

## UNIFORM NETWORK CODE – TRANSPORTATION PRINCIPAL DOCUMENT

### SECTION V - GENERAL

#### 3 CODE CREDIT LIMITS

##### 3.1 General

3.1.1 For the purposes of the Code:

- (a) the “**Regulatory Asset Value**” is the value of the relevant Transporter’s regulated assets as published **from time to time by the Authority**.
  - The Transporter’s RAV is only published by Ofgem for the Price Control period (i.e. usually once every 5 years)
- (b) An “**Approved Credit Rating**” is a published and monitored long term issuer rating, or a Specially Commissioned Rating of not less than Ba3 by Moody’s Investors Service or equivalent rating by Standard and Poor’s.
- (c) The “**Unsecured Credit Limit**” is that proportion of the Maximum Unsecured Credit Limit extended to a User by the Transporter as calculated in accordance with the table set out in paragraph 3.1.3 or 3.1.4 as appropriate.
- (d) A “**Specially Commissioned Rating**” is a rating commissioned and paid for by a User with either Moody’s Investor’s Service or Standard and Poor’s and which shall be monitored on a daily basis and reassessed on an annual basis.

The Transporter will determine and assign to each User a Code Credit Limit, which may comprise of an Unsecured Credit Limit calculated in accordance with paragraph 3.1.3 and/or security or surety provided in accordance with paragraph 3.4. The Transporter shall keep each User informed of its Code Credit Limit (as revised in accordance with the Code) for the time being. The Transporter shall limit the Unsecured Credit Limit to any User and related company to a maximum of two percent (2%) of the Regulatory Asset Value (The “**Maximum Unsecured Credit Limit**”). The User shall notify the Transporter within 1 Business Day if the User’s Approved Credit Rating changes or if the User has a reasonable belief that its Approved Credit Rating is likely to change. Where the User commissions more than one Specially Commissioned Rating, it shall notify the Transporter of each such rating and **the Transporter shall use the lowest as the Approved Credit Rating**.

- Lowest rating is used when there is more than one Specially Commissioned Rating. There are no provisions for this to apply to a User’s own published ratings, why not and should there be? Did this appear in the CCR and what do the BPG suggest?

3.1.2 In this paragraph 3 references to:

- (a) **Users include DNO Users**;
  - This used to exclude DNOs as Users but was changed as a result of Modification Proposal 0127 (Introduction of a DN Pensions Deficit charge). This change was also contained within

the legal text for 0195AV but this had no affect as the 0127 had already been implemented.

(b) National Grid NTS and National Grid Gas plc as a DN Operator shall be construed as a reference to a single Transporter.

- What does this actually mean, how does it work in practice?

3.1.3

(a) Where a User has an Approved Credit Rating, such User’s Unsecured Credit Limit at any time shall be calculated as that percentage (%) of the Maximum Unsecured Credit Limit by reference to the User’s Approved Credit Rating as follows:

Approved Credit Rating		User’s % of Maximum Unsecured Credit Limit
Standard and Poor’s	Moody’s Investors Service	
AAA/AA	Aaa/Aa	100
A	A	40
BBB+	Baa1	20
BBB	Baa2	19
BBB-	Baa3	18
BB+	Ba1	17
BB	Ba2	16
BB-	Ba3	15

(b) Subject to paragraph 3.1.3(c), where a Qualifying Company or Parent Company provides security in respect of a User in the form of a Guarantee (the “**Security Provider**”), then the Approved Credit Rating of such Security Provider may be used in place of the User’s to calculate such User’s Unsecured Credit Limit in accordance with the table set out in paragraph 3.1.3(a).

(c) Where a Security Provider provides security pursuant to paragraph 3.1.3(b) or paragraph 3.1.3(d) for more than one User, the aggregate security provided by the Security Provider shall not exceed the maximum credit entitlement of the Security Provider calculated in accordance with the table set out in paragraph 3.1.3(a).

(d) A User may increase an Unsecured Credit Limit allocated pursuant to paragraph 3.1.3(a) or paragraph 3.1.4 by an incremental amount (the “**Incremental Amount**”) by providing security (in respect of the Incremental Amount) in the form of a Guarantee from a Security Provider with an Approved Credit Rating subject to:

- Can you have a Security Provider without an Approved Credit Rating based on the defined term “Security Provider”?

- (i) such Approved Credit Rating being sufficient to cover the Incremental Amount as calculated in accordance with the table set out in paragraph 3.1.3(a); and
- (ii) paragraph 3.1.3(c); and
- (iii) in the opinion of the Transporter, such Security Provider’s ability to bear risk not being exceeded.

3.1.4 **Subject to paragraph 3.1.7**, where a User does not have an Approved Credit Rating, or a User’s Approved Credit Rating is less than Ba3 awarded by Moody’s Investment Services or an equivalent rating by Standard and Poor’s Corporation, such User may obtain an Unsecured Credit Limit by:

- **Is this required as it forms part of the criteria in 3.1.4(b) for use of independent assessments? Why does this impact on payment history?**

- (a) payment history in accordance with paragraph 3.1.5 below; or
- (b) independent assessment in accordance with paragraph 3.1.7 below

provided that a User shall only be able to obtain an Unsecured Credit Limit by one of the above methods at any one time.

