suspension of the Supply on/before that date.

In the event that the Customer ceases to occupy the Premises it shall notify NCC of the proposed new occupier.

**18. Sub-contracting**

NCC may at its sole discretion sub-contract any part of the Services. NCC will not by reason of such sub-contracting be relieved of any of its obligations under this Agreement and will accept full responsibility for the performance of this Agreement or part thereof (as the case may be) by such sub-contractors.

**19. Confidentiality**

19.1 Except and to the extent provided in clause 19.2 or unless otherwise authorised in writing, neither Party shall at any time:

19.1.1 use any information disclosed by the other during the Term for any purpose except to meet its obligations under this Agreement. For the avoidance of doubt, the Charges shall be considered confidential information for the purposes of this Agreement; or

19.1.2 disclose any information disclosed to it by the other or any information relating to the affairs of the business of the other to any third Party except to its employees to the extent necessary for the purpose referred to in clause 19.1.1. Each Party shall take all necessary steps to ensure that their employees make no unauthorised disclosure of such information;

any such information shall be deemed to be "Confidential Information".

19.2 The restrictions imposed by clause 19.1 shall not apply to any information relating to the affairs of the business of the other if it is or becomes public knowledge, or it comes to the knowledge of the other from a third party which owes no obligation of secrecy to the Party to whom the confidential information relates in respect of that information.

19.3 The restrictions imposed by this clause 19 shall not apply in relation to the performance of either Party's statutory obligations, Stock Exchange requirements, the borrowing of funds or the obtaining of insurance.

19.4 The Customer warrants that all information, data and statements given or made by it or its employees is true and accurate and NCC shall be entitled to rely on the same.

19.5 The obligations contained in this clause 19 shall continue to bind the Parties notwithstanding any termination of this Agreement.

**20. Anti-bribery compliance**

- 20.1 The Parties shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 as amended from time to time.
- 20.2 Breach of this clause 20 by a Party shall be deemed a Material Breach under clause 15.1.1.

**21. Waiver**

If either of the Parties is in breach of any provision of this Agreement:

- 21.1 no waiver of that breach by the Party entitled to enforce that provision (the "Injured Party") shall in any way affect or prejudice the rights of the Injured Party in respect of any other breach whether of the same or any other provision of this Agreement; and
- 21.2 no delay or omission by the Injured Party in exercising or availing itself of any right which it may have under this Agreement arising from that breach shall in any way affect or prejudice the rights of the Injured Party in respect of that or any other breach.

**22. Notices**

Any notice to be given pursuant to this Agreement shall be in writing and may be served by personal delivery, recorded delivery, registered post, or other electronic means of data transmission agreed between the Parties to the addressee at its registered office or principal place of business for the time being and shall be deemed to have been received:

- 22.1 in the case of personal delivery, at the time of delivery;
- 22.2 in the case of recorded delivery or registered post, 48 hours from the time of posting; and
- 22.3 in the case of other electronic means of data transmission, on receipt of the transmission by the receiving Party.