3.1.5 The Transporter may allocate an Unsecured Credit Limit to a User based upon the period of time elapsed that such User has paid all invoices by their due date for payment in accordance with Section S, such that after a calendar month, a User may be allocated an Unsecured Credit Limit on the basis of 0.4% of the relevant Transporter’s Maximum Unsecured Credit Limit **over a 12 Month period** and increasing on an evenly graduated basis each Month up to a maximum of 2% of the relevant Transporter’s Maximum Credit Limit after 5 Years.

- **Is this required as it as it has caused confusion as to the interpretation of 3.1.5?**

3.1.6 Where a User has been allocated an Unsecured Credit Limit pursuant to 3.1.5 above, and such User subsequently fails to make payment in full of any invoice (other than in respect of Energy Balancing Charges) issued in accordance with Section S:

- (a) with a **total amount due of £250 or less**, then such User’s Unsecured Credit Limit shall be reduced by 50% from the date of such payment default; or

- **This is ambiguous and could lead to confusion / misinterpretation. Amount due, unpaid, total value..? Mod 0147 stated “...amount unpaid and outstanding is £250 or less.”.**

- (b) with a total amount due of greater than £250, or where a User fails to make payment on any other occasion within 12 Months of a default as set out in (a) above, then such User’s Unsecured Credit Limit shall be reduced to zero from the date of such payment default.

The User’s payment history may continue to be used following the date of any payment default as set out above to increase the reduced value of the User’s Unsecured Credit Limit in accordance with paragraph 3.1.5 above.

3.1.7 Upon request from a User, the Transporter will specify a panel of 3 independent credit rating agencies. The User may select any one of such agencies for the Transporter to use to allocate an Unsecured Credit Limit to the User as follows:

- This has never been used (to WWU’s knowledge)
- We can not source 3 agencies or scope a scoring matrix
- We believe that within Electricity this has been used only once and was not fit for purpose and did not reflect BPG.
- DCP034 uses recognised credit agency scoring to produce the matrix, this should be considered as a workable alternative method.
- **Independent Assessments need a full review**

- (a) where such User is unable to obtain an Approved Credit Rating (up to a maximum of 20% of the relevant Transporter’s Maximum Unsecured Credit Limit); or
- (b) where such User has an Approved Credit Rating below Ba3 (awarded by Moody’s Investment Services or an equivalent rating by Standard and Poor’s Corporation) (up to a maximum of 13⅓% of the relevant Transporter’s Maximum Unsecured Credit Limit).

a score of between 0 and 10 will be allocated to the User in accordance with the following table to calculate the User’s Unsecured Credit Limit:

Independent Assessment Score	% of Transporter’s Maximum Unsecured Credit Limit
10	20
9	19
8	18
7	17
6	16
5	15
4	13⅓
3	10
2	6⅔
1	3⅓
0	0

3.1.8 Any Unsecured Credit Limit allocated in accordance with paragraph 3.1.7 shall be

reviewed annually. Where any costs are incurred by the Transporter in providing an Unsecured Credit Limit in accordance with paragraph 3.1.7, including any annual reviews, the User shall pay to the Transporter 20% of such costs incurred. All reassessments in addition to those mentioned above shall be paid for by the party requesting them.

### 3.2 Code Credit Limit and Relevant Code Indebtedness

3.2.1 For the purposes of the Code:

(a) a "**Code Credit Limit**" is the sum of a User's Unsecured Credit Limit and any security provided by a User pursuant to paragraph 3.4, provided that such amount must be equal to or greater than the User's Value at Risk;

(b) "**Relevant Code Indebtedness**" is:

(i) the aggregate amount, other than in respect of Energy Balancing Charges, for which a User is at any time liable to the Transporter pursuant to the Code or any Ancillary Agreement, determined on the basis of amounts accrued (and in accordance with paragraph (c) where applicable) and irrespective of whether such amounts have been invoiced under Section S or (where invoiced) have become due for payment; less

(ii) any amount which has been paid to the Transporter by the User by way of prepayment, on the basis that the Transporter may apply such amount without the User's consent in or towards payment of amounts referred to in paragraph (i), and which has not yet been so applied;

(c) **for the purposes of paragraph (b)(i)** a User's liability for Capacity Charges in respect of a Day shall be treated as accruing on the following Day;

- RCI is no longer used in Section V. There are still a couple of references to it within UNC TPD Section B in relation to Entry. Should this remain in Section V and should the use of RCI within Section B also be reviewed?

(d) "**Value at Risk**" at any point in time is the sum of:

(i) The aggregate amount (other than Energy Balancing Charges) invoiced to the User pursuant to Section S but remaining unpaid (irrespective of whether such amount has become due for payment); and

(ii) The average daily rate of the aggregate amount (other than Energy Balancing Charges) invoiced to the User in the previous calendar month multiplied by 20.