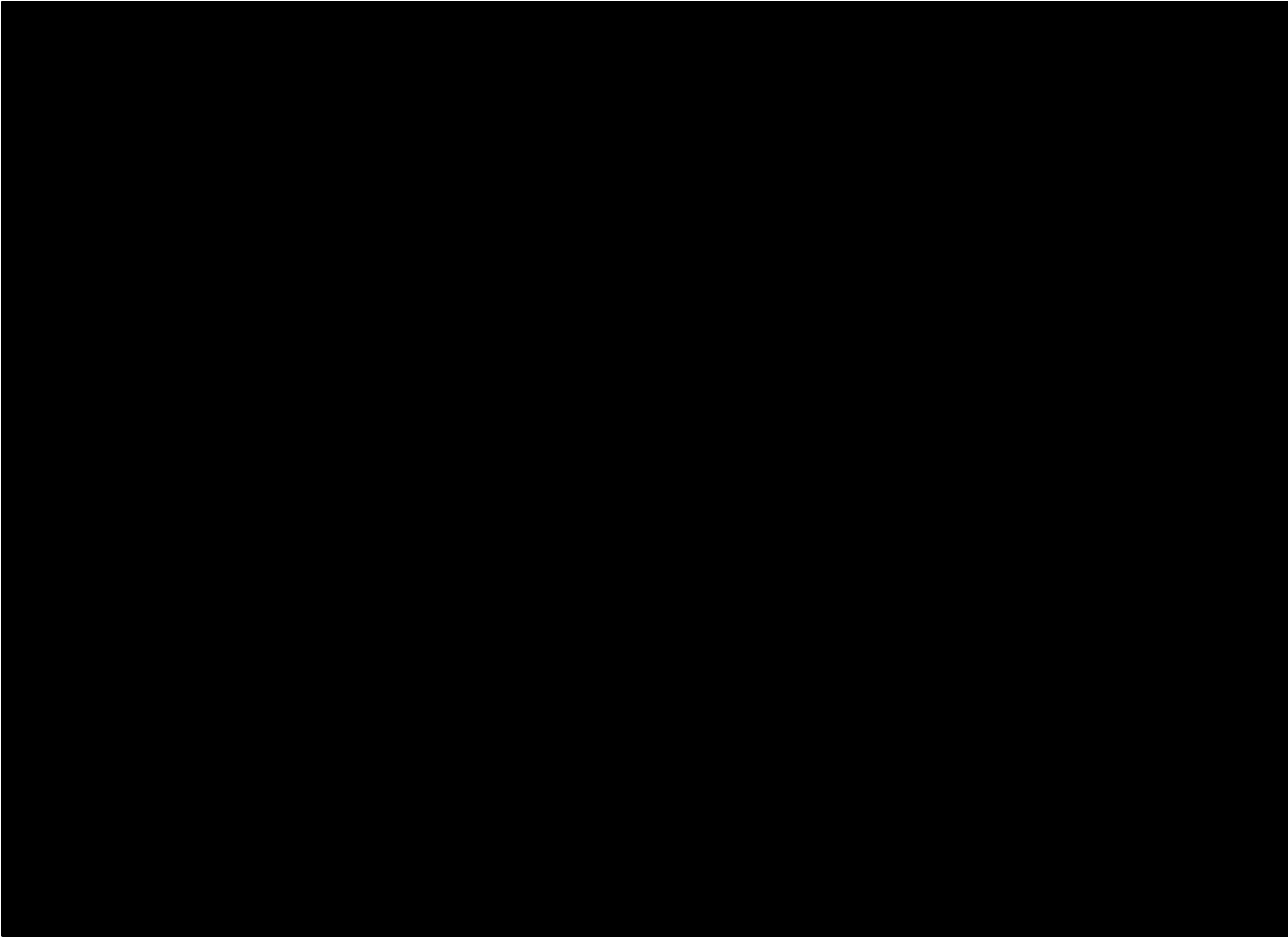
**23. General**

- 23.1 The relationship between the Parties established by this Agreement is that of independent contractors. Nothing herein shall be construed to create or give rise to any partnership, joint venture or agency relationship between the Parties. At no time during the performance of this Agreement shall NCC or its employees or other representatives be considered to be employees or agents of the Customer, nor shall the Customer's employees or other representatives be considered to be employees or agents of NCC even when assigned to receive training from NCC or to assist NCC in the performance of the Services.
- 23.2 This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes and extinguishes any representations and understandings previously given or made other than those contained herein and no variation shall be effective unless contained in a written

document which is dated, refers to this Agreement and its date, identifies the clause which is to be varied and has been signed by an authorised representative of NCC and countersigned by an authorised representative of the Customer.

- 23.3 This Agreement shall be construed and governed in all respects in accordance with the laws of England and any disputes or differences shall be subject to the non-exclusive jurisdiction of the English courts.
- 23.4 If any provision or part of a provision of this Agreement shall be or shall become unenforceable, void or invalid (as the case may be) such provision or part thereof shall not affect and shall be deemed severed from the remainder of this Agreement to the intent that the remainder of this Agreement shall be or shall continue to be fully enforceable and valid.
- 23.5 Nothing in this Agreement shall confer on any third party any right of benefit under the provisions of the Contracts (Rights of Third Parties) Act 1999.
- 23.6 This Agreement may be executed in as many counterparts as are necessary and all executed counterparts shall constitute one Agreement.

This Agreement has been entered into on the date stated at the beginning of it.



NCC's Limit of Responsibility terminates at the Point of Connection for the Premises with the Customer being responsible for any equipment on the Secondary/Customer side.

List of all HV equipment that NCC is responsible for:

Asset Code	Asset Description	Asset Serial Number	Category
██████	Apex Court- Main Building (BIS) Meter	██████	Control/Meter/Electrical Meter
██████	Apex Court- Annex (BIS) Meter	██████	Control/Meter/Electrical Meter
████	Apex Feeder Electricity Meter		Meter/CHPQA
██████████	Ring Main Unit SF6		Electrical/Switchgear/██████
██████████	██████████ VT		Electrical/Switchgear/██████

The Point of Connection of NCC is the outgoing tails on the Energy Meter which is the Limit Of Responsibility. All equipment after this Point of Connection is the responsibility of the Customer

For clarity, NCC are not responsible for any maintenance of, or defects associated with the secondary/Customer side of the Point of Connection located within the Energy receiving centre. This includes but is not limited to fouling/blockage, contamination, corrosion, underperformance, leakage or damage to any other equipment/building structure or contents.

**SCHEDULE 2**  
**ENERGY SPECIFICATION – ELECTRICITY**

Import Limit: [REDACTED]

NCC will endeavour to provide approximately [REDACTED] alternating to the Point Of Connection.