3.2.2 For the avoidance of doubt, the amount of **a User's Relevant Code Indebtedness** shall be determined by reference to the relevant provisions of the Code, and nothing in the Code shall be construed as withdrawing from a User any right to dispute whether the Transporter has correctly calculated such amount in any case, or from the Transporter any right to dispute the validity of any Invoice Query submitted by any User.

- This is not used in Section V (see previous comments)

3.2.3 Without prejudice to paragraph 3.2.2, where a User has submitted an Invoice Query in accordance with Section S4.2.1 in respect of any Invoice Document the Transporter will review and give due consideration to such Invoice Query before taking any steps pursuant to paragraph 3.3.

- The validity of an Invoice Query or the calculation of VAR are not covered here as this refers to RCI only (which is not used for Section V purposes). Should this have been changed to VAR and RCI?

3.2.4 A User's Code Credit Limit may from time to time be reviewed and revised, in accordance with the Code, save where either paragraph 3.2.5 or 3.2.6 applies, in the case of (a), (b), (d) and (e) on notice of not less than 30 Days, or in the case of (c) below on notice of not less than 2 Business Days following the Business Day on which a notice is issued in accordance with 3.2.9, (or in any such case, such lesser period agreed by the User) to the User:

- at intervals of approximately 12 months;
- at the User's request (but subject to paragraph 3.2);
  - Subject to all of paragraph 3.2, what does this entail?
- where any published or Specially Commissioned Rating of the User or any person providing surety for the User is revised downwards;
  - Should this just be "Approved Credit Rating" as it has the same meaning?
- where any instrument of surety or security expires or is determined;
  - Does this require 30 days notice following the expiration of the surety or security?
- at the Transporter's request where the Transporter has reasonable grounds to believe that the effect of the review will be to reduce the User's Code Credit Limit.

3.2.5 Where any published credit rating of the User or any person providing surety for a User is revised downwards to the extent that the credit rating following such revision is less than BB- (as provided by Standard and Poor's or such equivalent rating by Moody's Investors Service), then such User's Code Credit Limit may be immediately reviewed and revised by the Transporter in accordance with the Code, on notice to the User.

- Why is this 'published rating' only and not Specially Commissioned?

- Should the BB- be <A for Qualifying Companies?
- Should this include provisions for insolvency (similar to EBCC)?

3.2.6 Where a Supplier of Last Resort (as defined in paragraph G2.1.7(b)) has been appointed and paragraph G2.1.8 applies, a Last Resort User's Code Credit Limit may be reviewed and revised by the Transporter in accordance with paragraph G2.1.10.

3.2.7 Subject to paragraph 3.2.8, the Transporter will bear the costs and fees that it incurs (but not any costs incurred by the User) in connection with any review of a User's Code Credit Limit in accordance with paragraph 3.2.4.

3.2.8 The Transporter will not be obliged to agree to any request of the User under paragraph 3.2.4(b) unless the User agrees to reimburse to the Transporter the reasonable costs and fees payable by the Transporter to any third party in accordance with the Code in connection with such request.

3.2.9 Where a User's Code Credit Limit has been revised downwards in accordance with paragraph 3.2.4(c) above, the Transporter will notify the User accordingly on the next Business Day following the occurrence of the event described in paragraph 3.2.4(c).

- Should the 'event' be the revision of the Code Credit Limit and not the downgrade as per paragraph 3.2.4(c)? If so, what happens if not notified the next business day; is this a breach of Code by the revision stands or is it null and void?

3.2.10 Where the Transporter requires the User to provide additional security, the notice given in accordance with 3.2.9 shall require that such User shall provide to the Transporter, by no later than 17.00 on the second Business Day following the date of such notice, additional surety or security in a form acceptable to the Transporter for an amount notified by the Transporter, such that when applied it will result in the Value at Risk of the User not exceeding 100% of the Users Code Credit Limit. Subject to paragraph 3.2.11 below, where a User has not provided such additional surety or security by such second Business Day then with effect from the next Business Day following such second Business Day the following shall be payable by the User:

- Why only security, should this be surety and security?
- 3.2.9 relates to 3.2.4(c) only. Why doesn't 3.2.10 also cover 3.2.5?

(a) such amount as set out in the table below based upon the amount of additional surety or security demanded by the Transporter; and

Amount of additional security required	Amount
Up to £999.99	£40
£1,000 to £9,999.99	£70
£10,000 or more	£100

- (b) a daily charge equivalent to that percentage rate as is set out from time to time in the Late Payments of Commercial Debts (Interest) Act 1998 multiplied by the amount of additional security demanded by the Transporter.

3.2.11 Notwithstanding paragraph 3.2.10, where at any time as a direct consequence of an increase in the relevant Transporter's Transportation Charges, a User's Value at Risk is increased by over 20% from the previous day, a User will have one calendar month from the date of notice given by the relevant Transporter to provide additional surety or security and after the expiry of such date, paragraphs 3.2.10(a) and (b) shall apply.

- Was this arrangement a misinterpretation of BPG 3.47?

### 3.3 Requirements as to Value at Risk

3.3.1 Where:

- (a) a User's Value at Risk exceeds 80% of its Code Credit Limit and the Transporter has given notice to the User to that effect; and

- Process for transporters to 'notice' a User needs to be looked at in more detail. What form do notices take, when and how are they are deemed to be served, how are contacts for this maintained etc. ?

- (b) at any time following any notice given pursuant to (a) above, the User's Value at Risk exceeds 100% of its Code Credit Limit, the Transporter will notify the User of such event, giving such User 2 Business Days from the date of such notice to provide additional surety or security for the amount specified by the Transporter in the notice in order to reduce its Value at Risk to below 100% of its Code Credit Limit.

- The date of the notice – is this the date sent or date deemed to be served/received?
- What should the process be if the VAR fluctuates after the 100% notice is served? WWU happy to share our notices/process and view on this.

3.3.2 Without prejudice to paragraph V3.3.3, where a User fails to provide such additional security as required in paragraph 3.3.1 (b) by the date specified in the notice pursuant to 3.3.1(b):

- (a) the amount of such surety or security required shall be increased to that amount required to reduce the User's Value at Risk to below 80% of its Code Credit Limit and any surety or security provided by such User shall be deemed to be valued at 80% of its face value for the following 12 calendar months; and

- Is it 80% of 80%?



- (b) with effect from the next Business Day after the date specified in such notice, the User shall pay to the Transporter that amount set out in the table in paragraph 3.2.10(a), based upon the amount of additional surety or security demanded by the Transporter and the daily charge set out in paragraph 3.2.10(b); and
- (c) subject to paragraph 3.3.1, where and for so long as the User’s Value at Risk exceeds 100% of the User’s Code Credit Limit, the Transporter shall be entitled to reject or refuse to accept all or any of the following by the relevant User:

- This is subject to 3.3.1 but does this mean that sanctions can only be applied after the notice period (2 business days)?

- (i) an application for System Capacity or increased System Capacity at any System Point under Sections B or G5; and/or
- (ii) a notice of appointment under Section B3.13.8 if the User is the proposed Overrun User;
- (iii) in relation to the NTS:

- Should (i) & (ii) also be covered by “in relation to the NTS”?

- (1) a System Capacity Trade under Section B5 in respect of which the User is Transferee User;
- (2) a System Capacity Assignment under Section B6 in respect of which the User is the Assignee User;

until such time as the User’s Value at Risk is reduced to less than 100% of its Code Credit Limit; and

- (d) where from the fifth Business Day after the date specified in the notice, the User’s Value at Risk exceeds 100% of the User’s Code Credit Limit, the Transporter shall be entitled to reject or refuse to accept a Supply Point Nomination or Supply Point Confirmation under Section G, other than a Supply Point Renomination or Supply Point Reconfirmation until such time as the User’s Value at Risk is reduced to less than 100% of its Code Credit Limit.

- How does this impact on (i) above, are they not the same on the DN network?

3.3.3 Subject to paragraph 3.3.1, where and for so long as the Value at Risk of the User for the time being exceeds 100% of the User’s Code Credit Limit, the Transporter may give Termination Notice (in accordance with paragraph 4.3) to the User.

- The timings and process of notices under 4.3 needs to be checked against 3.3

- Can a DNO User be terminated?

3.3.4 For the purposes of paragraph 3.3.2(c)(i) and 3.3.2(c)(iii) and the application of **Section B3.2.6 and 3.3.3(f) and paragraph 3.6 of Section B Annex B-1**, a User's Value at Risk shall be treated as including the aggregate NTS Exit (Flat) Capacity Charges payable by the User for each Day in the following twelve (12) calendar months commencing from the first Day of the calendar month following the Day in respect of which the User's Value at Risk is to be determined.

- Reference to B3.2.6 and Annex B-1 are proposed to be removed as part of Modification Proposal 0261.
- 3.3.3(f) is a reference to Section B3.3.3(f). This should be made clear (especially if the other references to Section B are removed).
- This additional 12 months of NTS Capacity seems to only apply once you have breached 100% of VAR and does not apply for the purposes of calculating the breach. If this should apply to all VAR calculations then the definition of VAR should have been amended. There was no reasoning for this as part of 0195AV and we (WWU) have serious concerns around this (as raised throughout the Exit Reform debate).

### 3.4 Security under Code

3.4.1 Any instrument of surety or security provided by a User pursuant to paragraph 3.4.6 (**and whether or not entered into by the User**) shall not be a part of the Code nor an Ancillary Agreement; and no provision of or modification of the Code, nor any inconsistency between the Code and any such instrument, and nothing done by the Transporter pursuant to the Code, shall prejudice or invalidate any such instrument.

- What does “and whether or not entered into by the User” refer to or mean?

3.4.2 Where a User has provided surety or security pursuant to paragraph 3.4.6 the User (or the person giving the surety) may request the Transporter to release all or any of such security or agree to a reduction in any maximum amount of such surety.