**SCHEDULE 3****PERFORMANCE PARAMETERS**

Performance Parameter	Description	Service Failure compensation trigger	Service Failure compensation calculation
Short Interruption – 2 hours	Verbally confirm with the Customer on site that interruption to service would be required for a period of up to 2 hours.	If interruption is for longer than 2 hours or verbal agreement by the Customer, not to be unreasonably withheld, is not given.	Will be counted as an unplanned Supply Interruption
Planned Interruption	NCC will give at least 5 days' notice for a Planned Interruption.	Less than 48 hours' notice was given for a Planned Interruption	Will be counted as an unplanned Supply Interruption
	A Planned Interruption should last no longer than 5 days	A Planned Interruption lasts longer than 5 days	Rebate of standing charge for the period after 5 days the interruption continues for
Longer Interruption	NCC will give at least 5 days' notice for a Longer Interruption. This must include an expected timescale in which Energy Services will be restored to the Point Of Connection	Less than 5 days' notice given for the Longer Interruption	Will be counted as an unplanned Supply Interruption
		The expected timescales for the works are exceeded by more than 2 Working Days	Rebate of standing charge for the period 2 days after the expected timescale for the Interruption until Energy Services are restored
Unplanned Supply Interruption	Within 36 hours from being made aware of an Unplanned Supply Interruption, the Energy Services will be available at the Point Of Connection. If access to the issue is outside the control of NCC additional time will be allowed to restore the Energy Service	The Energy Services are not available to the Point of Connection after 36 Hours from being made aware of an unplanned Supply Interruption.	Rebate of standing charge for the period Energy Services are still interrupted after 36 hours from the time of being made aware of the interruption
Multiple Unplanned Supply Interruptions in a year	No more than 3 unplanned supply Interruptions lasting over 12 hours during a 12 month calendar period	More than 3 Unplanned Supply Interruptions, each lasting over 12 hours, occur during a 12 month calendar period	Rebate of the standing charge for the total interruption time after the first 3 occurrences in the calendar year (in chronological order)

### **Schedule 3.1 Excluded Conditions for Performance Parameter and Compensation Payments**

No Service Failure compensation will be payable to the Customer for any Service Failure if the failure is caused by one of the circumstances set out below:

- Works undertaken in accordance to Clause 11 are excluded from all Performance Parameter requirements
- The Service Failure was caused by the customer not complying with this Agreement
- NCC is not able to provide the Energy Services to the premises because of any of the events or circumstances set out in Clause 12, as long as NCC has used reasonable efforts to reduce the effects of the event or circumstances and start providing the Energy Services again as soon as possible.
- NCC has to shut down the Private Wire Network by law, provided that the need does not relate to or arise out of NCC's negligence or failure to comply with this Agreement.
- NCC has suspended the Energy Services because NCC has good reason to believe that NCC needs to do so to avoid death, injury or severe damage to property, provided that the need does not relate to or arise out of NCC's negligence or failure to comply with this Agreement.
- NCC has suspended the Energy Services to the premises under Clause 13 of this Agreement.

NCC has not been able to provide electricity supply/ alternative electricity supply to the Premises due to the Customer having failed to give NCC access to the Premises at the agreed time.

## SCHEDULE 4

### The Charges

#### 1. Energy Charges

The Energy Charges applicable as at the date of this Agreement are the following:

Charge type	Energy Services charge (excluding VAT)
Electricity Unit Charge	██████ per MWh / ██████ per kWh
Electricity Standing Charge	██████ per Month

The Energy Charges may be amended in accordance with clause 7 of this Agreement.

#### 2. Additional Charges

All other charges will be dealt with as Additional Charges and charged and invoiced in accordance with clause 7. These include, but are not limited to:

##### **Customer Reporting of Faults in the HV Plant and Customer's Plant**

As per Clause 4.2, any delay longer than 4 hours in reporting shall entitle NCC to claim Additional Charges from the Customer. These Additional Charges will be calculated depending on the fault and the length of the delay in reporting.

##### **Disconnection/Suspension/Reconnection Charges**

The Suspension of service charge is £550.

Disconnection is a separate service for the removal of the HV Plant and/ or part of the Private Wire Network. This will only be completed if specifically requested by the customer. All costs associated with disconnection will be re-charged by NCC and the Customer shall remain responsible for the full costs of this disconnection. For avoidance of doubt we cannot confirm the costs of disconnection in advance of disconnection taking place.

The reconnection charge is £500. This is only where Suspension of service has been undertaken rather than full disconnection. Reconnection following disconnection will not under any circumstances take place under the terms of this agreement

##### **Exceeding Import Limit**

If the usage of the Premises exceeds the Import Limit, as confirmed in Schedule 2, there will be a penalty charge for those additional limits. The additional units will be charged at double the Electricity Unit Charge at the time of exceeding the limit.

## Signature Page

**SIGNED** by \_\_\_\_\_ duly authorised to sign for  
and on behalf of **NCC**:

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

**SIGNED** by \_\_\_\_\_ duly authorised to sign  
for and on behalf of The Customer

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