3.4.3 Following a request by a User under paragraph 3.4.2, the Transporter will as soon as reasonably practicable and, except where the User also requests a review (by an agency appointed by the Transporter for such purposes) and revision of its Code Credit Limit, in any event not more than 10 Business Days after such request, release security, or agree to a reduction in surety, to such extent or by such amount as will permit the condition in paragraph 3.4.4 to be satisfied.

3.4.4 The condition referred to in paragraph 3.4.3 is that the amount of the User's Value at Risk, at the date of such release or reduction is not more than 100% of the amount of the User's Code Credit Limit, determined in accordance with the Code on the basis of the release of security or reduction in surety (and taking account of any alternative surety or security provided by the User).

3.4.5 For the purposes of Code:

**“Bi-lateral Insurance”** shall mean **an policy** of insurance (that is unconditional in order to attain 100% of its face value) for the benefit of the Transporter, provided by a Qualifying Company and in such form as is acceptable to the Transporter;

- What is “Bi-lateral Insurance and where can a User obtain this from?”
- Typo – “an policy”

**“Deposit Deed”** shall mean an agreement that is Enforceable and in such form as provided to the User from time to time by the Transporter enabling the deposit of cash as surety or security or advance payments by a User;

**“Enforceable”** shall mean the Transporter (acting reasonably) is satisfied that the instrument of security is legally enforceable and in this respect, where security is provided by a company registered outside of England and Wales, the country of residence of such company must have a sovereign credit rating of at least A awarded by Moody’s Investors Services or such equivalent rating by Standard and Poor’s Corporation (where such ratings conflict, **the lower of the two ratings will be used**) and the User shall at its own expense provides such legal opinion as the Transporter may reasonably require;

- Lower rating is also used here (as well as with specially commissioned ratings and parent/qualifying company) but there is no reference to it being used for published ratings of the actual User – why?

**“Letter of Credit”** shall mean an unconditional irrevocable standby letter of credit in such form as provided to the User from time to time by the Transporter from such bank as the Transporter may approve, (provided that payment may be made at a United Kingdom branch of such issuing bank) with a long term debt rating of not less than A provided by Moody’s Investors Services or such equivalent rating by Standard and Poor’s Corporation (where such ratings conflict, the lower of the two ratings will be used);

**“Guarantee”** shall mean an on demand irrevocable guarantee or performance bond provided by a Qualifying Company or a Parent Company that is Enforceable and in such form as provided to the User from time to time by the Transporter;

**“Prepayment Agreement”** shall mean an agreement between the Transporter and the User that is Enforceable and in such form as provided to the User from time to time by the Transporter with the purpose of enabling a User to make payments of amounts calculated on a monthly basis by the Transporter (using an accrual methodology set out therein) as representing the Transporter’s estimate of the amounts (other than in respect of Energy Balancing Charges) which will become due by the User to the Transporter in a charging month;

**“Parent Company”** shall mean:

- (i) in the case of a company registered in England and Wales a public or private company within the meaning of section 1(3) of the Companies Act 1985 with a long term debt rating of at least BB- provided by

Standard and Poor's Corporation or equivalent rating by Moody's Investors Services (where such ratings conflict, the lower of the two will be used) that is either a shareholder of the User or any holding company of such shareholder (the expression holding company having the meaning assigned thereto by section 736, Companies Act 1985 as supplemented by Section 144(3) Companies Act 1989); or

- Minor point but we seem to quote these a different way round each time? (are we avoiding discrimination!)

- (ii) in the case of an entity registered outside of England and Wales, such equivalent entity to (i) above that is acceptable to the Transporter, acting reasonably;

“Qualifying Company” shall mean:

- (i) in the case of a company registered in England and Wales a public or private company within the meaning of section 1(3) of the Companies Act 1985 with a long term debt rating of at least A provided by Moody's Investors Services or equivalent rating by Standard and Poor's Corporation (where such ratings conflict, the lower of the two will be used); or
- (ii) in the case of an entity registered outside of England and Wales, such equivalent entity to (i) above that is acceptable to the Transporter, acting reasonably;

- Parent must be BB- and Qualifying Company has to be at least A

3.4.6 A User may extend its exposure beyond its Unsecured Credit Limit by providing surety or security in one or more of the forms set out below:

- (a) Bi-lateral insurance; and/or

- As above, what is this?

- (b) Letter of Credit; and/or
- (c) Guarantee; and/or
- (d) Deposit Deed; and/or
- (e) Prepayment Agreement;

provided that where **an instrument of surety or security is conditional**, the Transporter may agree with the User a value below 100% of its full face value. Where the value of the instrument of surety of security cannot be agreed between the User and the Transporter, the User may refer such dispute to Expert Determination in accordance with GT Section A, paragraph 2.

- If the only conditional instrument of security is Bi-lateral insurance then this may change (if

we remove Bi-lateral insurance)?

## 4 DISCONTINUING USERS AND TERMINATION

### 4.1 General

4.1.1 A User may cease to be a User of or in relation to a System pursuant to paragraph 4.2 or 4.3; and for the purposes of the Code a "**Discontinuing User**" is a User who so ceases to be a User and the "**User Discontinuance Date**" is the date with effect from which (in accordance with paragraph 4.2 or 4.3) a Discontinuing User ceases to be a User.

- Are there are circumstances where a DNO User would become a “Discontinuing User”?

4.1.2 Upon a User's ceasing to be a User:

(a) subject to paragraphs 5.6 and 4.3.7, the Shipper Framework Agreement shall cease to bind the Discontinuing User and (as respects the Discontinuing User) the Transporter;

- Review 4.3.7 and further references contained within it
- Shipper Framework Agreement – Should this be “Shippers” and are further references to “Framework Agreement correct”.
- DNO Users are covered by a Transporter(s) Framework Agreement only.

(b) each Ancillary Agreement to which a Discontinuing User is party shall, unless otherwise provided in such Ancillary Agreement, terminate as respects that User (but without prejudice to the continuance of that Agreement as respects any other User(s) party thereto) with effect from the User Discontinuance Date.

- Review and understand usage and impact of Ancillary Agreements

4.1.3 The Transporter will as soon as reasonably practicable after the User Discontinuance Date notify all other Users of a User's ceasing to be a User.

4.1.4 An Ancillary Agreement may be subject to termination as respects any User(s), in accordance with its terms, but (except as may be provided in such Ancillary Agreement) such termination shall not result in any such User ceasing to be a User.

4.1.5 A Shipper Framework Agreement shall have no fixed duration, but without prejudice to the provisions of this paragraph 4 as respects Discontinuing Users.

- Review and understand usage and impact.

4.1.6 In this paragraph 4 references to:

- (a) Users include DNO Users;
  - As per Paragraph 3 above, this used to exclude DNOs as Users but was changed as a result of Modification Proposal 0127 (Introduction of a DN Pensions Deficit charge). This change was also contained within the legal text for 0195AV but this had no affect as the 0127 had already been implemented
- (b) National Grid NTS and National Grid plc as DN Operator shall be construed as a reference to a single Transporter.
  - As per previous comments

## 4.2 Voluntary discontinuance

4.2.1 A User may at any time by giving notice ("**Discontinuance Notice**") to the Transporter apply to cease to be a User of or in relation to a System.

4.2.2 A User may not cease to be a User under this paragraph 4.2 until such time as:

- (a) all amounts payable or (other than in respect of any recurrent charge becoming payable by reason only of the lapse of time after the date on which the last of the other requirements of this paragraph 4.2.2 is satisfied) which may become payable by the User to the Transporter pursuant to any provision of the Code, the Shipper Framework Agreement or any Ancillary Agreement have been paid in full;
- (b) the User is not the Registered User in respect of any Supply Point and is not party to any Shared Supply Meter Notification;
- (c) the User has complied with the requirements of Section U2.8;
- (d) under National Grid NTS's Network Code, there is no outstanding Daily Imbalance or NDM Reconciliation Quantity or DM Reconciliation Quantity in respect of the User;
- (e) any requirements under any Ancillary Agreement in respect of termination under this paragraph 4.2 have been complied with; and
- (f) any outstanding breach, being a breach capable of remedy and of which the Transporter has given notice to the User, by the User of any provision of the Code or the Shipper Framework Agreement or any Ancillary Agreement shall have been remedied
- (g) and a User may not cease to be a User of the NTS until the User ceases to be a User of each LDZ.

4.2.3 Where a User has given notice under paragraph 4.2.1:

- (a) the User and the Transporter shall remain bound by the Code and the Shipper Framework Agreement and any Ancillary Agreement to which the User is party until the requirements of paragraph 4.2.2 are satisfied;
- (b) the System Capacity which the User is registered as holding shall not be reduced or cancelled other than in accordance with the relevant provisions of the Code (and the User will remain liable for payment of Transportation Charges in respect thereof but may elect to make prepayment thereof).
- 4.2.4 Where a User has given notice under paragraph 4.2.1, after the satisfaction of the last of the requirements of paragraph 4.2.2 to be satisfied:
- (a) with effect from the 5th Business Day following such satisfaction, the User will cease to be a User;
- (b) without prejudice to paragraph 4.2.5, the Transporter will as soon as reasonably practicable (and where possible before such date) inform the User of the date on which it ceases to be a User under paragraph (a).
- 4.2.5 Notwithstanding paragraph 4.2.4, without prejudice to paragraph 4.1.2(a), the Transporter or (as the case may be) the Discontinuing User shall remain liable, subject to and in accordance with the Code, to the other and (in the case of the Discontinuing User, subject to paragraph GT Section B2.4.2) to each other User, after the User Discontinuance Date:
- [Review and understand usage and impact.](#)
- (a) for any amount which was or becomes payable under the Code or any Ancillary Agreement in respect of any period before the User Discontinuance Date; and
- (b) in respect of any outstanding breach of any provision of the Code, the Shipper Framework Agreement or any Ancillary Agreement where such breach was not (for the purposes of paragraph 4.2.2(f)) capable of remedy or (notwithstanding that paragraph) was capable of remedy but was not remedied.

### 4.3 Termination

- 4.3.1 For the purposes of this paragraph there shall have occurred a "**User Default**" in relation to a User (the "**Defaulting User**") in any of the following events or circumstances:
- (a) where in relation to any amount (or amounts in aggregate) of not less than £10,000 which has become due for payment by the Defaulting User under the Code (excluding for the avoidance of doubt amounts the subject of an Invoice Query which by virtue of Section S4.2.2 have not become due for payment):
- (i) the Defaulting User has not paid the amount in full by the 5th Business Day after the due date for payment;
- (ii) on or after the 5th Business Day after the due date for payment the Transporter has given notice to the Defaulting User requiring payment of such amount; and

- (iii) the Defaulting User has not paid such amount in full by the 5th Business Day after the date of the Transporter's notice under paragraph (ii); or
- (b) in accordance with paragraph 3.3.3; or
- (c) where:
  - (i) the Defaulting User is in **material breach**, other than such a breach as is referred to in paragraph 4.3.9, of any material provision (other than a payment obligation) of the Code; and
  - This could cover a number of Code breaches, what would be classed as material?
  - (ii) the breach is capable of remedy by the Defaulting User; and
  - (iii) the Transporter has given notice (making reference to this paragraph 4.3) of such breach to the Defaulting User; and
  - (iv) within 14 Days after the Transporter's notice under paragraph (iii), the Defaulting User does not either:
    - (1) remedy the breach in all material respects, where the breach is capable of remedy within such period of 14 Days; or
    - (2) where the breach is not so capable of remedy, provide to the Transporter a programme (setting out the steps to be taken by the User and the timetable for taking such steps) for the remedy of the breach as soon as is reasonably practicable; and
  - (v) in the case in paragraph (iv)(2), the Defaulting User does not:
    - (1) remedy the breach in all material respects with all reasonable diligence and so far as reasonably practicable in accordance with the programme provided under that paragraph or a revised programme pursuant to paragraph (2); and
    - (2) where notwithstanding the reasonable diligence of the User it is not reasonably practicable for the User to remedy the breach in accordance with that programme, provide to the Transporter a revised such programme; and
  - (vi) the breach remains unremedied in any material respect after the expiry of 7 Days after a further notice by the Transporter to the Defaulting User to the effect that the Defaulting User has not complied with paragraph (iv) or (v); or
- (d) where:
  - (i) the Defaulting User is in material breach, other than such a breach as is referred to in paragraph 4.3.9, of any relevant provision (other than a payment obligation) of the Code; and
  - (ii) the breach is not capable of remedy; and
  - (iii) the Transporter has given notice (making reference to this paragraph 4.3) of the breach to the Defaulting User; and



- (iv) at any time within the period of 12 months following the Transporter's notice under paragraph (iii), there occurs a further material breach by the Defaulting User of the same provision of the Code; and
- [Two strikes and you're our rule for a material breach that can not be remedied \(material breach here is limited by 4.3.10\).](#)
- (v) the Transporter has given a notice of such further breach to the Defaulting User and a period of 7 Days has expired following such notice; or
- (e) where:
  - (i) the Defaulting User is unable to pay its debts (within the meaning of Section 123(1) or (2) of the Insolvency Act 1986, but subject to paragraph 4.3.2), or any voluntary arrangement is proposed in relation to it under Section 1 of that Act or it enters into any composition or scheme of arrangement (other than for the purpose of a bona fide solvent reconstruction or amalgamation); or
  - (ii) the Defaulting User has a receiver (which expression shall include an administrative receiver within the meaning of Section 29 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed; or
  - (iii) the Defaulting User has an administration order under Section 8 of the Insolvency Act 1986 made in relation to it; or
  - (iv) the Defaulting User passes any resolution for winding-up (other than for the purpose of a bona fide solvent reconstruction or amalgamation); or
  - (v) the Defaulting User becomes subject to an order by the High Court for winding-up; or
  - (vi) the Defaulting User becomes subject to a bankruptcy order; or
  - (vii) the Defaulting User becomes subject to an event made in a jurisdiction outside England and Wales, equivalent or analogous to any one or more of those events listed in paragraphs 4.3.1(e)(i) to (vi) above; or
- (f) where the Shipper's Licence granted to the Defaulting User is determined or revoked or otherwise ceases to be in force for any reason whatsoever, or such licence is assigned unless such assignment is contemporaneous with an assignment by the User of all of its rights and obligations under the Code and the Framework Agreement in accordance with GT Section B6.1; or
- (g) an event which entitles National Grid NTS to give a Termination Notice pursuant to paragraph X2.9.3, X2.10.10 or X3.2.2.

4.3.2 For the purposes of paragraph 4.3.1(e)(i), Section 123(1)(a) of the Insolvency Act 1986 shall have effect as if for '£750' there was substituted '£10,000'; and the Defaulting User shall not be deemed to be unable to pay its debts for the purposes of that paragraph if any

such demand as is mentioned in the said Section is being contested in good faith by the Defaulting User with recourse to all appropriate measures and procedures.

- 4.3.3 Upon the occurrence of a User Default, and at any time after such occurrence at which the User Default is continuing the Transporter may give notice ("**Termination Notice**") to the Defaulting User to the effect that the User shall cease to be a User of or in relation to its System(s) with effect from the date (which may be any date on or after the date on which the notice is given) specified in the notice.
- When a User Default has occurred due to 3.3.3 (over 100% VAR), and subject to 3.3.1, this would allow a Transporter to issue a Termination Notice within about 5 days (subject to timescales of issuing notices).
- 4.3.4 Without prejudice to the Transporter's right to give a Termination Notice, as set out in paragraph 4.3.3, where the condition in paragraph 4.3.5 is satisfied, Section X4 shall apply.
- Need to understand this and 4.3.5 further. X4 refers to V4.3.3(b) which does not exist.
- 4.3.5 The condition referred to in paragraph 4.3.4 is that:
- (a) a User Default occurs by reason of the circumstances set out in any one or more of paragraphs 4.3.1(e)(ii), (iii), (vi) or (vii) to the extent that a person, analagous or equivalent to those persons appointed pursuant to paragraphs 4.3.1(e)(ii), (iii) or (vi) is appointed in a jurisdiction outside England and Wales ("**foreign insolvency practitioner**") in respect of the User; and
  - (b) the receiver, administrator, trustee-in-bankruptcy or foreign insolvency practitioner (as appropriate) fails to provide adequate assurances to National Grid NTS in compliance with the principles established in Section X and the Energy Balancing Credit Rules (such assurances not to exceed a legal and binding commitment by the receiver, administrator, trustee-in-bankruptcy or foreign insolvency practitioner (as appropriate), to pay to National Grid NTS all Energy Balancing Debt accruing from (and including) the date of appointment of the receiver, administrator, trustee-in-bankruptcy or foreign insolvency practitioner (as appropriate)), as soon as reasonably practicable after being appointed (but for the avoidance of doubt not within two Business Days of its appointment).
- 4.3.6 Where the Transporter gives Termination Notice to a Defaulting User, with effect from the date specified in the notice, the User will cease to be a User of its System(s) and paragraph 4.1.2 shall apply.
- 4.3.7 Subject to paragraph 6.5.6 of the Modification Rules, the giving of a Termination Notice and the application of paragraph 4.3.6 shall not affect the rights and obligations of the Transporter and the Defaulting User under the Code, the Framework Agreement and any Ancillary Agreement (including rights and obligations in respect of the User Default, and in respect of amounts including interest payable by either Party, and rights and obligations arising pursuant to any provision of the Code in respect of the User's ceasing to be a User) accrued up to the date referred to in paragraph 4.3.6, which shall continue to be enforceable

notwithstanding that paragraph.

- [As per comments on 4.1.2](#)

- 4.3.8 Where the Transporter has given a Termination Notice it shall be entitled to inform such persons as it thinks fit (including another Transporter) that it has done so, including the supplier and consumer in relation to any Supply Point of which the Defaulting User was Registered User, the Connected System Operator or Delivery Facility Operator in relation to any Connected System Exit Point or System Entry Point comprised in an Aggregate System Entry Point at which the Defaulting User held System Capacity, and any person from whom the Transporter believes the Defaulting User to have purchased gas for delivery to the Total System.
- 4.3.9 For the purposes of paragraphs 4.3.1(c)(i) and (d)(i) the following breaches are excluded:
- (a) a breach which results from a breach by the Transporter of the Code or an Ancillary Agreement;
- [This basically removes the Transporter from User Defaults and seems to conflict with DNOs being treated as Users under V3 & V4.](#)
- (b) a failure to Interrupt (as described in Section G6.9);
- (c) the delivery or tendered delivery by the User of non-compliant gas (as described in Section I3.5);
- (d) a breach other than a wilful breach of a provision of the Code where the Code specifically provides some other remedy for such breach and such other remedy may reasonably be considered to be adequate in the circumstances.
- 4.3.10 For the purposes of paragraph 4.3.1(d)(i) a breach is a material breach of a relevant provision where and only where:
- (a) in the case of a material provision, the breach is wilful or reckless; or
- (b) in the case of any provision, as a result of the breach the Transporter or any other User is in material breach of any material provision of the Code or any Legal Requirement or incurs any material liability or expense.
- 4.3.11 Where National Grid NTS gives a User a Termination Notice pursuant to this paragraph 4 or Section X:
- (a) each Transporter shall be deemed to have given a Termination Notice to the Defaulting User to the effect that the User shall cease to be a User of its System(s) with effect from the same date specified in the notice given by National Grid NTS;
- [Does DN Entry impact on this?](#)

- (b) the User shall cease to be a User of its System(s) with effect from the date specified in the notice given to the User by National Grid NTS; and
- (c) paragraphs 4.3.7 and 4.3.8 shall apply.